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## **A Comparative Analysis of Statutory Remedies for Wrongful Convictions in the Fifty States**

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A Comparative Analysis of Statutory Remedies for Wrongful Convictions  
in the Fifty States

by

Abigail St. John

A Thesis  
Submitted to the Honors College of  
The University of Southern Mississippi  
in Partial Fulfillment  
of Honors Requirements

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## ABSTRACT

Thousands of individuals have been wrongfully convicted across the United States. When an exoneration occurs, an individual's conviction is absolved, and their innocence is proved through newly discovered evidence. While it might be impossible to protect from the errors of the criminal justice system, it is in the hands of the state to compensate the wrongly convicted. There is an abundance of research that focuses on reforming the existing wrongful conviction compensation legislation, but there is a lack of scholarly data that explains the motivations behind this compensation. Moreover, few researchers have considered the role of partisanship and political parties in creating these laws. This thesis will identify the political factors associated with the level of generosity in a state's statutory remedies. First, this study begins with a thorough examination of remedies made available to exonerees in each of the fifty states. I analyzed the span of time between the years 2000 and 2021 to determine what shift, if any, each state experienced regarding its political orientation as a blue or red state. I then determined each state's geographic location and most recent median household income to look for additional predictors of a state's level of generosity towards victims of wrongful conviction. Second, I compiled this data numerically into an Excel spreadsheet for processing by the R programming language for statistical computing to analyze and graph my data. With this data, this study will examine the following aspects of wrongful conviction law in the United States: (1) a quantitative analysis of evidentiary factors leading to exoneration, (2) a quantitative measure of the role of DNA in obtaining an exoneration, (3) a review of the relationship, if any, between a state's political party partisanship and its level of generosity in its statutory remedy for wrongful conviction, (4) a review of the

relationship, if any, between a state's geographic region and its level of generosity in its statutory remedy for wrongful conviction, and (5) a review of the relationship, if any, between a state's median household income and its level of generosity in its statutory remedy for wrongful conviction. I have concluded that wrongful conviction compensation amounts appear to be random and are not consistently determined by political partisanship. Furthermore, neither political party dominates the movement for increased remedies for victims of wrongful conviction.

**Keywords:** "wrongful conviction", exoneration, partisanship, "statutory remedies", generosity, compensation

## **DEDICATION**

This thesis is dedicated to my mom, dad, and brother. Without you, this thesis would have never happened. Your unwavering love and support have made me into the woman I am today. Thank you for pushing me to see my fullest potential in times when I only doubted myself. Thank you for reminding me to not take life too seriously, making me laugh through the tears, and helping me find joy in the hardest moments. Thank you for everything.

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To the Honors College and the University of Southern Mississippi, thank you for this opportunity. Thank you for instilling resilience and confidence in me. While it has not been easy, I would not change a single moment of my time spent here at Southern Miss. Thank you for being the best decision I have ever made.

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## CHAPTER I: INTRODUCTION

In his 1913 editorial, evidence law scholar, John H. Wigmore, stated, “We have persisted in the self-deceiving assumption that only guilty persons are convicted. We have been ashamed to put into our code of justice any law which per se admits that justice may err. But let us be realists.”<sup>1</sup> In the United States, 3,061 individuals have been exonerated in the past three decades.<sup>2</sup> From 1989 to 2021, these exonerees have served over 260 centuries of prison time for crimes they did not commit.<sup>3</sup> These are the only years for which there is an accounting of wrongful conviction rulings.

The National Registry of Exonerations has compiled into one database all known exonerations across the United States for this period. Professor Jeffrey S. Gutman of George Washington University Law School, used this registry for his 2019 study on the compensation for years lost to wrongful imprisonment.<sup>4</sup> Gutman evaluated the fairness of compensation awards, as measured by the extent to which exonerees filed for and received compensation. Given this definition of “fairness,” he proposed that the best state in which to be exonerated is Mississippi.<sup>5</sup>

This study will test Gutman’s conclusion by employing a broader set of data to

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<sup>1</sup> Edwin M. Borchard, *State Indemnity for Errors of Criminal Justice*, 52 *The Annals of the American Academy of Political and Social Science*, 109 (1914).

<sup>2</sup> *Exoneration Registry*, The National Registry of Exonerations (Apr.14, 2022, 7:14 PM) <https://www.law.umich.edu/special/exoneration/Pages/about.aspx>.

<sup>3</sup> *Id.*

<sup>4</sup> *Milestone: Exonerated Defendants Spent 20,000 Years in Prison*, The National Registry of Exonerations (Mar. 28, 2022, 2:51 PM) <https://www.law.umich.edu/special/exoneration/Documents/NRE.20000.Years.Report.pdf>

<sup>5</sup> Jeffrey S. Gutman and Lingxiao Sun, *Why is Mississippi the Best State in Which to be Exonerated? An Empirical Evaluation of State Statutory and Civil Compensation for the Wrongly Convicted*, 11 No. 2 *Northeastern University Law Review*, 702 (2019).

comparatively assess each state's generosity toward exonerated individuals . Gutman based his conclusion on the notion that a state is more “fair” to exonerees when there is a high percentage of exonerees in that state who filed for and were awarded compensation for a substantial percentage of lost years. Gutman showed that, tied with Nebraska, Mississippi had the highest prevalence of these characteristics, making its compensation awards the most “fair” in the United States. However, my data indicates that, while more generous than some, Mississippi is not as generous as twelve of the states in terms of available monetary remedies and does not offer as many social services as twenty other states.

For many years, researchers have focused on reforming state and federal legislation to aid exonerees of wrongful conviction. The Innocence Project explains, “having to convince the legislature of the need for compensation makes it a political issue... when compensation should be a simple issue of justice.”<sup>6</sup> If injustice is not enough for states to adequately and hastily provide compensation, what is? Herein, the central premise of this thesis is to determine, on a political level, the factors that drive a state to be more or less generous in the statutory remedies made available to exonerees in that state.

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<sup>6</sup> *Compensating the Wrongfully Convicted*, Innocence Project, (Feb. 25, 2022, 5:50 PM) <https://innocenceproject.org/compensating-wrongly-convicted/>

## ***Wrongful Conviction***

The criminal justice system aims to convict the guilty and protect the innocent. But what happens when the system falls short of clearing the innocent? A wrongful conviction occurs when an individual is convicted of a crime they did not commit. By definition, it is unknown that the defendant is innocent when the conviction occurs.<sup>7</sup> Thus, it is impossible to determine the accurate rate of wrongful convictions, as many false convictions will never come to light. Nevertheless, the National Registry of Exonerations has recorded all known exonerations since 1989.<sup>8</sup> With over 3,000 recorded exonerations, each exoneree spent on average more than eight years and ten months in prison for crimes they did not commit.<sup>9</sup> An exoneration occurs when an individual's conviction is absolved and their innocence is proved, at least in part, through newly discovered or newly admitted evidence.

Post-conviction litigation has revealed the most common factors that have contributed to wrongful convictions. The five primary contributing factors include: (1) mistaken eyewitness identification, (2) false confession, (3) perjury or false accusation, (4) false, absent, or misleading forensic evidence, and (5) official misconduct.<sup>10</sup> The majority of wrongful convictions involve at least one of these common factors, yet there are several other factors underlying these convictions. While it might be impossible to

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<sup>7</sup> Samuel R. Gross et al., *Rate of False Conviction of Criminal Defendants Who Are Sentenced to Death*, 111 Proc. Natl. Acad. Sci. U.S.A., 7230–7235 (2014).

<sup>8</sup> *Exoneration Registry*, *supra* note 2.

<sup>9</sup> *Wrongful Convictions*, Equal Justice Initiative (Feb. 24, 2022, 5:19 PM) <https://eji.org/issues/wrongful-convictions/>

<sup>10</sup> *Wrongful Conviction Contributing Factors*, Innocence Project of Florida (Feb. 11, 2022, 5:17 PM) <https://www.floridainnocence.org/contributing-factors>

protect individuals from the errors of the criminal justice system, the state is responsible for compensating the wrongly convicted.

### ***The Federal Statute***

In 1912, Senator George Sutherland of Utah, proposed a bill for a federal wrongful conviction compensation statute following Andrew Toth's exoneration.<sup>11</sup> In 1911, the court declared Toth an innocent man and exonerated him from his prior conviction for murder.<sup>12</sup> After his release, Toth could not travel home because the state of Pennsylvania refused him compensation. This proposed 1912 legislation was the first attempt, in American history, to compensate the wrongfully convicted. In 1938, Congress ultimately enacted the federal compensation statute. The statute capped damages at \$5,000.

