

SENATE, No. 1036

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Senators RICE, CARDINALE and Kenny

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.

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

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

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

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

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

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

1 conviction.

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

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9 5. This act shall take effect immediately.

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12 STATEMENT

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14 This bill allows persons who were unjustly imprisoned as a result of  
15 being wrongfully convicted of crimes to bring a lawsuit against the  
16 State for damages. Under current law, suits for wrongful  
17 imprisonment brought against the prosecutor or police are usually  
18 barred, due to the statutory immunities of these entities from liability.  
19 This bill would not change those immunities. Instead, it authorizes  
20 suits directly against the Department of Treasury, thus bypassing the  
21 issue of liability. It is the sponsor's intent to allow these persons to  
22 be compensated for the damages they suffered because of their  
23 wrongful imprisonment, regardless of whether any particular person  
24 or entity was at fault for that imprisonment.

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