DELAWARE

INNOCENCE PROJECT LEGISLATIVE IMPACT STUDY

What Delaware has accomplished, what failed to pass, and what the gaps mean for innocent people and the justice system

Report date	August 21, 2026
Scope	Delaware compensation, evidence access, changed science, preservation, and prevention reforms
Reading guide	Plain-language legal and policy analysis; full source links appear in Appendix B

Bottom line

Delaware now compensates people who can prove factual innocence, and the law has produced a reported first $4 million payment. But three bills aimed at finding and preventing wrongful convictions—DNA access, changed science, and biological-evidence preservation—did not pass before the 153rd General Assembly ended. The compensation system therefore moved ahead faster than the error-correction system.

Informational report only. It is not legal advice and does not determine whether a specific person is eligible.

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How to read this report

“Law” means enacted and effective. “Did not pass” means the proposal made no change to Delaware law and must be introduced again in a later General Assembly. Dollar figures are statutory amounts or official fiscal-note estimates unless identified as a news report.

1. Executive summary

There is not one single Delaware “Innocence Project bill.” The phrase commonly refers to a group of reforms supported by Innocence Project Delaware (IPD): compensation after exoneration, access to postconviction DNA testing, relief when science changes, preservation of biological evidence, recorded interrogations, and safer eyewitness procedures. IPD is an independent Delaware nonprofit; it is not the Delaware Department of Justice (DOJ) and is not the national Innocence Project’s Delaware office. [1]

Reform	Status as of Aug. 21, 2026	What it accomplished / could do	Main remaining gap
Compensation law (SB 169 / Ch. 427)	LAW — effective June 30, 2025	Creates a court process, indexed payments, expungement, a certificate, fees, and two years of services.	Strict factual-innocence proof; no pardon-only path; implementation data are hard to find.
2026 compensation update (SB 282 / Ch. 272)	LAW — effective May 21, 2026	Clarifies fees and moves the fund/reporting to OMB.	Broadened the same-transaction felony exclusion; the effect may be litigated.

Reform	Status as of Aug. 21, 2026	What it accomplished / could do	Main remaining gap
DNA access (SB 57 substitute)	DID NOT PASS	Would remove the three-year bar, include pleas, allow improved retesting, and lower the new-trial standard.	Delaware still has one of the package's most important access barriers.
Changed science (SB 58 substitute)	DID NOT PASS	Would create a route when later science undermines trial evidence.	The final substitute added an expert-affidavit gate and made discovery discretionary.
Evidence preservation (SB 214 substitute)	DID NOT PASS	Would establish statewide retention, notice, storage, and remedies.	No statewide statutory preservation regime was enacted; the bill also allowed limited destruction and a two-year rollout.
Recorded interrogations (HB 215, 2021)	LAW	Requires electronic recording of covered custodial interrogations, subject to exceptions.	An unrecorded statement is not automatically excluded.
Eyewitness identification reform (2018)	STATEWIDE MODEL POLICY	Promotes blind administration, fair fillers, instructions, and confidence statements.	A policy is weaker than a statute unless compliance, training, and audits are public.

Overall finding

Delaware made a major repair-and-reentry advance, but it did not complete the prevention-and-correction package. The 2024 compensation act, effective in 2025, replaced an ad hoc system with a court-supervised claim, indexed base compensation, economic damages, fee recovery, expungement, a certificate of innocence, and temporary services. [2][3] A 2026 update clarified administration and attorney fees but also broadened an exclusion involving another felony from the same event. [4]

- Strongest accomplishment: a person who proves actual innocence now has a defined remedy instead of depending only on a civil-rights lawsuit, private bill, or political discretion.
- Strongest evidence of impact: Delaware Online reported that Elmer Daniels, imprisoned for 39 years, received $4 million in the program's first compensation case. That is a reported outcome, not an independently located public court order in this review. [17]

- Largest unfinished problem: SB 57, SB 58, and SB 214 did not become law before the 153rd General Assembly adjourned. They addressed how an innocent person can obtain DNA testing, challenge obsolete science, and keep evidence from being lost. [8][10][12][18]
- Largest implementation problem: the statute requires benefit rules and quarterly fiscal reporting, but this review did not locate a simple public application page, a public dashboard, or posted performance data showing applications, decisions, service delivery, and fund balance.