Congress's first attempt to reform capital punishment in federal legislation and to provide rules regarding convicted individuals having access to DNA testing began in 2004 when Congress passed the Innocence Protection Act.<sup>13</sup> The act contains three subtitles: (1) Exonerating the innocent through DNA testing, (2) improving the quality of representation

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<sup>11</sup> Jeffrey S. Gutman, *Are Federal Exonerees Paid?: Lessons for the Drafting and Interpretation of Wrongful Conviction Compensation Statutes*, 69 Clev. St. L. Rev. 219 (2021).

<sup>12</sup> *Andrew Toth, National Registry of Exonerations Pre-1989*, The National Registry of Exonerations (Mar. 28, 2022, 5:31 PM) <https://www.law.umich.edu/special/exoneration/Pages/casedetailpre1989.aspx?caseid=334>.

<sup>13</sup> R. McMillion, *Seeking a Fair Penalty*. 88 Issue 9 ABA Journal 70 (2002).

in state capital cases, and (3) Compensation for the wrongfully convicted.<sup>14</sup> Additionally, this statute guarantees compensation for the wrongful conviction of federal crimes. At minimum, those wrongfully convicted, can receive \$50,000 per year of incarceration with an additional \$100,000 allotted per year spent on death row.<sup>15</sup> Congress has not amended this statute since its original enactment in 2004.

The federal statute is inapplicable to state convictions, and states are not required to follow the federal compensation. Additionally, the vast majority of defined crimes and criminal convictions, are state crimes. Because no federal statute applies in all fifty states, it is up to the state, and only the state, to determine and provide reasonable compensation for those who are exonerated from state criminal convictions within that state.<sup>16</sup>

### ***Fifty States of Compensation***

Currently, thirty-seven states have compensation laws pertaining to wrongful convictions. In 1941, California became the first state to enact a wrongful conviction compensation statute.<sup>17</sup> Rhode Island became the most recent state to enact such legislation in 2021. A compensation statute may provide monetary and nonmonetary remedies to exoneeres, but typically includes a cap on the total amount a person can receive. The current compensation statutes provide monetary remedies ranging from

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<sup>14</sup> *DPIC SUMMARY: The Innocence Protection Act of 2004*, Death Penalty Information Center (Feb 19, 2022, 5:53 PM) <https://deathpenaltyinfo.org/stories/dpic-summary-the-innocence-protection-act-of-2004>

<sup>15</sup> 28 U.S.C. § 2513.

<sup>16</sup> *Sources of Law*, University of Idaho College of Law, <https://www.uidaho.edu/~?media/UIIdaho-Responsive/Files/law/library/legal-research/guides/sources-law.ashx>.

<sup>17</sup> *California*, Innocence Project, (Feb. 24, 2022, 5:23 PM) <https://innocenceproject.org/policy/California/>



\$5,000 per year up to \$80,000 per year of incarceration.<sup>18</sup> Twenty-one states follow the federal standard and provide at least \$50,000 per year of wrongful incarceration, and seven states provide additional compensation for years spent on death row and/or post release supervision.<sup>19</sup> Additionally, twenty-seven states provide transitional services and/or other supplementary financial support such as attorney's fees, child support, and tuition waivers.<sup>20</sup> Today, there are thirteen states that do not have compensations laws.<sup>21</sup>

### ***Call for Reform***

In 1996, the Circuit Court of Montgomery County, Mississippi, convicted Curtis Flowers on several counts of murder and sentenced him to death in the Mississippi State Penitentiary.<sup>22</sup> The Mississippi Supreme Court overturned the first three convictions because of prosecutorial misconduct.<sup>23</sup> The fourth and fifth trials resulted in mistrials,

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<sup>18</sup> Wis. Stat. § 775.05; and Tex. Civ. Prac. & Rem. Code § 103.052 /

<sup>19</sup> Ala. Code § 29-2-159; Cal. Pen Code § 4904; Colo. Rev. Stat. § 13-65-103; Fla. Stat. § 961.06; Haw. Rev. Stat. § 661B-3; Ida. Code § 6-3503; 705 ILCS 505/8; Ind. Code Ann. § 5-2-23; K.S.A. § 60-5004; MCLS § 691.1755; Minn. Stat. § 611.365; Miss. Code § 11-44-7; 2021 Mt. HB 92; Nev. Rev. Stat. Ann. § 41.950; N.J. Stat. § 52:4C-5; N.C. Gen. Stat. § 148-84; O.R.C. §2743.49; 2021 R.I. HB 5470; ex. Civ. Prac. & Rem. Code § 103.052; Utah Code Ann. § 78B-9-405; and Rev. Code Wash. (ARCW) § 4.100.060

<sup>20</sup> Cal. Pen Code § 3007.05; Colo. Rev. Stat. § 13-65-103; Conn. Gen. Stat. § 54-102uu; Fla. Stat. § 961.06; Haw. Rev. Stat. § 661B-3; Ida. Code § 6-3503; 705 ILCS 505/8; Ind. Code Ann. § 5-2-23; Iowa Code § 663A.1; K.S.A. § 60-5004; La. R.S § 15:572.8; 2021 Bill Text MD S.B. 14; ALM GL ch. 258D, § 5; MCLS § 691.1755; Minn. Stat. § 611.365; Miss. Code § 11-44-7; 2021 Mt. HB 92; Nev. Rev. Stat. Ann. § 41.950; Nev. Rev. Stat. Ann. § 41.950; N.C. Gen. Stat. § 148-84; O.R.C. §2743.49; 2021 R.I. HB 5470; Tex. Civ. Prac. & Rem. Code § 103.054; 13 V.S.A. § 5574; Va. Code Ann. § 8.01-195.11; Rev. Code Wash. (ARCW) § 4.100.060; and Wis. Stat. § 775.05

<sup>21</sup> *Compensating the Wrongfully Convicted*, *supra* note 6.

<sup>22</sup> *Flowers v. State*, 842 So. 2d 531 (Miss. 2003)

<sup>23</sup> *Flowers v. State*, 947 So. 2d 910 (Miss. 2007)

because the jury failed to reach a verdict.<sup>24</sup> In the sixth and final trial, Flowers was found guilty and sentenced to death in 2010.<sup>25</sup> Ultimately, Curtis Flowers endured six trials, four death sentences, and twenty-three years incarcerated, all for a crime which he did not commit. This case garnered tremendous national media attention when the United States Supreme Court reversed the judgment and vacated his sentence. In a 7-2 ruling, the United States Supreme Court reasoned that the prosecutor had engaged in discriminatory challenges by trying to exclude Black members from the jury and by doing so, violated Flowers's constitutional rights.<sup>26</sup> In all of Flowers's trials, a Black juror only served when there were not enough peremptory challenges to eliminate all Black members on the venire, or when the court granted a *Batson* challenge.<sup>27</sup> Executive Director of the Death Penalty Information Center, Robert Dunham stated that Flowers's death row exoneration was the result of "relentless persistence, good lawyering, strong evidence that they didn't do it and just plain luck."<sup>28</sup> Despite it all, Curtis Flowers's story is atypical. Wrongful convictions in the United States have deprived thousands of individuals their freedom, innocence, and lives. Professor John Wigmore questioned that "when it is found that he [the person wrongfully convicted] incurred these sacrifices through no fault of his own, that he was innocent, then should not the state at least compensate him, so far as money can do so?"<sup>29</sup>

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<sup>24</sup> *Flowers v. Mississippi*, 139 S. Ct. 2228 (2019)

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Batson v. Kentucky*, 476 U.S. 79 (1986) (prohibiting racially motivated use of peremptory challenges in jury selection)

<sup>28</sup> Parker Yesko, *Charges against Curtis Flowers are dropped*, APM Reports, (Mar. 31, 2022, 1:12 PM), <https://www.apmreports.org/episode/2020/09/04/charges-against-curtis-flowers-are-dropped>

<sup>29</sup> Borchard, *supra* note 1.

States that refuse to compensate exonerees add insult to injury. States can never truly compensate an exoneree with a designated amount of money, but, as Professor Wigmore stressed, monetary compensation is an important starting point for practical and symbolic reasons. No one can reasonably expect an exoneree to restore a modicum of normality to his or her life without monetary aid. Yet, thirteen states refuse to provide exonerees with any financial compensation, and many other states release exonerees with inadequate or non-existent transitional and social services. In our federal system of government, states bear the primary responsibility for responding to wrongful convictions. The disparities and omissions in current legislation across the fifty states point out the need for a uniform statute across the United States to guarantee reasonable compensation and services for the wrongfully convicted.<sup>30</sup> In absence of such a uniform statute, wrongful convictions will continue to torment exonerees for the remainder of their lives.

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<sup>30</sup> *Compensating the Wrongfully Convicted*, *supra* note 6.

