

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 1036

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1036(2R).

This bill would allow any person mistakenly convicted and imprisoned to bring an action for damages against the State. 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. 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.

The bill provides that the amount of damages awarded could not 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.

In addition, the bill provides that a person is not eligible to file a claim for damages under the act 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.

The committee amended section 4 of the bill, concerning the two year statute of limitations, to clarify 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 also amended section 5 of the bill concerning damages, to provide that the claimant would be entitled to receive reasonable attorney fees in addition to the damages awarded.

As amended, this bill is identical to Assembly, No. 1805 (1R).