Impact judgment

Dimension	Assessment	Reason
Human repair	HIGH positive impact	Compensation, expungement, fees, and short-term services directly address financial and reentry harm.
Accuracy / correction	INCOMPLETE	The enacted law pays after innocence is proved; it does not itself create broader access to DNA or changed-science relief.
Prevention	MIXED	Recorded-interrogation law and an eyewitness policy help, but evidence preservation is not yet established by the proposed statute.
Fiscal impact	REAL but manageable only with planning	Individual awards can reach millions. Proposed evidence-access bills also carried a shared staffing estimate of roughly $471,000 recurring in FY 2027.
Transparency	WEAK / not readily verifiable	The law assigns reports and rulemaking, but key implementation information was not easy to find publicly.
Equity	LIKELY positive, evidence still limited	Wrongful convictions create severe racial and economic harm; however, Delaware has too few publicly reported claims to measure distributional results.

2. What “the Innocence Project bill” means in Delaware

The organizations are different

Entity	Role
Innocence Project Delaware (IPD)	Independent nonprofit established in 2018. It investigates Delaware innocence claims, represents clients, trains students and lawyers, educates the public, and supports policy reform. It accepts DNA and non-DNA cases. [1]
Delaware DOJ Actual Innocence Program	A prosecutor-run review program for incarcerated people whose claims rest on empirical physical or scientific evidence. It excludes claims based only on a recantation or new statement and does not replace clemency. [19]
National Innocence Project	A separate national organization that litigates cases and promotes state policy models. Its policy materials help benchmark Delaware law, but it does not control IPD. [20]

The legislative package

The package has two basic goals:

1. Repair the harm after exoneration: compensation, legal fees, records relief, a certificate, and services.
2. Find and prevent wrongful convictions: preserve evidence; allow meaningful testing; reopen cases when science changes; record interrogations; and improve identification procedures.

Delaware advocates presented the 2025–2026 proposals as a connected postconviction reform suite. [11]

Timeline

Date	Event
2018	Delaware adopted a statewide eyewitness-identification model policy; IPD was established. [1] [7]
2021	HB 215 enacted electronic recording requirements for covered custodial interrogations, with exceptions and no automatic exclusion rule. [6]
Sept. 26, 2024	The Wrongful Conviction Compensation and Services Act was signed after final votes of 21–0 in the Senate and 39–0 in the House. [2][5]

Date	Event
June 30, 2025	The compensation act took effect. [2]
2025–2026	SB 57, SB 58, and SB 214 advanced to varying stages but did not receive final passage. [8][10][12]
May 21, 2026	SB 282 update signed and effective. [4]
June 30, 2026	The 153rd General Assembly reached its final day; unfinished bills expired with adjournment sine die. [18][25]
July 2026	Delaware Online reported the first compensation payment: $4 million to Elmer Daniels. [17]
July 23, 2026	A court ordered a certificate of innocence and expungement for Jermaine “Marlow” Wright; the Death Penalty Information Center identified him as the 203rd U.S. death-row exoneree since 1973. [16]

3. The compensation law now in force

What the law is

The Delaware Wrongful Conviction Compensation and Services Act is codified at 10 Del. C. §§ 7001–7010. A claimant files in Superior Court. The claimant—not the State—must prove eligibility and factual innocence by a preponderance of the evidence, meaning more likely than not. DOJ receives notice and may oppose the claim. [3]

Core eligibility

A claimant generally must prove all of the following:

- A Delaware criminal conviction.
- A covered consequence: incarceration, confinement in a psychiatric institution, probation, parole, or sex-offender registration.
- The conviction was reversed, vacated, or overturned.
- The charge was dismissed, the person was acquitted at retrial, or the person entered a qualifying post-vacatur Robinson/no-contest plea while maintaining innocence and being entitled to a new trial.
- The person did not commit any felony arising from the same transaction. This wording was broadened in 2026.
- The person did not commit the crime, or no crime occurred.

Important distinction

A conviction being legally invalid is not enough by itself. The claimant must prove factual innocence under the statute. A pardon alone is not listed as a qualifying gateway unless the conviction also satisfies the overturning-and-disposition requirements.

