

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1805**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 12, 1997

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1805.

In its original form, this bill would have allowed persons who were unjustly imprisoned as a result of being wrongfully convicted of crimes to bring a lawsuit for damages. The committee amendments would clarify that the bill is intended to cover persons mistakenly convicted. In order to receive damages, the claimant must establish by clear and convincing evidence that he was convicted and imprisoned, that he did not commit the crime and that his own conduct did not cause or bring about the conviction.

Such actions would be brought against the Department of the Treasury and must be brought within two years of the person's release from incarceration or grant of a pardon. The committee amended the bill to provide that any eligible claimant released or pardoned during the five year period prior to May 2, 1996 (the date the Senate bill was introduced) would have two years from the effective date of the act to file the suit.

The committee amendments delete that section of the bill which would have provided that in the event the claimant has available other means of redress the State would have the right to an offset or subrogation of the claim. The amendments add a new section 5 which would provide that the amount of damages awarded cannot exceed twice the amount of the claimant's income in the year prior to his incarceration or \$20,000.00 for each year of incarceration, whichever is greater. The amendments also provide that the claimant would be entitled to receive reasonable attorney fees in addition to the damages awarded.

In addition, the committee amendments add a new section 6 which provides that a person is not eligible to file a claim for damages if he either: (1) is serving a term of imprisonment for a crime other than the crime of which he was mistakenly convicted; or (2) served a sentence for another crime concurrently with the sentence for the crime of which he was mistakenly convicted.

As amended, this bill is identical to Senate Bill No. 1036 (3R).