

**No. A15-1637
STATE OF MINNESOTA
IN THE SUPREME COURT**

Danna Rochelle Back,

Respondent,

vs.

State of Minnesota

Appellant.

**JOINT BRIEF OF *AMICI CURIAE* THE
INNOCENCE NETWORK AND THE
INNOCENCE PROJECT OF
MINNESOTA**

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I. INTRODUCTION AND INTEREST OF *AMICI*

This case provides the Court its first opportunity to interpret the phrase “on grounds consistent with innocence” from Minn. Stat. § 590.11.¹ Section 590.11—enacted in 2014 and referred to as the Imprisonment and Exoneration Remedies Act (“IERA” or the “Act”)—establishes a procedure for the wrongfully convicted to recover damages from the State for the period of their wrongful incarceration. The Act serves the critical remedial purpose of redressing the profound victimization of the wrongfully convicted.

Amici here seek to provide a broader perspective on IERA, to explain the Act’s role in remedying manifest injustices, and to clarify the errors made by the district court in interpreting the Act. *Amici* are uniquely qualified to provide this broader perspective. The Innocence Network is an association of organizations dedicated to improving the administration of justice in the United States. The Network provides pro bono legal and investigative services to prisoners seeking relief based on conclusive proof of innocence. The 70 current members of the Network represent hundreds of prisoners with innocence claims in all 50 States and the District of Columbia and Puerto Rico, as well as Australia, Argentina, Canada, France, Italy, the Netherlands, New Zealand, South Africa, and Taiwan.

¹ Pursuant to Minnesota Rule of Civil Appellate Procedure 129.03, *Amici* state that this brief was not authored in whole or in part by counsel for any party, and that no person or entity other than *Amici*, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

The Network also advocates for laws that adequately compensate innocent people for the harm experienced by wrongful convictions. The Network believes that society has an obligation to provide prompt, compassionate assistance to the wrongfully convicted. The Network believes that a failure to compensate wrongfully convicted persons makes it more difficult for them to reenter society.

The Innocence Project of Minnesota is a member organization of the Network. The Innocence Project of Minnesota represents people who were wrongfully convicted for crimes they did not commit. It also educates attorneys and criminal justice professionals on best practices, and works to reform the criminal justice system to prevent wrongful convictions and other unjust results in criminal cases.

Amici do not have a private interest in this case. But *Amici* have serious and sincere concerns about the definitions of “exonerated” and “on grounds consistent with innocence” under § 590.11, subd. 1(1)(i), and the remedies available to persons who are wrongfully convicted. Therefore, *Amici* aim to assist the Court in reaching a just result in this case, and in establishing a workable, meaningful rule to guide the lower courts in similar cases.

II. ISSUES TO BE ADDRESSED BY AMICI

In this brief, *Amici* explain the broader context of IERA and its importance in removing the barriers the wrongfully convicted face when reentering society. *Amici* then provide four arguments relevant to the Court’s interpretation of this statute:

1. The phrase “on grounds consistent with innocence” is unambiguous and means on grounds compatible or in agreement with innocence.

2. The unambiguous meaning of “on grounds consistent with innocence” is supported by the legislative history and other interpretive tools.
3. New evidence is not required to establish “on grounds consistent with innocence.”
4. Prosecutors should not function as gatekeepers for initial eligibility under IERA.²

III. FACTUAL BACKGROUND

Amici adopt the factual background set forth in Respondent’s brief. *Amici* also provide the following background on compensation statutes generally and IERA specifically.

A. Compensation Statutes

IERA was passed in 2014. Minnesota was the 30th state to pass a statute that recognizes the ethical and moral responsibility to compensate innocent persons who served time in prison for a crime they did not commit.

The need for compensation statutes like IERA is well documented, as imprisonment has powerful physical and psychological effects on inmates. Prison rules tend to create a dependence on institutional structures. To survive in prison, some inmates embrace aggression to avoid victimization. Mary C. Delaney et. al., *Exonorees’ Hardships After Freedom*, Wis. Lawyer Feb. 2010, at 18, 20. Others become isolated and withdrawn. *Id.* Still others suffer from a form of post-traumatic stress disorder. *Id.* Wrongful incarceration compounds these effects. *Id.*

The abruptness with which exonerees are often released creates further difficulties. Inmates completing their sentences expect release and are provided with reentry services

² *Amici* do not address the equal protection issue that is also before the Court.

to prepare for it. *Id.* By contrast, exonerees may be set free suddenly, after years of extreme hardship, with no support or preparation.