State defenses

DOJ may defeat a claim by proving an affirmative defense, including that the person committed the crime, was an accomplice, or intentionally caused the conviction through perjury or fabricated evidence to protect the actual perpetrator. Missing or destroyed evidence under a valid policy or time period creates no automatic presumption or inference against the State. [3]

Compensation and other relief

Relief	Current rule
$100,000 per year	Base amount for each year on death row, adjusted for inflation.
$75,000 per year	Base amount for each year incarcerated or confined in a psychiatric institution, adjusted for inflation.
$50,000 per year	Base amount for each year on probation, parole, or required to register as a sex offender, adjusted for inflation.
Additional losses	Economic damages; child-support consequences; fines, fees, and restitution; and reasonable reintegration and health-related costs.
Attorney fees	Prevailing market rate when damages are awarded, capped at the total statutory damages. Fees over $300,000 are paid in installments.
Records and recognition	Expungement and a DOJ certificate-of-innocence letter within the statutory process.
Payment schedule	Awards above $1 million are generally paid over five years, subject to the court order and statutory details.
Other recoveries	The statute coordinates or offsets certain other civil recoveries to avoid duplicate payment for the same injury.

Time to file

The ordinary deadline is six years after the statutory notice-triggering event. The act created a transition window through June 30, 2031 for certain claims that existed before enactment, with a possible extension tied to newly discovered evidence. A lawyer should calculate the deadline in an individual case. [3]

Immediate and two-year services

A person released because a conviction was vacated may be entitled to an emergency stipend and two years of specified support, including:

- access to community service centers and general-assistance benefits;
- no-cost health and dental care; and
- the maximum Supplemental Nutrition Assistance Program benefit for a one-person household.

The law required DHSS and DOC to adopt implementation rules by October 24, 2025, decide a complete request within 14 days, and begin approved benefits within seven days. This review did not locate a dedicated public-facing application, the final rules, or performance statistics; that is a transparency finding, not proof that agencies failed to act. [3]

Fund administration and reporting

The 2026 amendment moved the nonreverting fund into the Office of Management and Budget (OMB) legal-services appropriation and assigned quarterly reporting to the Joint Finance Committee and Controller General. The public-facing availability of those reports is unclear from the sources reviewed. [3][4]

4. Accomplishments and early real-world impact

A bipartisan, unanimous compensation framework

Final passage was unanimous in both chambers: 21–0 in the Senate and 39–0 in the House, with two House members absent. That breadth matters because compensation programs need durable funding and stable rules beyond one election cycle. [2][5]

It converts moral recognition into enforceable relief

- A claimant can seek a court order under a published statute rather than depend only on a special appropriation or a difficult federal civil-rights case.
- Base rates recognize that death row, incarceration, supervision, and registration create different harms.
- Inflation indexing prevents the fixed dollar value from quietly eroding.
- Economic damages and reintegration costs can capture losses that a flat per-year amount misses.
- Attorney-fee recovery gives private lawyers a stronger reason to take valid claims, although it does not solve the up-front representation problem.

- Expungement and a certificate address continuing stigma and background-check barriers.

First reported payment: Elmer Daniels

Elmer Daniels lost 39 years. His 1980 rape conviction depended in part on microscopic hair-comparison testimony later found to exceed scientific limits. Delaware moved to dismiss the conviction in 2018. IPD identifies him as a freed and exonerated Delawarean. [15] Delaware Online reported on July 8, 2026 that the State was paying him $4 million in the program's first compensation case. [17]

Impact interpretation: The statutory incarceration base alone would be about $2.925 million before inflation and additional damages (39 × $75,000). A reported $4 million resolution shows that the law can recognize more than time served. The public sources reviewed did not provide the full court calculation, so this report does not attribute the difference to any specific category.

Certificate and expungement: Jermaine "Marlow" Wright

Wright spent 24 years on Delaware's death row. In July 2026, a court ordered a certificate of innocence and expungement. The Death Penalty Information Center reported that he became the 203rd death-row exoneree in the United States since 1973 and Delaware's second. [16] This demonstrates that the law can provide formal public clearing as well as money, including for a case resolved through a post-vacatur no-contest plea that maintained innocence.

