

ASSEMBLY, No. 1805

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1996

By Assemblyman IMPREVEDUTO

1 AN ACT concerning compensation for persons wrongfully imprisoned  
2 and supplementing Title 52 of the Revised Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

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7 1. The Legislature finds and declares that innocent persons who  
8 have been wrongfully convicted of crimes and subsequently imprisoned  
9 have been frustrated in seeking legal redress due to a variety of  
10 substantive and technical obstacles in the law and that such persons  
11 should have an available avenue of redress over and above the existing  
12 tort remedies to seek compensation for damages. The Legislature  
13 intends by enactment of the provisions of this act that those innocent  
14 persons who can demonstrate by clear and convincing evidence that  
15 they were unjustly convicted and imprisoned be able to recover  
16 damages against the State. In light of the substantial burden of proof  
17 that must be carried by such persons, it is the intent of the Legislature  
18 that the court, in exercising its discretion as permitted by law  
19 regarding the weight and admissibility of evidence submitted pursuant  
20 to this act, shall, in the interest of justice, give due consideration to  
21 difficulties of proof caused by the passage of time, the death or  
22 unavailability of witnesses, the destruction of evidence or other factors  
23 not caused by such persons or those acting on their behalf.

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25 2. Notwithstanding the provisions of any other law, any person  
26 convicted and subsequently imprisoned for one or more crimes which  
27 he did not commit may, under the conditions hereinafter provided,  
28 bring a suit for damages in Superior Court against the Department of  
29 Treasury.

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31 3. The person (hereinafter titled, "the claimant") shall establish the  
32 following by clear and convincing evidence:

33 a. That he was convicted of a crime and subsequently sentenced to  
34 a term of imprisonment, served all or part of his sentence; and

35 b. He did not commit the crime for which he was convicted; and

36 c. He did not by his own conduct cause or bring about his  
37 conviction.

1       4. The suit, accompanied by a statement of the facts concerning the  
2 claim for damages, verified in the manner provided for the verification  
3 of complaints in civil actions, shall be brought by the claimant within  
4 two years after his release from imprisonment, or after the grant of a  
5 pardon to him.

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7       5. In the event the claimant has available another means of redress,  
8 the State shall have the right to an offset or subrogation of the claim.

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10       6. This act shall take effect immediately.

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#### STATEMENT

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15       This bill would allow persons who were unjustly imprisoned as a  
16 result of being wrongfully convicted of crimes to bring a lawsuit for  
17 damages. Under current law, suits for wrongful imprisonment brought  
18 against the prosecutor or police are usually barred, due to the  
19 statutory immunity of the entities from liability. This bill would not  
20 change that immunity; rather, it authorizes suits against the Treasury  
21 directly, thus bypassing the issue of liability. The bill further provides  
22 that in the event the claimant has available other means of redress the  
23 State would have the right to an offset or subrogation of the claim.

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29 Authorizes lawsuits for damages by persons who have been wrongfully  
convicted and imprisoned.