## CHAPTER II: REVIEW OF RELATED LITERATURE

The Innocence Project is the leading nonprofit dedicated to criminal justice reform. Founded in 1992, the Innocence Project uses DNA technology as evidence to prove wrongful convictions. Their research reports that, to date, there have been 375 post-conviction DNA exonerations in the United States.<sup>31</sup> Much of the Innocence Project's analyses stems from research collected by the National Registry. Founded in 2012, the National Registry of Exonerations provides a comprehensive compilation of all known exonerations in the United States since 1989.<sup>32</sup> However, the Registry acknowledges its list is incomplete, because it does not learn about all the wrongful convictions across the nation. The Innocence Project and National Registry focuses their research on the primary causes of wrongful convictions and possible resolutions to prevent these errors.<sup>33</sup> These organizations have extensively analyzed exonerations by type of crime for which there was a false conviction, race/ethnicity, gender, contributing factors, and whether DNA evidence was utilized. The Innocence Project and National Registry have become the primary sources of wrongful conviction research, and in the process, they have highlighted the weaknesses of our justice system and advocated for policy reforms across the nation.

Previous researchers, like Maddy Gates, have focused their efforts on the remedies available to exonerees of wrongful conviction. In the Harvard Civil Liberties

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<sup>31</sup> *Exonerate the Innocent*, Innocence Project, (Mar. 29, 2022, 9:24 AM) <https://innocenceproject.org/exonerate/>

<sup>32</sup> *Exoneration Registry*, *supra* note 2.

<sup>33</sup> Colby Duncan, *Justifying Justice: Six Factors of Wrongful Convictions and Their Solutions*, 7 Article 6, Themis: Research Journal of Justice Studies and Forensic Science, 1 (2019).<https://doi.org/10.31979/THEMIS.2019.0706>

Law Review, Gates highlights the two options of compensation available, exoneration statutes or civil rights claims.<sup>34</sup> Gates explains that while a civil rights claim may provide greater compensation than statutory remedies, it is extremely difficult to prove such claims. Exoneration statutes guarantee a monetary and/or nonmonetary remedy for exonerees who do not pursue a civil rights claim. However, not every state has enacted an exoneration statute. Gates' research highlights the need for states to guarantee compensation to victims of wrongful conviction.

Similarly, Justin Brooks, the co-founder of the California Innocence Project, explains the difficulty of quantifying damages for wrongful convictions.<sup>35</sup> He asserts that most statutory remedies employ a flawed mathematical approach based primarily on the number of years spent in wrongful incarceration. While there is no uniform way to calculate compensation, Brooks notes that compensation statutes should be, at a minimum, inclusive, efficient, and meaningful.<sup>36</sup> Furthermore, Addison Watson catalogs additional shortcomings of existing compensation statutes.<sup>37</sup> These shortcomings include, but are not limited to, a short statute of limitations, an inconsistent burden of proof, expiration of action upon death, and damage caps. Watson concludes that the discrepancy among these statutes makes it a near impossible task to obtain compensation in some states. As previously

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<sup>34</sup> Maddy Gates, *Compensation Should Always be Available to the Wrongfully Convicted*, Harvard Civil Rights-Civil Liberties Law Review (2019).

<https://harvardcrcl.org/compensation-should-always-be-available-to-the-wrongfully-convicted/>

<sup>35</sup> Justin Brooks and Alexander Simpson, *Find the Cost of Freedom: The State of Wrongful Conviction Compensation Statutes Across the Country and the Strange Legal Odyssey of Timothy Atkins*, 49 San Diego L. Rev. 627, (September 2012).

<sup>36</sup> *Id.*

<sup>37</sup> Addison K. Watson, *Wrongful Convictions: Life, Liberty, and the Pursuit of Compensation*, 87 Miss. L.J. 887 (2018).

mentioned, the empirical research conducted by Gutman examined the frequency and extent of compensation exonerees receive.<sup>38</sup> Gutman focused his research on how often the wrongly convicted win and lose compensation claims. He also examined the question of why some exonerees fail when seeking compensation.

While a number of legal scholars have performed extensive research on wrongful conviction compensation and the shortcomings of existing legislation, few researchers have questioned the motivations behind this compensation, an inquiry that is more political than legal. Moreover, few researchers have considered the role of partisanship and political parties in crafting these laws. I hypothesized that there could be a correlation between a state's degree of Republican partisanship and the amount of money offered by that state to exonerees of wrongful conviction. Similarly, I speculated that a correlation exists between a state's degree of Republican partisanship and the number of social services offered to exonerees. Additionally, I supposed that there would be predictable correlations between geographic location, median household income, and the amount of compensation offered by that state. Given these hypotheses, my study will examine the motivations that drive state lawmakers to provide these remedies in the first place. Furthermore, I seek to identify particular factors associated with the level of generosity in a state's statutory remedies.

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<sup>38</sup> Gutman and Sun, *supra* note 5.

## CHAPTER III: METHODOLOGY

The goals of this study includes: First, a comparative analysis of monetary and non-monetary remedies made available to exonerees of wrongful convictions in each of the fifty states. Second, to determine if there is a correlation between the generosity of a state's remedies and the state government's political partisanship, measured here by the degree of the Republican party's control of state government in that state. Third, to determine if geographic location or median household income are predictors of a state's level of generosity in the statutory remedies provided. Fourth, as a contextual foundation for the entire study, to quantify the evidentiary factors that most frequently result in exoneration from a wrongful conviction.

My research begins with a thorough examination of the range of monetary and nonmonetary remedies provided in wrongful conviction compensation statutes across the United States. As mentioned before, state statutes are enacted by state legislatures and apply only within that state.<sup>39</sup> The method consisted of collecting and analyzing all wrongful conviction compensation statutes codified into the state legislative codes.<sup>40</sup> I collected the statutes from Westlaw, an online legal research database, and then compiled them into an Excel spreadsheet. Ultimately, I converted this information into a numerical value to aid a deeper statistical analysis with the R software program. For monetary remedies, the numerical value assigned to a state was the maximum amount of money

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<sup>39</sup> *How to Find Statutes*, Westlaw, (Mar. 31, 2022, 10:21 PM)  
[http://lscontent.westlaw.com/  
images/banner/documentation/2009/FindStat09.pdf](http://lscontent.westlaw.com/images/banner/documentation/2009/FindStat09.pdf)

<sup>40</sup> *Id.*

recoverable by an exoneree after ten (10) years on death row. For the various social service remedies sometimes provided to exonerees, I noted on the spreadsheet whether each state provided any of the following categories of social services to wrongfully convicted exonerees: (1) attorney's fees and court costs, (2) health care, (3) child support, (4) job training, (5) tuition waivers, (6) counseling services, (7) re-integrative services, and (8) housing assistance. Ultimately, if a state's statute offered only one of these services, then that state received a numerical value of "1" for social services. A more generous state that offered all eight of these services would be assigned a numerical value of "8" for social services. Additionally, each state was checked for pending legislation which could affect the current law. The goal focused on finding the differences and discrepancies in the remedies the states are willing to provide exonerees. This comparative analysis would provide the first data for answering the question: Which state is the best state in which to be exonerated, based solely on statutory remedy?

To determine if there was a correlation between the generosity of a state's remedies and the state's degree of Republican partisanship, I analyzed the span of time between the years 2000 and 2021 to determine what shift, if any, each state experienced in regard to its political orientation. This data was retrieved from the non-partisan website Ballotpedia. The method employed was to determine party prevalence in the following three areas of state government: state senate, state house, and state governor. Over the specified two decades, I tracked which party, Democrat or Republican, controlled each of these governmental areas and in exactly which years. Additionally, I created a fourth category to include each state's voting history, by party, for the 2012, 2016, and 2020 presidential elections.



To categorize a state as either Democratic or Republican, I converted this data into a percentage. For example, if Democrats held party control in the state senate from 2000 to 2010, the state would equal 50% Democrat in the first category. Conversely, if Republicans then held party control in the state senate from 2011 to 2021, the state would equal 50% Republican in the first category. This process was repeated for each of the three categories, in each of the fifty states. For the fourth category, presidential voting history, the party prevalence was recorded in one of three ways: 100% Republican or Democrat, 67% Republican or Democrat, or 33% Republican or Democrat. This average was based on the number of times the state voted either Republican or Democrat in the three previous presidential elections. This process was repeated for each of the fifty states.

To then categorize the state's level of partisanship, the percentage across each category was combined and divided by four. If the state averaged 100-80% Democratic or Republican for the span of time between the years 2000 and 2021, it was classified as a solid blue or red state. For 79-60%, the state was classified as a leaning blue or leaning red state. For 59-55%, the state was classified as a weak blue or weak red state. For any state below 55% on either party, the state was classified as a purple state, or swing state.

