

[First Reprint]  
SENATE, No. 1036

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Senators RICE, CARDINALE and Kenny

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:

7  
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<sup>1</sup> 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.

26  
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,  
30 bring a suit for damages in Superior Court against the Department of  
31 the Treasury.

**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.

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

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

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

6       c. He did not by his own conduct cause or bring about his  
7 conviction.

8

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

14

15       <sup>1</sup>5. a. A person serving a term of imprisonment for a crime other  
16 than a crime of which the person was mistakenly convicted shall not  
17 be eligible to file a claim for damages pursuant to the provisions of this  
18 act.

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

23

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

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28

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