

P.L. 1997, CHAPTER 227, *approved August 25, 1997*  
Senate, No. 1036 (*Third Reprint*)

1 AN ACT concerning compensation for persons <sup>1</sup>[wrongfully]  
2 mistakenly<sup>1</sup> imprisoned and supplementing Title 52 of the Revised  
3 Statutes.

4

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

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8 1. The Legislature finds and declares that innocent persons who  
9 have been <sup>1</sup>[wrongly]<sup>1</sup> convicted of crimes and subsequently  
10 imprisoned have been frustrated in seeking legal redress <sup>1</sup>[due to a  
11 variety of substantive and technical obstacles in the law]<sup>1</sup> and that such  
12 persons should have an available avenue of redress over and above the  
13 existing tort remedies to seek compensation for damages. The  
14 Legislature intends by enactment of the provisions of this act that  
15 those innocent persons who can demonstrate by clear and convincing  
16 evidence that they were <sup>1</sup>[unjustly] mistakenly convicted and  
17 imprisoned be able to recover damages against the State.

18 In light of the substantial burden of proof that must be carried by  
19 such persons, it is the intent of the Legislature that the court, in  
20 exercising its discretion as permitted by law regarding the weight and  
21 admissibility of evidence submitted pursuant to this section, <sup>1</sup>[shall]  
22 may<sup>1</sup>, in the interest of justice, give due consideration to difficulties of  
23 proof caused by the passage of time, the death or unavailability of  
24 witnesses, the destruction of evidence or other factors not caused by  
25 such persons or those acting on their behalf.

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27 2. Notwithstanding the provisions of any other law, any person  
28 convicted and subsequently imprisoned for one or more crimes which  
29 he did not commit may, under the conditions hereinafter provided,

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SJU committee amendments adopted September 19, 1996.

<sup>2</sup> Senate floor amendments adopted December 19, 1996.

<sup>3</sup> Assembly AJU committee amendments adopted June 12, 1997.

1 bring a suit for damages in Superior Court against the Department of  
2 the Treasury.

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

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

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

9 c. He did not by his own conduct cause or bring about his  
10 conviction.

11

12 4. The suit, accompanied by a statement of the facts  
13 concerning the claim for damages, verified in the manner provided for  
14 the verification of complaints in civil actions, shall be brought by the  
15 claimant within a period of two years after his release from  
16 imprisonment, or after the grant of a pardon to him <sup>3</sup>; provided,  
17 however, that any eligible claimant released or pardoned during the  
18 five year period prior to May 2, 1996 shall have two years from the  
19 effective date of this act to file a suit <sup>3</sup>.

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21 <sup>2</sup>5. <sup>3</sup>a. <sup>3</sup>Damages awarded under this act shall not exceed twice  
22 the amount of the claimant's income in the year prior to his  
23 incarceration or \$20,000.00 for each year of incarceration, whichever  
24 is greater. <sup>2</sup>

25 <sup>3</sup>b. In addition to the damages awarded pursuant to subsection a.,  
26 the claimant shall be entitled to receive reasonable attorney fees. <sup>3</sup>

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28 <sup>2</sup>[15.] 6. <sup>2</sup>a. A person serving a term of imprisonment for a crime  
29 other than a crime of which the person was mistakenly convicted shall  
30 not be eligible to file a claim for damages pursuant to the provisions  
31 of this act.

32 b. A person shall not be eligible to file a claim for damages  
33 pursuant to the provisions of this act if the sentence for the crime of  
34 which the person was mistakenly convicted was served concurrently  
35 with the sentence for the conviction of another crime. <sup>1</sup>

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37 <sup>1</sup>[5.] <sup>2</sup>[6.] <sup>2</sup>7. <sup>2</sup> This act shall take effect immediately.

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42 Authorizes lawsuits for damages by persons who have been mistakenly  
43 convicted and imprisoned.