Paradoxically, the wrongfully convicted endure even more significant burdens than properly convicted defendants face upon reentry to society, in part because they are not provided the government services that someone released on parole would receive. Such burdens include the inability to find employment and housing, alienation from family, and the loss of civil rights on account of felony convictions. *Id.* Exonerees experience concrete forms of discrimination in housing and employment because the fact of their conviction is still available on public databases. *Id.*

As one scholar strikingly noted:

For most, the long awaited and hard won exoneration is the beginning of a new struggle. Exonerees face insuperable hurdles upon release. Lacking recent employment history or experience, work is difficult to secure. Without education or funds, most can't access necessary counseling or relevant training. Often without family, they live alone and lonely. Money alone can never repair damage done by an undeserved prison sentence or fully compensate for pain and suffering. A monetary award, however, does provide a springboard from which to begin life again.

Adele Bernhard, *A Short Overview of the Statutory Remedies for the Wrongfully Convicted: What Works, What Doesn't and Why*, 18 B.U. Int. L.J. 403, 403 (2009).

B. Imprisonment and Exoneration Remedies Act

IERA was passed to help address the extraordinary burdens faced by exonerees. It provides compensation to eligible persons who served time in prison for a crime that they did not commit. *See generally* Minn. Stat. §§ 611.362-.368. However, a person can file a claim for compensation under IERA only if that person first receives an order under

§ 590.11 determining that she is eligible for compensation based on exoneration. Minn. Stat. § 611.362, subd. 2.

Section 590.11, subd. 1(1)(i)—the subject of this appeal—defines “exonerated” to mean that a court of this state “vacated or reversed a judgment of conviction on grounds consistent with innocence.” *Id.*, subd. 1(1)(i). Subdivision 1 constitutes an initial eligibility requirement for petitions under § 590.11 because if the petitioner does not meet the definition of “exonerated,” then no further proceedings may be had. *Id.*, subd. 3. In other words, only those petitioners who meet the definition of “exonerated” within the meaning of subdivision 1 are entitled to proceed under subdivision 3, under which the district court considers the merits of the petition. *Id.*, subd. 3.

If a petitioner satisfies the initial eligibility requirement under § 590.11, and if the prosecutor does not stipulate to an award of compensation, she still must establish her actual innocence on the merits, by a fair preponderance of the evidence, in a separate factual hearing. *Id.*, subd. 3. Actual innocence in this context means that the crime was not committed or that the crime was not committed by petitioner. *Id.*, subd. 3(b).

In this case, a court has yet to consider the merits of Ms. Back’s petition for compensation because the district court erroneously concluded that she did not satisfy the definition of “exonerated” and “on grounds consistent with innocence” under the Act.

IV. ARGUMENT

A. The Phrase “On Grounds Consistent with Innocence” in Minn. Stat. § 590.11 is Unambiguous

At issue in this case is the meaning of the phrase “on grounds consistent with innocence.” The court of appeals concluded that the phrase was ambiguous. According to the court, the phrase could mean either “agrees with innocence” or “does not contradict innocence.” *Back v. State*, 883 N.W.2d 614, 621 (Minn. Ct. App. 2016). But instead of resolving the ambiguity, the court held that Ms. Back satisfied IERA’s initial eligibility requirements because her “conviction was reversed on grounds consistent with innocence under any reasonable interpretation of the phrase.” *Id.* at 623.

Although *Amici* generally advocate for affirmance of the court of appeals’ decision, the court erred in at least one critical respect. The phrase “on grounds consistent with innocence” is unambiguous and means “compatible or in agreement with innocence.” *See infra* pp. 7-9.

Statutory interpretation is a question of law, which the Court reviews de novo. *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015). “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16. When interpreting a statute, the Court “give[s] words and phrases their plain and ordinary meaning.” *Premier Bank v. Becker Dev., LLC*, 785 N.W.2d 753, 759 (Minn. 2010). “When legislative intent is clear from the statute’s plain and unambiguous language, [the Court] interpret[s] the statute according to its plain meaning without resorting to other principles of statutory interpretation.” *City of Brainerd v. Brainerd*

Invs. P'ship, 827 N.W.2d 752, 755 (Minn. 2013). Moreover, a statute “should ordinarily be construed as a whole to harmonize all its parts,” and “whenever possible, no word, phrase or sentence should be deemed superfluous, void or insignificant” by the Court’s interpretation of a statute. *Owens v. Federated Mut. Implement & Hardware Ins. Co.*, 328 N.W.2d 162, 164 (Minn. 1983).