Earlier prevention accomplishments

Reform	What changed and why it matters
Recorded custodial interrogations (2021)	Electronic recording creates a reviewable record, reduces disputes about what was said, and can protect both suspects and police. The final amendment removed a presumption that an unrecorded statement was inadmissible; prosecutors instead must prove an exception when recording was required. [6]
Eyewitness identification model policy (2018)	Blind administration, proper fillers, witness instructions, immediate confidence statements, and limits on showups reduce suggestion and preserve better evidence. IPD describes the reform as a statewide model policy, not an enacted statute. [7]

Why this matters beyond the individual claimant

- Public safety: correcting the wrong conviction can redirect attention to the actual perpetrator.
- Legitimacy: a visible remedy signals that government accepts responsibility for proven error.

- System learning: claims expose recurring causes such as overstated forensic testimony, mistaken identification, unreliable admissions, nondisclosure, and weak defense resources.
- Reentry stability: quick access to food, health care, and basic support can prevent homelessness and crisis immediately after release.

5. Bills that did not pass in 2025–2026

Legal effect now: none. The 153rd General Assembly ended on June 30, 2026. Because the following bills did not receive final passage, they did not amend Delaware law and must be introduced again in a future General Assembly. [18][25]

A. SB 57 substitute — postconviction DNA testing

Official status: referred to Senate Finance on June 9, 2025; no final vote. [8]

What it would have changed:

- Removed the three-year filing limit and the rule postponing a motion until direct review ended.
- Made relief available after a guilty plea, not only a trial.
- Allowed retesting when newer methods could produce substantially more probative results.
- Required the court to order testing when the statutory criteria were met.
- Replaced Delaware's very demanding new-trial test with a reasonable-probability standard focused on whether the outcome would have been different.

Why SB 57 matters

Current 11 Del. C. § 4504 generally requires a motion within three years after conviction, only after direct review, and ties eligibility to evidence secured "in relation to the trial." It also asks whether identity was at issue at trial and permits a new trial only on clear and convincing evidence that no reasonable factfinder would convict. Those rules can block meritorious testing after a plea, after technology improves, or after a long delay. [9]

Cost estimate

The official fiscal note projected four positions shared with SB 58—one staff attorney and three paralegals—with recurring General Fund costs of $346,405 in FY 2026 (nine months), $471,111 in FY 2027, and $480,533 in FY 2028, plus $26,680 one time and unknown space costs. It listed an average DNA-analysis cost of $150 per specimen but could not estimate the number of specimens. The note cited 39,233 guilty pleas or trial convictions over ten years and 2,416 postconviction filings over three years; these are workload indicators, not estimates of innocence claims. [8a]

Assessment

High potential impact; zero present legal effect

SB 57 targeted concrete procedural barriers. Its failure leaves Delaware able to compensate some people after innocence is established while still restricting the testing that may establish innocence.

B. SB 58 substitute — relief based on changed science

Official status: referred to Senate Finance on May 14, 2026; no final vote. [10]

Core purpose: allow a court to grant relief when new or changed forensic scientific or technical information was unavailable at the time of conviction or undermines forensic evidence used in the case. The proposal covered trials, pleas, admissions or confessions, and people who had completed the sentence. [10]

Strengths

- Addresses cases like microscopic hair comparison, bite-mark evidence, fire science, or medical testimony later discredited or materially revised.
- Recognizes that a plea or confession does not prove the underlying science was reliable.
- Uses a reasonable-likelihood materiality concept rather than requiring certainty before a court can act.

Weaknesses in Senate Substitute 3

- Required an affidavit from a qualified forensic expert, which can be costly and difficult to obtain before discovery or appointed assistance.
- Made discovery discretionary after a prima facie showing rather than automatic.
- Allowed flexible “appropriate relief” rather than a clean mandatory remedy tied to the finding.
- Gave DOJ 90 days and set a 180-day hearing target that could be extended for good cause, creating room for delay.

Its earlier fiscal note used the same shared four-position estimate as SB 57. [10a]

C. SB 214 substitute — biological-evidence preservation

Official status: released from Senate Judiciary and placed on the Senate Ready List on June 4, 2026; no floor vote. [12]

What it would have required:

- Preservation of biological evidence while a crime is unsolved or while the convicted person remains in custody, including after a guilty plea.
- Storage using practices designed to prevent contamination and degradation.
- Notice before allowed destruction and 180 days to seek testing or continued retention.
- A way to preserve biological portions of bulky items rather than the entire item.
- Hearings and remedies when evidence is missing; intentional or willful destruction would create an exculpatory presumption in a postconviction hearing.
- A Delaware Police Accreditation Commission and Division of Forensic Science study and implementing rules.