Finally, to determine if geographic location or median household income are predictors of a state's level of generosity of remedies, I consulted the U.S. Census Bureau. The Census Bureau groups the states into one of the four following regions: West, Midwest, Northeast, South. For my data, I numerically represented which of the four Census Bureau regions the state falls in as follows: (1) Northeast, (2) Midwest, (3) West, and (4) South. Additionally, median household income by state was based on the

most recent 2019 report by the Department of Labor Statistics. This data was compiled numerically into an Excel spreadsheet for processing by the R software program.

## CHAPTER IV: RESULTS AND ANALYSIS

### *Factors Contributing to Exonerations*

With wrongful convictions gaining national attention, most people question how innocent people fall victim to wrongful convictions. Exonerations have revealed the most common causes attributed to wrongful convictions. The five leading contributing factors include mistaken eyewitness identification, false confession, perjury or false accusation, false or misleading forensic evidence, and official misconduct.<sup>41</sup> The National Registry reveals the following trends in avenues for exonerations.

*Figure 1. Leading Factors in Wrongful Convictions*

#### 1989 - 2021 EXONERATIONS BY CONTRIBUTING FACTORS



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<sup>41</sup> *Wrongful Conviction Contributing Factors*, *supra* note 10.

The data in Figure 1 reveals that 61% of all exonerations involve perjury or false accusation, making it the leading contributing factor of wrongful convictions.<sup>42</sup> Perjury or false accusation occurs when a false statement is made under oath with intent to mislead and incriminate the defendant. These false statements are typically made with the intention of benefitting from testifying against the exoneree. This could be due to an effort to deflect from personal involvement, desire to obtain a promising plea bargain, ill-will towards the exoneree, or money.<sup>43</sup>

Official misconduct is the second leading factor contributing to more than half of all exonerations.<sup>44</sup> Official misconduct involves police, prosecutors, or other government officials abusing their power throughout the judicial process. Misconduct can occur at any stage in the criminal conviction and commonly involves witness tampering, improper interrogation techniques, or fabricating and concealing evidence.<sup>45</sup> Concealing exculpatory evidence, evidence favorable to the defendant, is the most common type of misconduct seen at the trial stage.<sup>46</sup>

The third leading factor is mistaken witness identification.<sup>47</sup> This means that at

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<sup>42</sup> *Contributing Factors and Type of Crime*, The National Registry of Exonerations, (Mar. 31, 2022, 11:32 AM) <https://www.law.umich.edu/special/exoneration/Pages/ExonerationContribFactorsByCrime.aspx>

<sup>43</sup> *Perjury*, Innocence Project New Orleans, (Mar. 30, 2022, 2:04 PM) <https://ip-no.org/what-we-do/advocate-for-change/shoddy-evidence/perjury/>

<sup>44</sup> *Contributing Factors and Type of Crime*, *supra* note 33.

<sup>45</sup> *Why do Wrongful Convictions Happen?* Korey Wise Innocence Project, University of Colorado Boulder, (Mar. 30, 2022, 2:07 PM) <https://www.colorado.edu/outreach/korey-wise-innocence-project/our-work/why-do-wrongful-convictions-happen#Misconduct>

<sup>46</sup> Debra Cassens Weiss, *Police and prosecutor misconduct contributed to over half of false-conviction cases*, ABA Journal, (Mar. 30, 2022, 2:12 PM) <https://www.abajournal.com/news/article/police-and-prosecutor-misconduct-contributed-to-over-half-of-false-conviction-cases-study-finds#>

<sup>47</sup> *Contributing Factors and Type of Crime*, *supra* note 33.

least one witness incorrectly identified the exoneree as the perpetrator of the crime. Extensive research in psychology and social sciences attest that “memory doesn’t work like a tape recorder. It is malleable and easily corruptible.”<sup>48</sup> Mistaken identification can stem from the witness’s stress, anxiety, implicit bias, or procedural misconduct such as police coercion. The Innocence Project states that, “despite solid and growing proof of the inaccuracy of traditional eyewitness ID procedures...traditional eyewitness identifications remain among the most commonly used and compelling evidence brought against criminal defendants.”<sup>49</sup> Since 28% of all exonerations involve a mistaken eyewitness, states are establishing reforms to increase the accuracy of eyewitness identifications.<sup>50</sup>

False or misleading forensic evidence is the fourth leading factor of wrongful convictions.<sup>51</sup> Typically, this occurs when a method or variety of investigative methods have been improperly applied or interpreted. This includes misleading expert testimony, mistakes made by experts, and misconduct by forensic analysts. No forensic method has thoroughly proven the ability to be consistent. Moreover, wrongful convictions have occurred where accepted scientific testimony has later been disproven, such as bitemark

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<sup>48</sup> *What do DNA exonerations teach us about the criminal justice system?* Schuster Institute for Investigative Journalism, Justice Brandeis Law Project, (Apr. 1, 2022, 12:50 AM) <https://www.brandeis.edu/investigate/innocence-project/what-do-exonerations-teach-us-about-criminal-justice-system.html>

<sup>49</sup> *Eyewitness Misidentification*, Innocence Project, (Mar. 31, 2022, 11:53 PM) [https://innocenceproject.org/causes/eyewitness-misidentification/?gclid=CjwKCAjwopWSBhB6EiwAjxmqDYqbmr3RG5xJYIAFixfowPGHCVakkKqOiegfSgxNBzh1vGvUOvmUaxoC93QQA\\_vDBwE](https://innocenceproject.org/causes/eyewitness-misidentification/?gclid=CjwKCAjwopWSBhB6EiwAjxmqDYqbmr3RG5xJYIAFixfowPGHCVakkKqOiegfSgxNBzh1vGvUOvmUaxoC93QQA_vDBwE)

<sup>50</sup> *Id.*

<sup>51</sup> *Contributing Factors and Type of Crime*, *supra* note 33.

analysis, hair comparisons, and comparative bullet lead analysis.<sup>52</sup>

False confessions are the fifth leading factor, accounting for 12% of all exonerations.<sup>53</sup> A false confession is a statement made to law enforcement, confessing to a crime one did not commit. It is important to note that a guilty plea is not a confession.<sup>54</sup> Physical intimidation, interrogations, intellectual disabilities, or exhaustion can make individuals particularly susceptible to providing false confessions. Today, thirty of the fifty states require recording of custodial interrogations.<sup>55</sup> The objective aims to protect the rights of the innocent and prevent wrongful convictions from the earliest stages.

### ***DNA's Role in Exonerations***

The first DNA exoneration took place in 1989.<sup>56</sup> Since then, exonerations have increased due to this groundbreaking technology. However, only 356 of the 3,061 exonerations have involved DNA.<sup>57</sup> While DNA plays a pivotal role in exonerating innocent individuals, it does not resolve the problem at hand. Instead, “the groundbreaking use of DNA technology to free innocent people has provided irrefutable proof that wrongful convictions are not isolated or rare events but instead arise from

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<sup>52</sup> *Overturing Wrongful Convictions Involving Misapplied Forensics*, Innocence Project, (Mar. 31, 2022, 11:53 PM) <https://innocenceproject.org/overturing-wrongful-convictions-involving-flawed-forensics/>

<sup>53</sup> *Contributing Factors and Type of Crime*, supra note 33.

<sup>54</sup> *Glossary*, The National Registry of Exonerations, (Mar. 31, 2022, 11:57 PM) <https://www.law.umich.edu/special/exoneration/Pages/glossary.aspx#FC>

<sup>55</sup> *False Confessions & Recording of Custodial Interrogations*, Innocence Project, (Apr. 1, 2022, 12:12 AM) <https://innocenceproject.org/false-confessions-recording-interrogations/>

<sup>56</sup> *DNA's Revolutionary Role in Freeing the Innocent*, Innocence Project, (Apr. 1, 2022, 12:24 AM) <https://innocenceproject.org/dna-revolutionary-role-freedom/>

<sup>57</sup> *Id.*

systemic defects.”<sup>58</sup> In part by DNA or without DNA, exonerations emphasize the weaknesses in our criminal justice system such as the allowance of inaccurate and unreliable evidence.

### ***Statutory Remedies***

My study seeks to determine the range of monetary and nonmonetary remedies made available to exonerees of wrongful convictions, based on comparative generosity, I will attempt to answer the question: Which state offers the best statutory remedy? States can compensate the wrongfully convicted by providing monetary compensation and/or non-monetary services. States are encouraged to provide reasonable compensation, but it is solely up to the state to determine what is deemed “reasonable.” The Innocence Project advises that “statutes should include either a fixed sum or a range of recovery for each year spent in prison.”<sup>59</sup> The federal compensation statute sets a framework for states to follow by guaranteeing a minimum \$50,000 per year of incarceration with an additional \$100,000 allotted per year spent on death row.<sup>60</sup> This amount is currently \$63,000 per year, adjusted for inflation.<sup>61</sup>

Today, thirty-seven states provide statutory remedies for individuals who have been wrongfully convicted. The monetary remedies available in these states are set forth in Appendix A. Texas provides \$80,000 per year served in prison, the largest amount allotted per year regardless of the total number of years the exoneree spent incarcerated.