Here, Section 590.11, subd. 1(1)(i), has two parts: (1) “on grounds consistent with,” and (2) “innocence.” *Amici* address the two parts in reverse order.

Regarding the second part, the court of appeals concluded—and *Amici* agree—that “innocence” is unambiguous. It means “[t]he absence of guilt; esp[ecially], freedom from guilt for a particular offense.” *Black’s Law Dictionary* 909 (10th ed. 2014).

However, for two reasons, the first part of § 590.11, subd. 1(1)(i)—*i.e.*, the phrase “on grounds consistent with”—is also unambiguous and means “compatible or in agreement with something”—here, innocence.

First, “on grounds consistent with” must have some meaning, otherwise it would be mere surplusage. *Owens*, 328 N.W.2d at 164. Dictionary definitions establish that meaning. The first definition of “consistent” in *The American Heritage Dictionary of the English Language* is “[i]n agreement; compatible,” whereas the last definition is “not contradictory.” *The American Heritage Dictionary of the English Language* 392 (5th ed. 2011). For this dictionary, “[e]ntries containing more than one sense are arranged for the convenience of the reader with the central and often most commonly sought meaning [appearing] first.” *The American Heritage Dictionary of the English Language*, at xxiv (5th ed. 2011). Other dictionaries make clear that when “consistent” is used with the

word “with”—as it is in § 590.11, subd. 1(1)(i)—it means “marked by agreement,” *see Merriam-Webster’s Collegiate Dictionary* 266 (11th ed. 2003), or “compatible or in agreement with something,” *see Oxford Dictionary of English* 372 (3d ed. 2010) (emphasis added). Here, that “something” is “innocence.” Accordingly, in this context, the phrase “on grounds consistent with innocence” unambiguously means “compatible or in agreement with innocence.”

Second, to ascribe any other meaning to the phrase “on grounds consistent with” innocence—as the court of appeals did by concluding that the phrase could also mean “does not contradict” innocence—is inconsistent with the statute as a whole. *Owens*, 328 N.W.2d at 164. Specifically, § 590.11, subd. 3(b)—the provision that sets forth the standard for actual compensation after initial eligibility under § 590.11, subd. 1 is established—provides that a court shall award compensation if petitioner establishes actual innocence, *i.e.*, “a crime was not committed or that the crime was not committed by petitioner.” Minn. Stat. § 590.11, subd. 3(b) (emphasis added). Interpreting “on grounds consistent with innocence” to mean “on grounds compatible or in agreement with innocence” is in harmony with the actual innocence standard in subdivision 3(b). Interpreting “on grounds consistent with innocence” to mean “does not contradict innocence” is not.

For example, successful challenges to a conviction on the basis of faulty jury instructions, or the introduction of prior bad acts, satisfy the court of appeals’ more expansive “contradict” definition, but they certainly do not establish that a crime was not committed or that the crime was not committed by petitioner. *Pendleton v. State*, 2016

Minn. App. Unpub. LEXIS 1024, at *10-11 (Minn. Ct. App. Nov. 21, 2016) (Johnson, J., concurring specially) (concluding that if “on grounds consistent with innocence” means “does not contradict innocence,” petitioner would be “exonerated” under the Act based on erroneous jury instructions). In other words, interpreting “on grounds consistent with innocence” to mean “does not contradict innocence” would waste judicial resources as initial eligibility would not be meaningfully tied to the ultimate determination of innocence on the merits. When the statute is read as a whole, as it must be, the only reasonable definition of “on grounds consistent with innocence” is “on grounds compatible or in agreement with innocence.”

In this case, Ms. Back satisfies the initial eligibility requirements under the unambiguous meaning of “on grounds consistent with innocence.” In reversing Ms. Back’s conviction, this Court held that there is no duty to control the conduct of a third party to prevent physical harm to another unless there is a special relationship. The reversal is therefore compatible and in agreement with actual innocence. Indeed, because Ms. Back did not owe a duty as a matter of law, she may be able to prove in a hearing on the merits that a crime was not committed or that the crime was not committed by her.