Shortcomings in the proposal

- A two-year delay before full effect would leave a long implementation gap.

- The duty focused on evidence likely to contain biological material; disputes could arise over what was “likely.”
- Retention tied to “custody” could fail to protect evidence after a sentence is completed even though later science or newly discovered information may support a claim.
- Controlled destruction remained possible after five years in qualifying cases, making notice quality and defense access crucial.
- The preservation system’s storage, inventory, training, and audit costs were not fully quantified in the available fiscal material.

Best-practice context

National Institute of Justice materials stress written retention rules, suitable storage, inventory and chain-of-custody practices, and meaningful remedies when access is denied or evidence cannot be found. [13][14] The proposed Delaware bill moved toward that framework but did not become law.

6. Impact analysis

Impact framework

This assessment considers six questions: Who gains access? How quickly? What proof is required? What harm is repaired? What future error is prevented? What does the State need to administer and fund? It distinguishes enacted impact from predicted impact.

1. People who were wrongfully convicted

Issue	Positive impact	Constraint
Financial recovery	High for successful claimants: indexed base compensation plus additional losses.	The claimant must first prove strict eligibility and factual innocence; awards over $1 million are paid over time.
Representation	Prevailing-market attorney fees can attract capable counsel.	No automatic counsel at filing and no clear advance funding for experts or litigation costs.
Reentry	Emergency and two-year benefits address immediate needs.	Limited duration; eligibility wording may exclude already-released people or those not released “as a result” of vacatur.
Public record	Expungement and a certificate reduce continuing stigma.	The certificate is routed through DOJ rather than created as a fully independent administrative finding.
Access to proof	Existing DNA statute offers some route.	Three-year, trial-focused, and high-merits barriers remain because SB 57 did not pass.

Issue	Positive impact	Constraint
Outdated science	Ordinary postconviction rules may sometimes help.	No dedicated changed-science pathway because SB 58 did not pass.

2. Families and communities

Compensation can repay lost household income, caregiving, housing, and child-support consequences. Services may reduce the burden on family members who often become the de facto reentry system. But the law cannot restore lost years, relationships, education, or health. The program should measure family stability, housing, health access, and employment—not only dollars paid.

3. Courts, prosecutors, defense counsel, and laboratories

- Superior Court gains a defined cause of action but must manage fact-intensive innocence litigation.
- DOJ must review claims and can contest innocence, while another DOJ unit runs the Actual Innocence Program. Clear conflict-screening and public procedures would strengthen trust.
- SB 57 and SB 58 would increase initial postconviction workload. Their shared staffing estimate shows the system expected additional review, not an unbounded caseload.
- SB 214 would require agencies to inventory, store, notify, and document evidence. That has costs, but poor preservation can make accurate adjudication impossible.

4. Public safety and accuracy

The compensation law is mostly backward-looking: it repairs a proven injustice. DNA access, changed-science relief, recorded interrogations, reliable identification, and preservation are accuracy tools. When they work, they can free an innocent person and expose the actual perpetrator. Public sources reviewed here do not provide Delaware-specific estimates of crimes prevented or solved through these reforms, so that benefit should be described as plausible and important, not quantified.

5. Fiscal impact

Cost / benefit category	What is known
Compensation awards	Potentially multi-million-dollar liability for long incarcerations. The first reported payment was $4 million. The fund is nonreverting and must be budgeted against lumpy claims.
Program administration	OMB administers payment and quarterly reporting. DHSS and DOC administer benefits.

Cost / benefit category	What is known
SB 57 / SB 58 workload	Official estimate: about $471,111 recurring in FY 2027 for four shared DOJ positions, plus testing, space, and one-time costs. [8a][10a]
Evidence preservation	Storage, inventory, training, and audit costs were not fully quantified; implementation should include an appropriation, not an unfunded duty.
Avoided costs	Potential avoided incarceration, retrial, civil litigation, emergency care, and public-safety costs. Delaware-specific savings were not available, so no net-savings claim is made.

