

[Second 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 ¹[wrongfully]
2 mistakenly¹ 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 ¹[wrongly]¹ convicted of crimes and subsequently
10 imprisoned have been frustrated in seeking legal redress ¹[due to a
11 variety of substantive and technical obstacles in the law]¹ 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 ¹[unjustly] mistakenly¹ 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, ¹[shall]
22 may¹, 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:

¹ Senate SJU committee amendments adopted September 19, 1996.

² Senate floor amendments adopted December 19, 1996.

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 concerning the
13 claim for damages, verified in the manner provided for the verification
14 of complaints in civil actions, shall be brought by the claimant within
15 a period of two years after his release from imprisonment, or after the
16 grant of a pardon to him.

17

18 ²5. Damages awarded under this act shall not exceed twice the
19 amount of the claimant's income in the year prior to his incarceration
20 or \$20,000.00 for each year of incarceration, whichever is greater.²

21

22 ²[¹5.] ²6. a. A person serving a term of imprisonment for a crime
23 other than a crime of which the person was mistakenly convicted shall
24 not be eligible to file a claim for damages pursuant to the provisions
25 of this act.

26 b. A person shall not be eligible to file a claim for damages
27 pursuant to the provisions of this act if the sentence for the crime of
28 which the person was mistakenly convicted was served concurrently
29 with the sentence for the conviction of another crime.¹

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31 ¹[5.] ²[6.1] ²7. This act shall take effect immediately.

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36 Authorizes lawsuits for damages by persons who have been mistakenly
37 convicted and imprisoned.