B. That “On Grounds Consistent with Innocence” in Minn. Stat. § 590.11 Means On Grounds “Compatible or In Agreement” with Innocence is Confirmed by the Legislative History

For the reasons set forth above, the phrase “on grounds consistent with innocence” is unambiguous and a consideration of legislative history is unnecessary. To the extent the Court is inclined to consider legislative history and other canons of construction, those tools lend further support to the unambiguous definition of the phrase.

Christianson v. Henke, 831 N.W.2d 532, 538 (Minn. 2013); *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 718 (Minn. 2014) (“To determine legislative intent, we also may consider the legislative history of the act under consideration, the subject matter as a whole, the purpose of the legislation, and objected intended to be secured thereby.”) (citation omitted) (internal quotation marks omitted).

As the court of appeals noted, the statements made during legislative committee hearings and floor debates on IERA indicate that the legislature intended compensation based on exoneration to be rare and not available to persons whose convictions were reversed on technicalities. During a senate floor debate, the author of the senate bill stated that as far as he knew, only two or three people would currently be eligible for compensation under the statute. S. Floor Deb. on S.F. 2480 (May 2, 2014) (statement of Sen. Latz).

Likewise, in hearings before legislative committees, the primary authors of IERA stated that the Act was designed to compensate people who were convicted of a crime, served a prison sentence, and were later determined to have not committed that crime based on evidence of innocence. Hearing on H.F. 2925 Before the H. Comm. on Judiciary Finance and Policy (Mar. 26, 2014) (statement of Rep. Lesch); Hearing on S.F. 2480 Before the S. Comm. on the Judiciary (March 13, 2014) (statement of Sen. Latz).

The unambiguous definition of “on grounds consistent with innocence,” *i.e.*, “compatible or in agreement with innocence,” is consistent with legislative intent as it excludes from initial eligibility under IERA persons whose convictions are reversed on technicalities. The broader definition of “on grounds consistent with innocence,” *i.e.*,

“does not contradict innocence,” does the opposite. It encompasses convictions reversed on all manner of technicalities, from errors in jury instructions to search and seizure violations.

C. New Evidence is Not Required to Satisfy “On Grounds Consistent with Innocence”

Although the legislature intended the definition of “on grounds consistent with innocence” to be narrow, it did not intend—and the Act does not now require—that petitioners present new evidence of innocence to be eligible for compensation under § 590.11. Indeed, the language requiring new evidence of innocence was specifically removed from an earlier version of the bill.

Earlier versions of the house and senate bills defined “on grounds consistent with innocence” as either (1) “exonerated through a pardon or sentence commutation, based on innocence,” or (2) “exonerated because the judgment of conviction was vacated or reversed, *based on new evidence of actual innocence.*” H.F. 2925 (2014); S.F. 2480 (2014) (emphasis added). But in later versions of the senate bill, the legislature removed the requirement of “innocence” or “new evidence of actual innocence,” and the amended bills provided that initial eligibility would be based on the definition of “exonerated,” which included the vacation or reversal of a conviction “on grounds consistent with innocence.” H.F. 2925, third engrossment; S.F. 2480, second engrossment. As the court of appeals expressly found, “the legislature intended for the initial eligibility requirement, subdivision 1, to be less restrictive than what it had first contemplated.” *Back*, 883 N.W.2d at 623.

Moreover, if the legislature had intended initial eligibility to hinge on newly-discovered evidence, it would have said so, as it has in a different postconviction statute, *see* Minn. Stat. § 590.01, subd. 4(b)(2) (exempting from two-year statute of limitations postconviction claims based on newly discovered evidence), and as other states have done in this context, *see, e.g.*, N.Y. Ct. Cl. Act § 8-b(3)(b) (cross-referencing N.Y. CPL. Law § 440.10 and its requirement that the petitioner’s conviction was overturned on the basis of “n]ew evidence [that] has been discovery since the entry of judgment”).