6. Equity impact

National innocence data show that wrongful convictions disproportionately burden Black and Latino people. [20] Delaware's best-known cases also include Black men who lost many years. The enacted remedy can reduce some economic inequality caused by wrongful imprisonment, but strict access rules may favor people who have preserved evidence, lawyers, and experts. Delaware should publish claimant demographics and outcomes while protecting privacy so equity can be measured rather than assumed.

Scenario analysis

Scenario	Likely result under current law	Effect if package is reintroduced and strengthened
Old case; untested DNA; conviction after trial; filing after three years	Testing may be blocked by the existing time limit and other § 4504 criteria.	SB 57 approach would allow merits-based testing without the three-year bar.
Guilty plea; later DNA could exclude the person	Trial-centered statutory language creates a serious access problem.	SB 57 approach expressly includes pleas.
Conviction relied on forensic method later discredited	Must fit general postconviction rules; no dedicated changed-science claim.	SB 58 approach supplies a science-specific path, especially if affidavit and discovery barriers are fixed.
Evidence cannot be found decades later	The compensation law creates no adverse inference when evidence was destroyed under a valid policy/time period.	A strengthened SB 214 could require inventory, notice, longer retention, and meaningful remedies.
Conviction vacated; charges dismissed; factual innocence provable	Compensation claim, expungement, certificate, fees, and services may be available.	Keep the enacted remedy, improve counsel, transparency, and service access.

7. Shortcomings and unresolved risks

A. Eligibility is narrower than "wrongfully convicted" in ordinary speech

- A procedural violation, unfair trial, or dismissed case is not sufficient without proof that the person did not commit the crime or that no crime occurred.
- A pardon by itself is not a listed gateway in the final law. Earlier versions discussed pardons, but the enacted text does not treat a pardon alone as enough.
- The qualifying disposition language can be complicated for plea-based resolutions. A lawyer should review the exact vacatur and plea record.

B. The 2026 same-transaction amendment may exclude deserving claimants

The original act barred a claimant convicted of a lesser-included felony arising from the same transaction. SB 282 changed that to require proof that the claimant "did not commit any felony arising from the same transaction." [4] This could reach conduct broader than the vacated conviction. The practical scope is not yet clear, and the change may generate litigation.

C. Missing evidence can become a double barrier

A valid destruction policy creates no negative inference against the State in a compensation case. At the same time, the statewide preservation bill failed. An innocent person may therefore be asked to prove innocence after the physical evidence capable of proving it is lawfully gone. This is the most important interaction among the bills.

D. Representation is rewarded after success, not guaranteed at the start

Fee recovery improves the market for counsel, but a claimant may still need a lawyer, investigators, records, and experts before being able to prove the claim. The statute does not create an automatic right to appointed counsel for every compensation petitioner.

E. Services may be too narrow or too short

- Two years may not be enough after decades of imprisonment.
- The release-trigger language may not fit people who completed a sentence, were already out, or cleared their names later.
- The public should be able to find a single application, named contact, eligibility guide, appeal route, and service-timeliness data.

F. Payment timing and offsets matter

Large awards are paid over five years. That protects the State budget but can delay housing, health, education, and family repair. Coordination with civil recoveries prevents duplication but can make settlement decisions complex. Claimants need individualized financial and tax advice.

G. Transparency is not yet sufficient for evaluation

A strong public program should disclose, at minimum, applications, eligibility decisions, reasons for denial, case duration, award categories, payment status, service delivery, fund balance, and demographic patterns. Aggregated reporting can protect personal information. Without it, lawmakers cannot tell whether the statute works equally and on time.

H. Prevention reforms remain incomplete

Delaware can now pay for a proven wrongful conviction, but the failed 2025–2026 bills mean it has not yet enacted the full evidence-access and preservation structure proposed by reformers. Recorded-interrogation exceptions and the nonstatutory status of the eyewitness policy also limit enforceability.

8. Action plan for 2027 and oversight checklist

Priority 1 — make implementation visible now

1. Ask OMB and the Joint Finance Committee to post quarterly reports, fund balance, awards, payments, pending claims, and average processing time.
2. Ask DHSS and DOC to post the required rules, a plain-language application, the responsible unit, approval/denial counts, and timeliness data.
3. Request aggregate demographic and geographic data, with privacy protection.
4. Publish a one-page claimant guide explaining that compensation is not automatic and listing filing deadlines.

