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Writer's E-mail
dallosto@grgblaw.com

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TO: Members of Assembly Committee
FROM: Raymond Dall'Osto, State Bar of Wisconsin
RE: 2017 AB 548 – compensation for exonerated persons

Thank you for allowing me to speak today on this important issue. I have been working as a lawyer in the criminal law field around this state for more than forty years, and I speak from experience and from the heart. People can be wrongly charged, and yes, wrongly convicted and sent to prison for crimes they did not commit. This is a fact. While the various components of the criminal justice system strive to ensure that wrongful convictions do not occur, it is a human system and mistakes do happen. Recognition of this reality and providing a more adequate compensation structure to help an exonerated person get back on his or her feet upon release is a critical need in this state. The current statutory structure does not do this, and also does not provide for basic transitional services to help an exonerated person cope with the challenges faced upon release.

The time has come to recognize that people who have been wrongly convicted and exonerated should receive compensation well beyond the current statutory maximum of \$25,000. AB 548 provides for such and the Legislature should approve this bill. This is not a question of just money, but of providing the means and tools for a person to retrain themselves and better reintegrate into society. The changes called for in AB 548 are in the interests of all of society, not dissimilar to providing compensation for injured workers.

When a criminal conviction is invalidated by a reviewing court, the state is obligated to refund fees, court costs and restitution exacted from the defendant as a consequence of the conviction. *Nelson v. Colorado*, 581 U.S. __ (April 19, 2017). While *Nelson* dealt with one aspect of Colorado's Exoneration Act, important for the present discussion of AB 548 is that the Colorado law provides for \$70,000 of compensation per year of imprisonment to an exonerated criminal defendant, along with tuition waivers for the exonerated defendant at state institutions of higher education, and reasonable attorney fees for bringing an

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Exoneration Act claim. The exoneree compensation called for by Colorado and other states' comparable laws is instructive for the Wisconsin Legislature's consideration and approval of AB 548. The chart prepared by the Wisconsin Innocence Project on other state's comparable laws shows the sharp differential with Wisconsin's current extremely low maximum.

AB 548 would increase the current compensation allowed of \$5,000 per year, up to a maximum of \$25,000, to \$50,000 per year, up to a maximum compensation total of \$1 million. It is time for Wisconsin to amend and increase its exonerated person compensation law so that it actually provides adequate compensation more in line with what other states and the federal compensation laws provide and also real transitional assistance. The numbers in AB 548 are also consistent with Bureau of Labor Statistics average annual wage earnings for persons without a college degree, which amounts to what a wrongfully incarcerated individual would likely have earned had he or she not been in prison, not including social security and/or retirement plan contributions. The proposed \$50,000 per year is a sound number necessary to help an exonerated person get back into society.

AB 548 is a significant step in the right direction. I respectfully urge this Committee to recommend passage of AB 548 by the Assembly, and further urge the Assembly and Senate to approve this legislation.