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<sup>58</sup> *Exonerate the Innocent*, *supra* note 23.

<sup>59</sup> *Compensating the Wrongfully Convicted*, *supra* note 6.

<sup>60</sup> *Supra* note 15.

<sup>61</sup> *Compensating the Wrongfully Convicted*, *supra* note 6.

Colorado provides the second largest amount of \$70,000 per year of incarceration and Kansas provides the third most of \$65,000 per year of imprisonment. Seven states join these states in providing more than \$50,000 per year: California, Connecticut, Idaho, Montana, Nevada, Ohio, and Vermont. The following eleven states provide exactly \$50,000 per year: Alabama, Florida, Hawaii, Indiana, Michigan, Minnesota, Mississippi, New Jersey, North Carolina, Rhode Island, and Washington. Thus, twenty-one states meet the minimum \$50,000 per year of incarceration set by the federal statute.

Furthermore, the federal statute offers an additional \$100,000 per year spent on death row. While only the federal government provides as much as \$100,000, the following seven states provide additional compensation for years on death row and/or post-release supervision: Colorado, Idaho, Kansas, Minnesota, Montana, Nevada, and Washington. Of the states that provide monetary remedies, 19% meet both elements of the federal statute and 57% provide at least \$50,000 per year of incarceration.

*Figure 2. Additional Remedies*

## **How Many States Offer Social Services?**



The non-monetary remedies provided in a state's compensation statute include social services and/or other supplementary financial support. The social services analyzed in my study include job training, housing assistance, and/or counseling. Additionally, some states offer unspecified re-integrative services as applicable. Supplementary financial support includes tuition waivers, attorney's fees and court costs, health care, and/or child support. The data in Figure 2 reveals that twenty-seven states provide at least one form of the above mentioned social services. Kansas, Nevada, and New Jersey lead in providing the most, six, non-monetary remedies. California, Colorado, Maryland, Minnesota, Montana, and Texas each provide at least four of these remedies. Of the thirty-seven states with statutory remedies, the following ten states provide no transitional services and/or other supplementary financial support: Alabama, Maine, Missouri, Nebraska, New Hampshire, New York, Oklahoma, Tennessee, Utah, and West Virginia.

While the federal statute does not express the need for non-monetary remedy, this additional remedy is critical to an exoneree's efforts to properly restore their life post-conviction.

In my study, I define a generous statute as one providing both monetary and non-monetary compensation. Currently, 72% of the thirty-seven statutory remedies include both forms of compensation. Thus, more than half of the enacted statutes are by definition, generous. However, a more generous statute will include a large amount of money allotted per year of incarceration, money for years on death row and/or post-release supervision, social services, and supplementary financial support. Based solely on this analysis of statutory remedy, my examination has shown that Kansas is the best state in which to be exonerated. Kansas provides \$65,000 per year of imprisonment and a minimum \$25,000 for each additional year on post-release supervision. Nevada is a close second. Nevada provides \$50,000 per year of imprisonment, for one to ten years imprisoned. This amount increases per additional years of imprisonment and the state also provides a minimum \$25,000 for each additional year on post-release supervision. Furthermore, Kansas and Nevada both offer various social services, such as, counseling services, housing assistance, tuition assistance, re-integrative services, reasonable attorney's fees, and health care. For these reasons, Kansas and Nevada have two of the strongest compensation statutes for the wrongfully convicted. By the measures employed in this thesis, then, Kansas is the best state in which to be exonerated from a wrongful conviction, not Mississippi as argued by Gutman.<sup>62</sup>

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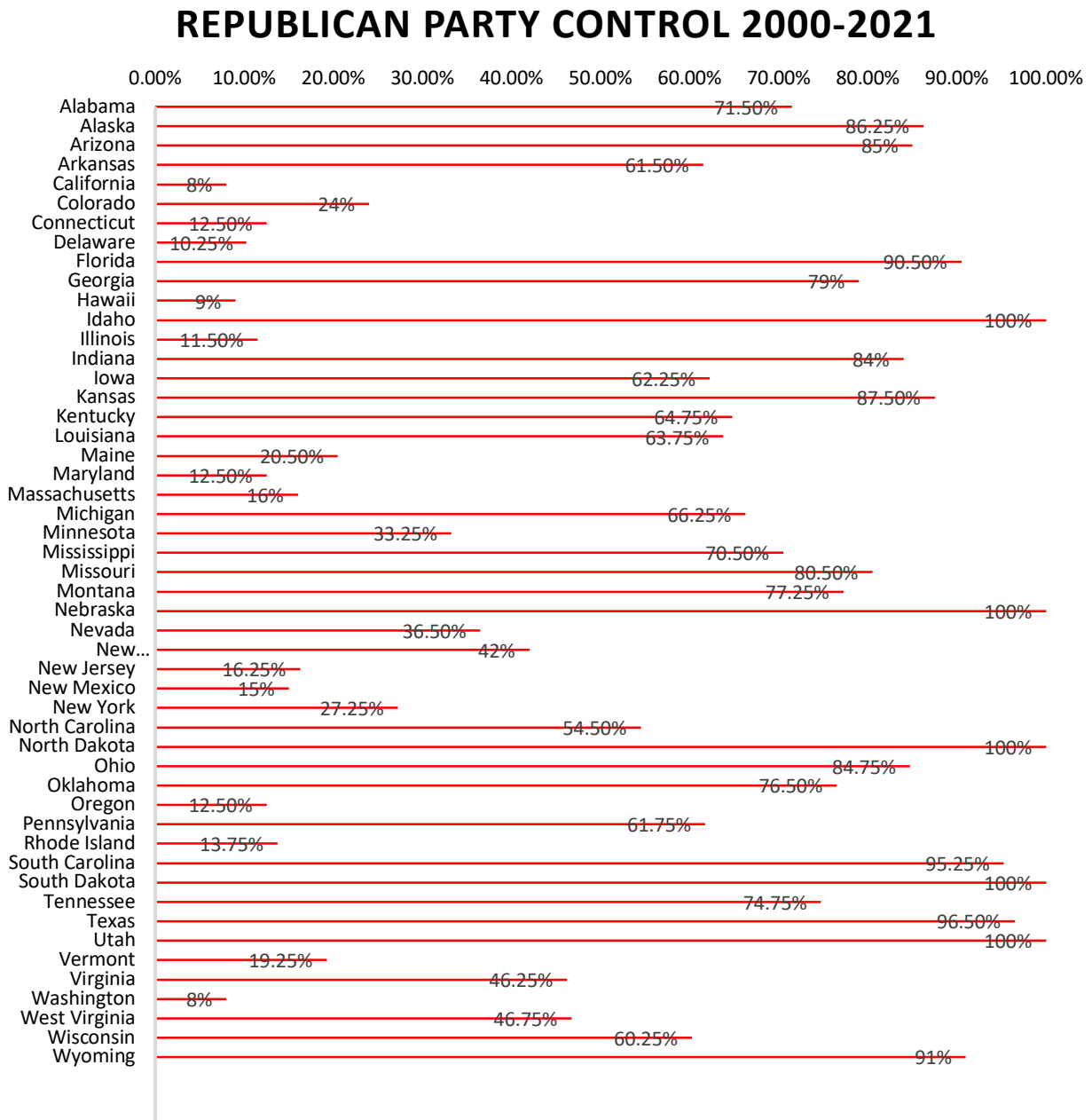
<sup>62</sup> Gutman and Sun, *supra* note 5.

The following thirteen states have no statutory remedies: Alaska, Arizona, Arkansas, Delaware, Georgia, Kentucky, New Mexico, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, and Wyoming. Instead of providing insufficient monetary compensation and social services, these states are providing absolutely nothing to victims of wrongful conviction. While my research has not found a distinct or predictable pattern of states with no remedy, there are minor parallels worth discussing. The states without statutory remedies stem across all four census regions, but ten of the thirteen states are found in the South and West region. Furthermore, ten of the thirteen states are Republican in their political orientation.

### ***Party Partisanship***

Given that most of the states have now embraced some form of statutory remedy for wrongful conviction, my study seeks to determine if party partisanship is a predictor of a state's level of generosity towards victims of wrongful conviction. To determine if a correlation between a state's degree of Republican partisanship and generosity of remedy exists, I had to first categorize each state as either Democratic or Republican. I consulted the non-partisan website, Ballotpedia to determine the years in which the Republican party controlled each state's House, Senate, and governor's office through the years 2000-2021. Additionally, I determined whether the state voted for the Republican nominee for president in the 2012, 2016, and 2020 presidential elections. From those numbers, I determined the percentage of time during that two-decade period when the Republican party dominated. The percentages are as follows:

Figure 3. Republican Party Control through the years 2000-2021



To further categorize a state as Republican or Democrat, I broke this percentage of time into four categories: 100-80%, 79-60%, 59-55% or below 55% on either party. If the state averages 100-80% Democrat or Republican for the span of time between

the years 2000 and 2021, it is classified as a solid blue or red state. For 79-60%, the state is classified as a leaning blue or red state. For 59-55%, the state is classified as a weak blue or red state. For any state below 55% on either party, the state is classified as a purple state, or swing state. Based on this measure, my results found each of the fifty states' orientation as follows:

**Solid Red (15):** Alaska, Arizona, Florida, Idaho, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, South Carolina, South Dakota, Texas, Utah, and Wyoming.