Priority 2 — reintroduce the three unfinished bills early in the 154th General Assembly

The 154th General Assembly begins in 2027. The package should be prefiled or introduced early enough for merits hearings, fiscal planning, and floor votes. A single shared appropriation for DOJ review staff can address the fiscal notes for SB 57 and SB 58.

Recommended improvements to DNA-access legislation

- Keep no time bar, plea eligibility, improved-method retesting, and a reasonable-probability new-trial standard.
- Provide appointed counsel and State-funded testing for indigent applicants who make a threshold showing.
- Require prompt evidence-location searches and written chain-of-custody disclosures.
- Require annual reporting on motions, testing orders, results, relief, and processing time.

Recommended improvements to changed-science legislation

- Do not make a privately funded expert affidavit an absolute gateway when the claimant is indigent; allow court-appointed expert assistance after a good-faith proffer.

- Make relevant discovery mandatory after a prima facie showing, subject to protective orders.
- Tie findings to clear remedies: vacatur and a prompt retrial decision, or dismissal where retrial is impossible or unjust.
- Permit extensions only by written findings and track time to decision.

Recommended improvements to evidence-preservation legislation

- Preserve evidence through the period in which a person can realistically seek testing —including after incarceration, supervision, or registration ends when a claim remains legally available.
- Require statewide inventory standards, barcodes or equivalent tracking, audits, and documented transfer or destruction.
- Send destruction notice to the person, counsel of record, and any designated postconviction repository; require proof of receipt where feasible.
- Shorten the rollout to 12 months while funding storage, training, and audits.
- Create proportionate remedies for negligent loss as well as intentional destruction.

Priority 3 — targeted compensation-law amendments

- Add a carefully defined pardon pathway when the pardon is based on factual innocence.
- Clarify that the same-transaction felony exclusion does not swallow a valid innocence claim for the conviction that caused the wrongful confinement.
- Create appointed counsel or limited litigation-support funding after a threshold eligibility showing.
- Extend services based on demonstrated need and include people cleared after release or sentence completion.
- Authorize a court-issued certificate of innocence in addition to the DOJ letter.
- Require a public annual program evaluation, not only committee reporting.

Suggested measurement dashboard

Measure	Why it matters	Suggested reporting
Applications and dispositions	Shows access and denial patterns.	Quarterly counts by filing date, result, and reason.
Time to notice, hearing, and final order	Tests procedural speed.	Median and longest pending time.
Award components	Shows whether economic and reentry harms are recognized.	Aggregated base, economic, fees, and services.
Benefits	Tests whether statutory deadlines work.	Requests, approvals, denials, start date, and service type.

Measure	Why it matters	Suggested reporting
Demographics	Tests equitable access.	Race, gender, age, county, and years lost, with privacy safeguards.
Evidence access	Shows whether correction mechanisms work.	DNA motions, tests, results, changed-science petitions, and missing evidence.
Preservation compliance	Prevents future loss.	Agency audits, inventories, destruction notices, and exceptions.

9. Questions to ask before taking a position

1. Which proposal is being discussed: compensation, DNA access, changed science, evidence preservation, recorded interrogations, or eyewitness policy?
2. Is the proposal current law, a bill that expired, or a new bill number in the 154th General Assembly?
3. Does the bill cover convictions after guilty pleas and people who have completed their sentences?
4. Who pays for counsel, experts, DNA testing, storage, and agency staff?
5. What happens when evidence is missing or destroyed?
6. What standard must the claimant satisfy: preponderance, reasonable probability, clear and convincing evidence, or another test?
7. Are discovery and a hearing mandatory or discretionary?
8. What are the deadlines, and can they be extended?
9. Which outcomes and demographic data will be published?
10. Does the bill prevent wrongful convictions, correct them, repair the harm—or all three?

Practical conclusion

A well-informed supporter can favor the compensation law while still seeking changes to its eligibility, counsel, service, and transparency rules—and can separately press for reintroduction of the DNA, changed-science, and evidence-preservation bills. These are complementary, not competing, policies.