The Supreme Judicial Court of Massachusetts (“SJC”), when confronted with a similar question on a similar compensation statute, concluded that new evidence of innocence was not required. Massachusetts’ compensation statute is similar to Minnesota’s in that it conditions eligibility for compensation on a showing that the petitioner “was granted judicial relief by a state court . . . on grounds which tend to establish the innocence” of the petitioner. Mass. Gen. Laws ch. 258D, § 1(B)(ii). According to the SJC, “the requirement that judicial relief must have been granted on ‘grounds which tend to establish innocence’ of a claimant does not limit the threshold question of eligibility for relief ‘to individuals whose convictions were vacated or reversed strictly on the basis of compelling or overwhelming exculpatory evidence.’” *Irwin v. Commonwealth*, 992 N.E.2d 275, 283 (Mass. 2013) (citing *Guzman v. Commonwealth*, 937 N.E.2d 441, 441 (Mass. 2010)). The same is true here.

In an attempt to read a requirement of new evidence into IERA, the State references Julie Jonas’ comments during a hearing on the bill. Appellant’s Br. at 11. Ms. Jonas is the Legal Director for *Amicus* the Innocence Project of Minnesota. During the

hearing, Ms. Jonas stated that the proposed legislation would be “extremely rare” and that the legislation was “narrowly tailored to those rare circumstances.” Hearing on S.F. 2480 Before the S. Comm. on the Judiciary (March 13, 2014) (statement of Julie Jonas). *Amici* wish to clarify that her comments in no way support a requirement of new evidence for initial eligibility under Minn. Stat. § 590.11. Instead, they reflect the common-sense proposition—consistent with the statute’s unambiguous language—that compensation is not available to persons whose convictions are reversed on technicalities.

Indeed, the State’s formulation requiring new evidence would foreclose compensation in some of the very cases the Innocence Network has been involved in. For example, Nicole Harris, a young mother, was found guilty for the murder of her son Jaquari, where the court refused to allow his six-year old brother Diante to testify that Jaquari had been pretending to be Spiderman when he accidentally strangled himself to death with an elastic band. The basis for excluding Diante’s testimony was that his belief in Santa Claus and the Tooth Fairy rendered him an unfit witness. Northwestern Pritzker School of Law Bluhm Legal Clinic, Center on Wrongful Convictions, Nicole Harris, <http://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/nicole-harris.html>. The Seventh Circuit granted Harris’s petition for a writ of habeas corpus finding that the exclusion of Diante’s testimony violated her Sixth Amendment right to present witnesses in her defense, and that her counsel’s actions at that hearing deprived Harris of her right to effective counsel. *Harris v. Thompson*, 698 F.3d 609, 612-13 (7th Cir. 2012). Harris was released from prison, exonerated, and qualified for compensation. There was no “new evidence” in Harris’ case, despite her actual innocence and

appropriate entitlement to compensation. The State’s standard would improperly foreclose people like Harris from being “exonerated,” much less entitled to receive compensation.³

The State also argues that because there was not a change in the fiscal note for the Act at the time the legislature removed the “new evidence” language, it is reasonable to infer that the Legislature did not, in fact, intend to alter the meaning of the statute by changing its language. Appellant’s Br. at 13. Appellant’s Br. at 13. The fiscal note—prior to and after the revision the IERA—informed the legislature that “[b]ased on the anticipated low number of individuals who will be exonerated and entitled to compensation under these provisions, it is anticipated that this bill will have no measurable fiscal impact on the Judicial Branch.” *See Consolidated Fiscal Note on Bill # S2480-1UE, 2013-2014 Session, dated April 3, 2014, at 3; Consolidated Fiscal Note on Bill # H2925-1E, 2013-2014 Session, dated April 9, 2014, at 3.*

³ The State’s “new evidence” requirement would likewise foreclose “exonerated” status and entitlement to compensation in other cases where the conviction was reversed on insufficiency of the evidence grounds that are compatible and in agreement with innocence, even though no new evidence was discovered. *See e.g., State v. Scharmer*, 501 N.W.2d 620, 622 (Minn. 1993) (burglary conviction reversed where “none of the physical evidence introduced by the state was ever linked to appellant, who fit the description given by the eyewitnesses primarily because of the color of his skin”); *State v. Webb*, 440 N.W.2d 426 (Minn. 1989) (first degree murder conviction reversed where “[n]o physical evidence was discovered linking the victim with the appellant” and “[t]he state also failed to establish any credible motive for the crime”); *State v. Berndt*, 392 N.W.2d 876, 880 (Minn. 1986) (first-degree murder for intentional arson against father and husband reversed where, “[e]xcept for the fact that appellant was physically present in his home when the fire started, there exist no other circumstances consistent with the state’s hypothesis of guilt”).