**Solid Blue (13):** California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington.

**Leaning Red (13):** Alabama, Arkansas, Georgia, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Montana, Oklahoma, Pennsylvania, Tennessee, and Wisconsin.

**Leaning Blue (5):** Colorado, Maine, Minnesota, Nevada, and New York.

**Weak Red (0)**

**Weak Blue (1):** New Hampshire

**Purple State (3):** North Carolina, Virginia, and West Virginia.

Interestingly, the data in Figure 3 reveals that when Republicans control a state, they tend to control it more dominantly than the Democrats control any state. There are a number of states that are solidly and consistently Republican, but there are no Democratic

states as consistently Democratic. Idaho, Nebraska, North Dakota, South Dakota, and Utah maintained 100% Republican control throughout the past twenty years, yet no state was able to maintain 100% Democratic control.

At the onset of this project, I hypothesized that states that were solidly and consistently Democratic would be more generous towards victims of wrongful conviction. I based this hypothesis on the assumption that the Democratic party proposes more criminal justice reforms than the Republican party.<sup>63</sup> For example, the Innocence Project specified that with a Democrat elected President for the United States in 2012, it was finally time to improve the criminal justice system by addressing wrongful conviction.<sup>64</sup> Typically, people do not associate members of the Republican party with criminal justice reform.<sup>65</sup> However, my study shows these mindsets and assumptions are misplaced.

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<sup>63</sup> *A Historic Election Means Historic Opportunity*, Innocence Project, (Apr. 1, 2022, 5:49 PM) <https://innocenceproject.org/a-historic-election-means-historic-opportunity/>

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

Figure 4: Statistical Analysis

	Estimate	Std. Error	t value	Pr(> t )
(Intercept)	-674.8401	571.2873	-1.18	0.2447
Region	-18.5943	69.2204	-0.27	0.7896
Senate	174.6448	315.9818	0.55	0.5836
House	-591.8170	294.1587	-2.01	0.0512
Gov	59.6649	257.3814	0.23	0.8179
Pres	433.7608	249.2953	1.74	0.0898
Social	69.1764	34.9114	1.98	0.0546
Income	0.0161	0.0075	2.14	0.0387
PrisonPop	-0.0000	0.0036	-0.01	0.9932
Exonerees	-0.0257	1.1150	-0.02	0.9817

The data in Figure 4 reveals there is some evidence that Republican states are more generous than Democratic states. My data shows no correlation between how a state votes for the state senate or governor and how they approach this topic, but the presidential vote is more predictive. As states voted more for Republican presidents, they awarded higher amounts to victims of wrongful conviction. Thus, Republican presidential states tend to be more generous, in statutory monetary terms, towards victims of wrongful conviction than the Democrats. Ironically, my data also reveals that as states' houses became more Republican, they tended to award less money. Thus, party partisanship does not appear to be a consistent predictor of a state's level of generosity towards victims of wrongful conviction. While my data does not present dramatic results or predictable patterns, it does reveal that neither Democrats nor Republicans have a monopoly on being

generous to exonerees. Both parties appear to be sympathetic to victims of wrongful conviction. Moreover, lawmakers in both parties are now proposing criminal justice reforms.<sup>66</sup> Wrongful convictions affect thousands of people across the nation, and it will take nonpartisan problem-solving to properly address this crisis in our criminal justice system.

### ***Geographic Location***

To determine what drives a state to be more or less generous in statutory remedies, I assumed that geographic location could be a predictor. The Census Bureau groups the fifty states into one of the four following regions: West, Midwest, Northeast, and South. For my research, I numerically represented each of the four Census Bureau regions as follows: (1) Northeast, (2) Midwest, (3) West, and (4) South. Based on this measure, I found each of the fifty states' region as follows:

- (1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York, and Pennsylvania.
- (2) Indiana, Illinois, Michigan, Ohio, Wisconsin, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.
- (3) Arizona, Colorado, Idaho, New Mexico, Montana, Utah, Nevada, Wyoming, Alaska, California, Hawaii, Oregon, and Washington.
- (4) Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina,

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<sup>66</sup> *Id.*



Virginia, West Virginia, Alabama, Kentucky, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma, and Texas.

The data in Figure 4 shows that a state's geographic location is not a predictor of a state's level of generosity in remedies provided. For instance, the thirteen states without statutory remedies enacted stem across all four census regions. There is no observable pattern or impact based on geography. For example, Georgia, Alabama, and Texas are all in the deep South, yet provide contrasting remedies. Texas provides one of the most generous monetary remedies of \$80,000 per year incarcerated with an additional \$25,000 per year post-release supervision while Alabama provides \$50,000 per year of incarceration. However, Georgia has not yet enacted a statutory remedy. As determined by figure 4, there is no correlation between Southern states nor between states in the Northeast, Midwest, and West regions.

### ***Median Household Income***

The last factor I researched as a possible predictor of a state's level of generosity towards victims of wrongful conviction is median household income. The U.S. Census Bureau reveals the average income for families in the United States. During any given year, there are several factors that can influence the median household income, causing rates to fluctuate. According to the Census Bureau, in 2019 the median household income

nationwide was \$65,712.<sup>67</sup> For my analysis, the median household income by state was based on the most recent 2019 report by the Department of Labor Statistics. This data is set forth in Appendix B.

As demonstrated by my statistical analysis in Figure 4, a state's median household income is the most significant predictor of a state's statutory generosity of all the factors studied in this thesis. Specifically, states with higher incomes tend to provide larger amounts of statutory monetary compensation to victims of wrongful conviction. For example, Arkansas had one of the lowest incomes, \$48,952, and provides no statutory remedy. Vermont's income was \$63,001 and provides a maximum \$60,000 per year incarcerated. Colorado had one of the highest incomes, \$77,127, and provides \$70,000 per year, \$50,000 per year sentenced to execution, and \$25,000 per year post-release supervision. Additionally, as states provide more monetary compensation, they tend to award more social services and supplementary financial support. This general pattern reveals that median household income is the biggest predictor of generosity in a state's statutory remedy because as income and monetary compensation increases, non-monetary compensation tends to increase as well.

A higher income equates to a higher cost of living. This conclusion reveals a positive trend that the amount of monetary compensation awarded tends to reflect the state's level of poverty or affluence. While an exoneree in Louisiana may only receive \$25,000 per year incarcerated, this amount is relative to what individuals in Louisiana

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<sup>67</sup> *Median Household Income by State 2022*, World Population Review, (Apr. 1, 2022, 9:28 PM) <https://worldpopulationreview.com/state-rankings/median-household-income-by-state>

need to live. Thus, legislatures do tend to react proportionately in setting the amount of monetary compensation.

### ***Conclusion***

Before I began collecting data for this project, I hypothesized that states that were solidly Democratic would be more generous towards victims of wrongful conviction. Additionally, I believed there would be other significant factors that drive a state's level of generosity towards victims of wrongful conviction. With all the data collected and analyzed in detail, I can state that my hypothesis was incorrect. My data revealed that, as states voted more for Republican presidents, they tended to award higher amounts. Hence, there is some evidence that Republican presidential states tend to be more generous, in monetary terms, towards victims of wrongful conviction than the Democrats. However, my data also revealed that as a states' Houses became more Republican, less money tended to be awarded. Thus, party partisanship does not appear to be a consistent or reliable predictor of a state's level of statutory generosity towards victims of wrongful conviction.

Additionally, my data showed that states with higher incomes tend to award higher amounts. Also, the more money a state awards, the more social services tend to be awarded. This general pattern reveals that median household income is the biggest predictor of generosity in a state's statutory remedy, because, as states' income and monetary compensation increase, the number of social services tends to increase as well. Although income is the strongest predictor, geography, Senate, and Governor composition provide no correlation in a state's generosity towards victims of wrongful

conviction.

This thesis aimed to determine, on a political level, the factors that drive a state government to be generous towards victims of wrongful conviction. My data shows that neither political party dominates the movement for increased remedies for victims of wrongful conviction. Neither Democrats nor Republicans have a monopoly on generosity on this issue, as both parties seem to be sympathetic, at times, towards victims of wrongful conviction. Hence, this newly compiled data suggests that, to some degree, the national attention on wrongful convictions in recent years has produced a rare and surprising moment of non-partisanship in state governments across the nation.