Appendix A. Eligibility and claim pathway

Screening pathway (simplified)

Question	Meaning
1. Delaware conviction?	If no, the Delaware compensation statute does not apply.
2. Covered loss?	Incarceration, psychiatric confinement, probation, parole, or sex-offender registration must be shown.
3. Conviction overturned, vacated, or reversed?	If no, the compensation claim is premature or unavailable under this statute.
4. Qualifying disposition?	Dismissal, acquittal after retrial, or a qualifying post-vacatur Robinson/no-contest plea while maintaining innocence.
5. No felony from the same transaction?	The claimant bears this additional burden under the 2026 wording.
6. Factual innocence?	Prove by a preponderance that the claimant did not commit the crime or that no crime occurred.
7. State defenses?	DOJ may try to prove guilt, accomplice liability, or deliberate fabrication/perjury to protect the actual perpetrator.
8. Timely filing?	Usually six years after the triggering notice; transition claims generally by June 30, 2031, subject to statutory details.
9. Damages and services?	Document time, economic losses, costs, fees, records relief, and service eligibility.

Documents a potential claimant should preserve

- Every order reversing, vacating, or dismissing the conviction and every retrial or plea document.
- DOC dates, death-row dates, probation/parole records, registration history, and release paperwork.
- Employment, tax, education, medical, dental, housing, child-support, fines, fees, and restitution records.
- Evidence inventories, laboratory reports, chain-of-custody records, and destruction notices.
- Attorney invoices and expert, investigation, travel, and reintegration expenses.

Legal caution: This checklist is not a substitute for counsel. Eligibility can turn on the exact language of the order, plea, sentence, other conduct from the same transaction, and filing date.

Appendix B. Source notes and links

Sources were checked for status and content through August 21, 2026. Primary Delaware statutes, session laws, bill pages, and fiscal notes were preferred. News sources are identified where used for events not found in an official public record.

[1] Innocence Project Delaware — organization, cases, and reforms
[2] Delaware Laws, Vol. 84, Ch. 427 — SS 3 for SB 169 with HA 1
[3] 10 Del. C. Chapter 70 — Wrongful Conviction Compensation and Services Act
[4] SS 1 for SB 282 — 2026 compensation-law amendments
[5] SB 169 bill detail and roll-call history
[6] HB 215 (151st GA) — electronic recording of custodial interrogations
[7] Innocence Project Delaware — reform descriptions
[8] SS 1 for SB 57 — postconviction DNA testing
[8a] SB 57 fiscal note
[9] 11 Del. C. § 4504 — current DNA-testing statute
[10] SS 3 for SB 58 — changed forensic science
[10a] SB 58 fiscal note
[11] WGMD — Delaware postconviction reform bill suite
[12] SS 1 for SB 214 — preservation of biological evidence
[13] National Institute of Justice — biological evidence preservation for policymakers
[14] NIJ/NIST — Biological Evidence Preservation Handbook
[15] Innocence Project Delaware — freed and exonerated Delawareans
[16] Death Penalty Information Center — Jermaine “Marlow” Wright, July 2026
[17] Delaware Online — reported $4 million Elmer Daniels payment, July 8, 2026
[18] Delaware Public Media — final day of the 153rd General Assembly
[19] Delaware DOJ — Actual Innocence Program
[20] National Innocence Project — policy and system reform
[21] National Registry of Exonerations — compensation overview
[22] George Washington University Law School — Jeffrey Gutman, 2025 compensation study
[23] WHYY / Associated Press — Daniels civil-rights lawsuit decision, April 2024
[24] The Appeal — Delaware compensation proposal and Daniels’s reentry experience, 2020
[25] LegiScan session overview — 153rd General Assembly adjourned sine die

Method and limitations

- This is a desk review of publicly accessible statutes, session laws, bill pages, fiscal notes, organizational materials, and selected news reports.
- The report does not inspect sealed filings, confidential settlements, internal agency guidance, or nonpublic quarterly reports.
- The $4 million Daniels payment is attributed to Delaware Online. The underlying public order or itemized calculation was not located in this review.
- No Delaware-wide estimate of future claim volume, exonerations caused by the proposed bills, crimes prevented, or net taxpayer savings was available. The report therefore avoids unsupported forecasts.
- Bill descriptions refer to the latest substitutes located on the official bill pages. A future bill may use different language and should be reviewed from scratch.