The inference the State asks the Court to make is not reasonable. It contradicts fundamental rules of statutory interpretation, including that no word, phrase, or sentence should be deemed superfluous (as would be the case if the modified language was meaningless), *see Owens*, 328 N.W.2d at 164, and that in interpreting the meaning of a statute, the former law may be considered (an interpretive tool the State asks the Court to ignore), *see Minn. Stat. § 645.16(5)*. In any event, it is not surprising that the fiscal note did not change after the revision to IERA. Again, the note reflects the common-sense proposition that compensation is not available to persons whose convictions are reversed on technicalities. Only if the act was modified to apply to those persons would the fiscal note also require modification.

D. Prosecutors Should Not Function as Gatekeepers for Eligibility Under Minn. Stat. § 590.11

Finally, *Amici* vehemently dispute the State's contention that Minn. Stat. § 590.11 requires the prosecutor to function as a gatekeeper for initial eligibility under subdivision 1(1)(i). Appellant's Brief at 30. According to the State, "[t]he requirement of dismissal of charges by the prosecutor in subdivision 1 enhances the orderliness and efficiency of the process." *Id.* The court of appeals concluded otherwise, recognizing that "requiring the prosecutor to dismiss the charges in a case under subdivision 1(1)(i) of the statute, after an appellate court or a postconviction court has vacated or reversed a judgment on grounds consistent with innocence and has not ordered a new trial, is manifestly arbitrary and . . . could result in prosecutorial abuse. *Back*, 883 N.W.2d at 627. *Amici* agree.

First, subdivision 2 of § 590.11 would be meaningless if the prosecutor acted as a gatekeeper. Subdivision 2 charges the district court, not the prosecutor, with making an initial eligibility determination. Although the Act allows a prosecutor to expedite a petition by stipulation, *see* Minn. Stat. § 590.11, subd. 3(a), it does not allow her to block a petition at the initial eligibility stage.

Second, there is no need for a prosecutor to act as a gatekeeper under subdivision 1(1)(i) if the unambiguous meaning of “on grounds consistent with innocence” is followed. Under that plain meaning, a successful postconviction challenge based on technicalities would not equal exoneration “on grounds in agreement or compatible with innocence”—obviating the State’s slippery slope concerns.

Third, the legislative history is devoid of any discussion—much less acceptance—of the gatekeeping functions that the State would like to award itself.

Fourth, § 590.11 already includes a multi-step process that ensures that only those petitioners who are exonerated under the Act receive compensation. Here, to receive compensation, Ms. Back first needed to have her conviction vacated on grounds consistent with innocence. Minn. Stat. § 590.11, subd. 1(1)(i). She still needs to obtain an order declaring her initial eligibility for compensation. *Id.*, subd. 2. If the prosecutor does not agree to expedite through stipulation as noted above, she will need to establish her actual innocence on the merits in a separate factual hearing to obtain that order. *Id.*, subd. 3(b). To do so, Ms. Back must satisfy four additional substantive requirements

under the Act. *Id.*, subd. 5. Then and only then will she be entitled to compensation.⁴ The State cannot add another hurdle for Ms. Back in pursuing compensation. There is also simply no need to, given the safeguards already in the statute.

V. Conclusion

Minnesota's wrongful compensation statute was enacted in 2014 to provide some measure of redress for the injuries suffered by Ms. Back—wrongfully convicted, denied years of her life and liberty, and stigmatized by her wrongful conviction. Under the unambiguous meaning of Minn. Stat. § 590.11, subd. 1(1)(i), Ms. Back satisfies the initial eligibility requirements of the Act and is entitled to a hearing on the merits of her claim for compensation.

⁴ Even after an exoneree establishes her actual innocence at a separate hearing, in order to receive compensation, that individual also needs to prove damages before a separate compensation panel appointed by the Minnesota Supreme Court. Minn. Stat. §§ 611.363-.364. If successful, the award of damages is then sent to the commissioner of management and budget. Minn. Stat. § 611.367. Finally, the award would be sent to the Legislature “for consideration as an appropriation during the next session of the legislature.” *Id.* These numerous procedural requirements undermine the State's arguments that the prosecutor must play a gatekeeping role.

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