**APPENDIX A: STATE STATUTORY REMEDIES FOR WRONGFUL  
CONVICTION**

<b>STATE</b>	<b>CITATION</b>	<b>MONETARY COMPENSATION</b>
<b>ALABAMA</b>	Ala. Code § 29-2-159	\$50,000 per year of incarceration
<b>ALASKA</b>	No remedy codified	
<b>ARIZONA</b>	No remedy codified	
<b>ARKANSAS</b>	No remedy codified	
<b>CALIFORNIA</b>	Cal. Pen Code § 4904	\$140 per day of incarceration served, and shall include any time spent in custody
<b>COLORADO</b>	Colo. Rev. Stat. § 13-65-103	\$70,000 per year of incarceration, in addition to this amount: (I) \$50,000 for each year incarcerated and sentenced to execution (II) \$25,000 for each year served on parole, probation, or as a registered sex offender
<b>CONNECTICUT</b>	Conn. Gen. Stat. § 54-102uu	At a minimum, but may be up to 200% of the median household income for the state for each year such person was incarcerated, (determined by the US Department of Housing & Urban Development)

		adjusted for inflation using the consumer price index for urban consumers
<b>DELAWARE</b>	No remedy codified	
<b>FLORIDA</b>	Fla. Stat. § 961.06	\$50,000 per year of incarceration
<b>GEORGIA</b>	No remedy codified	
<b>HAWAII</b>	Haw. Rev. Stat. § 661B-3	<p>\$50,000 per year of actual confinement, including time spent awaiting trial</p> <p>If the court finds, by a preponderance of the evidence, extraordinary circumstances pertain to a conviction that is set aside or a pardon that is granted because of actual innocence, the court may award the petitioner a maximum of \$100,000 in additional compensation</p>

<b>IDAHO</b>	Ida. Code § 6-3503	(a) \$62,000 per year of imprisonment actually served, including time spent awaiting trial; or If imprisoned on death row: \$75,000 per year of imprisonment actually served related to the charge giving rise to death row imprisonment, including time spent awaiting trial; and (b) no less than \$25,000 per year on parole or per year the person was required to register as a sex offender (whichever period of time was greater)
<b>ILLINOIS</b>	705 ILCS 505/8	For imprisonment of 5 years or less, not more than \$85,350 For imprisonment of 14 years or less but over 5 years, not more than \$170,000 For imprisonment of over 14 years, not more than \$199,150
<b>INDIANA</b>	Ind. Code Ann. § 5-2-23	\$50,000 per year of incarceration
<b>IOWA</b>	Iowa Code § 663A.1	\$50 per day of wrongful imprisonment
<b>KANSAS</b>	K.S.A. § 60-5004	\$65,000 per year of imprisonment; and not less than \$25,000 for each additional year served on parole, probation, or the sex offender registry

<b>KENTUCKY</b>	No remedy codified	
<b>LOUISIANA</b>	La. R.S § 15:572.8	\$25,000 per year incarcerated
<b>MAINE</b>	Me. Rev. Stat. tit. 14 § 8242	May not exceed \$300,000 for all claims arising as a result of a single conviction
<b>MARYLAND</b>	2021 Bill Text MD S.B. 14	Amount equal to the total number of days wrongfully confined after the erroneous conviction multiplied by a daily rate of the state's most recent annual median household income
<b>MASSACHUSETTS</b>	ALM GL ch. 258D, § 5	Shall not exceed \$1,000,000
<b>MICHIGAN</b>	MCLS § 691.1755	\$50,000 per year imprisoned for incarceration of less than a year in prison, this amount is prorated to 1/365 of \$50,000
<b>MINNESOTA</b>	Minn. Stat. § 611.365	\$50,000 per year of incarceration, and not less \$25,000 for each year served on supervised release or as a registered predatory offender



		Limited to \$100,000 per year of incarceration and \$50,000 per year served on supervised release or as a registered predatory offender
<b>MISSISSIPPI</b>	Miss. Code § 11-44-7	\$50,000 per year incarcerated  Total amount for each claimant shall not exceed \$500,000
<b>MISSOURI</b>	Mo. Rev. Stat § 650.058	\$100 per day for each day of post-conviction incarceration
<b>MONTANA</b>	2021 Mt. HB 92	\$60,000 per year of imprisonment; and \$25,000 for each additional year served on parole or probation supervision or for each additional year the claimant was required to register as a sexual or violent offender, whichever is greater
<b>NEBRASKA</b>	Neb. Rev. Stat. § 29-4604	Shall not exceed \$500,000 per claimant per occurrence
<b>NEVADA</b>	Nev. Rev. Stat. Ann. § 41.950	1-10 years, \$50,000 per year of imprisonment 11-20 years, \$75,000 per year of imprisonment 21 or more years, \$100,000 per year of imprisonment not less than \$25,000 per year on parole or registered as a sex offender, whichever period of time was greater
<b>NEW HAMPSHIRE</b>	N.H Rev. Stat. § 541-B:14	Shall not exceed \$20,000

<b>NEW JERSEY</b>	N.J. Stat. § 52:4C-5	Twice the amount of the claimant's income in the year prior to his incarceration; or \$50,000 per year of incarceration
<b>NEW MEXICO</b>	No remedy codified	
<b>NEW YORK</b>	NY CLS Ct C Act § 8-b	If the <u>court</u> finds that the claimant is entitled to a judgment, it shall award damages in such sum of money as the <u>court</u> determines will fairly and reasonably compensate him
<b>NORTH CAROLINA</b>	N.C. Gen. Stat. § 148-84	\$50,000 per year of incarceration, including time spent awaiting trial  Shall not exceed a total amount of \$750,000
<b>NORTH DAKOTA</b>	No remedy codified	
<b>OHIO</b>	O.R.C. §2743.49	Based on the formula provided in O.R.C. §2743.49, the new adjusted amount for wrongful imprisonment awards is \$56,752.36. This amount is to be in effect for 2021 and 2022
<b>OKLAHOMA</b>	Okla. Stat. tit. 51 § 154	Shall not exceed \$175,000 per claim
<b>OREGON</b>	No remedy codified	
<b>PENNSYLVANIA</b>	No remedy codified	

<b>RHODE ISLAND</b>	2021 R.I. HB 5470	\$50,000 per year served in a correctional facility
<b>SOUTH CAROLINA</b>	No remedy codified	
<b>SOUTH DAKOTA</b>	No remedy codified	
<b>TENNESSE</b>	Tenn. Code § 9-8-108	Shall not exceed \$1,000,000
<b>TEXAS</b>	Tex. Civ. Prac. & Rem. Code § 103.052 / § 103.054	\$80,000 per year served in prison \$25,000 per year served on parole or as a registered sex offender
<b>UTAH</b>	Utah Code Ann. § 78B-9-405	For each incarcerated, up to a maximum of 15 years, the monetary equivalent of the average annual nonagricultural payroll wage in Utah, as determined by the data most recently published by the Department of Workforce Services at the time of the petitioner's release from prison
<b>VERMONT</b>	13 V.S.A. § 5574	Shall not be less than \$30,000 nor greater than \$60,000 per year the claimant was incarcerated
<b>VIRGINIA</b>	Va. Code Ann. § 8.01-195.11	Compensation in an amount equal to 90% of the inflation adjusted Virginia per capita personal income as reported by the Bureau of Economic Analysis of the U.S. Department of Commerce per year of incarceration

<b>WASHINGTON</b>	Rev. Code Wash. (ARCW) § 4.100.060	\$50,000 per year of actual confinement including time spent awaiting trial and an additional \$50,000 for each year served under a sentence of death \$25,000 per year served on parole, community custody, or as a registered sex offender
<b>WEST VIRGINIA</b>	W. Va. Code § 14-2-13a	If the <u>court</u> finds that the claimant is entitled to a judgment, it shall award damages in such sum of money as the <u>court</u> determines will fairly and reasonably compensate him
<b>WISCONSIN</b>	Wis. Stat. § 775.05	Not to exceed \$25,000 and at a rate of compensation not greater than \$5,000 per year for the imprisonment
<b>WYOMING</b>	No remedy codified	

<b>STATE</b>	<b>CITATION</b>	<b>NON-MONETARY COMPENSATION</b>
<b>ALABAMA</b>	No remedy codified	

