

Colorado Statutes

Title 13. COURTS AND COURT PROCEDURE

JUDGMENTS AND EXECUTIONS

Article 65. Compensation for Certain Exonerated Persons

Current through Chapter 93 of the 2017 Legislative Session

§ 13-65-101. Definitions

As used in this article, unless the context otherwise requires:

(1)

(a)

"Actual innocence" means a finding by clear and convincing evidence by a district court pursuant to section 13-65-102 that a person is actually innocent of a crime such that:

(I)

His or her conviction was the result of a miscarriage of justice;

(II)

He or she presented reliable evidence that he or she was factually innocent of any participation in the crime at issue;

(III)

He or she did not solicit, pursuant to 18-2-301, C.R.S., the commission of the crime at issue or any crime factually related to the crime at issue;

(IV)

He or she did not conspire, pursuant to 18-2-202, C.R.S., to commit the crime at issue or any crime factually related to the crime at issue;

(V)

He or she did not act as a complicitor, pursuant to 18-1-603, C.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue;

(VI)

He or she did not act as an accessory, pursuant to

18-8-105, C.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue; and

(VII)

He or she did not attempt to commit, pursuant to 18-2-101, C.R.S., the crime at issue or any crime factually related to the crime at issue.

(b)

A court may not reach a finding of actual innocence pursuant to this section merely:

(I)

Because the court finds the evidence legally insufficient to support the petitioner's conviction;

(II)

Because the court reversed or vacated the petitioner's conviction because of a legal error unrelated to the petitioner's actual innocence or because of uncorroborated witness recantation alone; or

(III)

On the basis of uncorroborated witness recantation alone.

(c)

As used in this subsection (1), "reliable evidence" may include but is not limited to exculpatory scientific evidence, trustworthy eyewitness accounts, and critical physical evidence.

(2)

"Custodial child" means any individual:

(a)

Who was conceived or adopted prior to the date upon which the exonerated person was incarcerated for the act or offense that served as the basis for his or her conviction, which conviction and incarceration is the subject of his or her petition;

(b)

Whose principal residence is the home of an exonerated person;

(c)

Who receives more than half of his or her financial support from the exonerated person each year; and

(d)

Who is either:

(I)

Less than nineteen years of age at the end of the current year; or

(II)

Less than twenty-four years of age at the end of the current year and a full-time student.

(3)

"Exonerated person" means a person who has been determined by a district court pursuant to section 13-65-102 to be actually innocent.

(4)

"Immediate family member" means a spouse, a parent, a child, a grandparent, or a sibling of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive. The provisions of article 11 of title 15, C.R.S., shall govern which immediate family member or members have proper standing to act as a petitioner.

(5)

"Incarceration" means a person's custody in a county jail or a correctional facility while he or she serves a sentence issued pursuant to a felony conviction in this state or pursuant to the person's adjudication as a juvenile delinquent for the commission of one or more offenses that would be felonies if committed by a person eighteen years of age or older. For the purposes of this section, "incarceration" includes placement as a juvenile to the custody of the state department of human services or a county department of social services pursuant to such an adjudication.

(6)

"Personal financial management instruction course" means a personal financial management instruction course that has been approved by the United States trustee's office pursuant to 11 U.S.C. sec. 111.

(7)

"Petition" means a petition for compensation based on actual innocence filed pursuant to the provisions of section

13-65-102.

(8)

"Petitioner" means a person who petitions for relief pursuant to section 13-65-102. "Petitioner" includes the immediate family members of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive.

(9)

"Qualified health plan" means a health plan that satisfies the definition of a qualified health plan set forth in the federal "Patient Protection and Affordable Care Act", P.L. 111-148, 42 U.S.C. 18021(a) (1).

(10)

"State's duty of monetary compensation" means the total amount of monetary compensation owed by the state to an exonerated person.

Cite as C.R.S. § 13-65-101

History. Added by 2013 Ch. 409, §2, eff. 6/5/2013.

L. 2013: Entire article added, (HB13-1230), ch. 409, p. 2413, §2, effective June 5.