<b>ALASKA</b>	No remedy codified	
<b>ARIZONA</b>	No remedy codified	
<b>ARKANSAS</b>	No remedy codified	
<b>CALIFORNIA</b>	Cal. Pen Code § 3007.05	Transitional services: including housing assistance, job training, and mental health services, Enrollment in the Medi-Cal & CalFresh program
<b>COLORADO</b>	Colo. Rev. Stat. § 13-65-103	Tuition waivers at state institutions of higher education, Compensation for child support payments, Reasonable attorney fees, the amount of any fine, penalty, court costs, or restitution, Healthcare
<b>CONNECTICUT</b>	Conn. Gen. Stat. § 54-102uu	May include expenses of employment training and counseling, tuition and fees at any state system of higher education and any other services needed to facilitate

		reintegration into the community
<b>DELAWARE</b>	No remedy codified	
<b>FLORIDA</b>	Fla. Stat. § 961.06	Waiver of tuition and fees for up to 120 hours of instruction at any career center, any Florida College System Institution, or any state university, The amount of any fine, penalty, or court costs imposed, reasonable attorney's fees and expenses
<b>GEORGIA</b>	No remedy codified	
<b>HAWAII</b>	Haw. Rev. Stat. § 661B-3	Reasonable attorney's fees not to exceed \$10,000
<b>IDAHO</b>	Ida. Code § 6-3503	Reasonable attorney's fees and costs not to exceed a total of \$25,000, Reentry services offered through the department of correction, as applicable

<b>ILLINOIS</b>	705 ILCS 505/8	The court shall fix attorney's fees not to exceed 25% of the award granted Provides job search and placement services, and re-entry services
<b>INDIANA</b>	Ind. Code Ann. § 5-2-23	Mental health services, Substance abuse services, Community transition services, Any other rehabilitation or reintegration services
<b>IOWA</b>	Iowa Code § 663A.1	Lost wages up to \$25,000 per year and reasonable attorney's fees
<b>KANSAS</b>	K.S.A. § 60-5004	Reasonable attorney fees and costs not to exceed a total of \$25,000, Counseling, housing and tuition assistance, financial literacy assistance, Entitled to participate in the state's health care program
<b>KENTUCKY</b>	No remedy codified	
<b>LOUISIANA</b>	La. R.S § 15:572.8	Job skills training, counseling services, and tuition and fees at any community college or unit of the public university system of the state of Louisiana

<b>MAINE</b>	No remedy codified	
<b>MARYLAND</b>	2021 Bill Text MD S.B. 14	Housing accommodations, Job and vocational training, Health and dental care, Payment of tuition and fees, Reimbursement for court fines, fees, and restitution
<b>MASSACHUSETTS</b>	ALM GL ch. 258D, § 5	Eligible for services relating for physical and emotional condition, Waved tuition and fees for educational services at any state or community college
<b>MICHIGAN</b>	MCLS § 691.1755	Reasonable attorney's fees
<b>MINNESOTA</b>	Minn. Stat. § 611.365	Reimbursement for all restitution, assessments, fees, court costs, attorney fees, Medical/dental expenses, Tuition and fees, paid or unpaid child support, Reimbursement for reintegrative expenses
<b>MISSISSIPPI</b>	Miss. Code § 11-44-7	Reasonable attorney's fees



<b>MISSOURI</b>	No remedy codified	
<b>MONTANA</b>	2021 Mt. HB 92	Reasonable attorney's fees not to exceed a total of \$25,000, 2 years of tuition assistance for a state university or college, 1 year of state-funded medical insurance, and housing assistance while the case is pending
<b>NEBRASKA</b>	No remedy codified	
<b>NEVADA</b>	Nev. Rev. Stat. Ann. § 41.950	Reasonable attorney's fees not to exceed a total of \$25,000, Payment for the cost of tuition and educational expenses to attend a school within the Nevada System of Higher Education, Participation in a state health care program, Programs for reentry, counseling services, housing assistance, and financial literacy assistance Reimbursement for restitution and any medical care paid for by the person while they were wrongfully imprisoned

<b>NEW HAMPSHIRE</b>	No remedy codified	
<b>NEW JERSEY</b>	N.J. Stat. § 52:4C-5	Reasonable attorney's fees, Vocational training, tuition assistance, counseling, housing assistance, and health insurance coverage
<b>NEW MEXICO</b>	No remedy codified	
<b>NEW YORK</b>	No remedy codified	
<b>NORTH CAROLINA</b>	N.C. Gen. Stat. § 148-84	Job skills training for at least 1 year, Tuition and fee waivers at any public North Carolina community college
<b>NORTH DAKOTA</b>	No remedy codified	
<b>OHIO</b>	O.R.C. §2743.49	Reasonable attorney's fees and any fines or court costs paid, and expenses incurred to obtain discharge from confinement, Loss of wages, salary or other earned income, Certain cost debts the Department of Rehabilitation and Correction recovered

		from the person who was wrongfully imprisoned.
<b>OKLAHOMA</b>	No remedy codified	
<b>OREGON</b>	No remedy codified	
<b>PENNSYLVANIA</b>	No remedy codified	
<b>RHODE ISLAND</b>	2021 R.I. HB 5470	Release from child support payments, Access to and eligibility for any services provided by the state, Reasonable attorney's fees not to exceed \$15,000
<b>SOUTH CAROLINA</b>	No remedy codified	
<b>SOUTH DAKOTA</b>	No remedy codified	

<b>TENNESSE</b>	No remedy codified	
<b>TEXAS</b>	Tex. Civ. Prac. & Rem. Code § 103.052 / § 103.054	Compensation for child support payments, Tuition for up to 120 hours at a career center or public institution of higher learning, reentry and reintegration services, Opportunity to buy into the Texas State Employee Health Plan
<b>UTAH</b>	No remedy codified	
<b>VERMONT</b>	13 V.S.A. § 5574	Up to 10 years of state health care, Economic damages (which may include lost wages), Reimbursement for attorney fees, Reasonable reintegrative services and mental and physical health care costs incurred by the claimant for the time period between his or her release and the date of award
<b>VIRGINIA</b>	Va. Code Ann. § 8.01-195.11	Up to \$10,000 for tuition for career and technical training within the Virginia community college system.

<b>WASHINGTON</b>	Rev. Code Wash. (ARCW) § 4.100.060	Compensation for child support payments, Reimbursement for all restitution, assessments, fees, court costs, Attorneys' fees calculated at 10% of the monetary damages. However, attorneys' fees and expenses may not exceed \$75,000
<b>WEST VIRGINIA</b>	No remedy codified	
<b>WISCONSIN</b>	Wis. Stat. § 775.05	Entitled to attorneys' fees
<b>WYOMING</b>	No remedy codified	

## APPENDIX B: MEDIAN HOUSEHOLD INCOME

STATE	MEDIAN HOUSEHOLD INCOME
ALABAMA	\$51,734
ALASKA	\$75,463
ARIZONA	\$62,055
ARKANSAS	\$48,952
CALIFORNIA	\$80,440
COLORADO	\$77,127
CONNECTICUT	\$78,833
DELAWARE	\$70,176
FLORIDA	\$59,227
GEORGIA	\$61,980
HAWAII	\$83,102

<b>IDAHO</b>	\$60,999
<b>ILLINOIS</b>	\$69,187
<b>INDIANA</b>	\$57,603
<b>IOWA</b>	\$61,691
<b>KANSAS</b>	\$62,087
<b>KENTUCKY</b>	\$52,295
<b>LOUISIANA</b>	\$51,073
<b>MAINE</b>	\$58,924
<b>MARYLAND</b>	\$86,738
<b>MASSACHUSETTS</b>	\$85,843
<b>MICHIGAN</b>	\$59,584
<b>MINNESOTA</b>	\$74,593
<b>MISSISSIPPI</b>	\$45,792

<b>MISSOURI</b>	\$57,409
<b>MONTANA</b>	\$57,153
<b>NEBRASKA</b>	\$63,229
<b>NEVADA</b>	\$63,276
<b>NEW HAMPSHIRE</b>	\$77,933
<b>NEW JERSEY</b>	\$85,751
<b>NEW MEXICO</b>	\$51,945
<b>NEW YORK</b>	\$72,108
<b>NORTH CAROLINA</b>	\$57,341
<b>NORTH DAKOTA</b>	\$64,577
<b>OHIO</b>	\$58,642
<b>OKLAHOMA</b>	\$54,449
<b>OREGON</b>	\$67,058



<b>PENNSYLVANIA</b>	\$63,463
<b>RHODE ISLAND</b>	\$71,169
<b>SOUTH CAROLINA</b>	\$56,227
<b>SOUTH DAKOTA</b>	\$59,533
<b>TENNESSE</b>	\$56,071
<b>TEXAS</b>	\$64,034
<b>UTAH</b>	\$75,780
<b>VERMONT</b>	\$63,001
<b>VIRGINIA</b>	\$76,456
<b>WASHINGTON</b>	\$78,687
<b>WEST VIRGINIA</b>	\$48,850
<b>WISCONSIN</b>	\$64,168
<b>WYOMING</b>	\$65,003

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