

52:4C-1 to 52:4C-6

LEGISLATIVE HISTORY CHECKLIST

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(Damages)

A: 52:4C-1 to 52:4C-6

LAWS OF: 1997 CHAPTER: 227

BILL NO: S1036

SPONSOR(S): Rice and others

DATE INTRODUCED: May 2, 1996

COMMITTEE: ASSEMBLY: Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Third reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 19, 1997

SENATE: June 26, 1997

DATE OF APPROVAL: August 25, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

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.

3

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

6

7 1. The Legislature finds and declares that innocent persons who
8 have been wrongly 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.

25

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.

31

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.

2

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.

8

9 5. This act shall take effect immediately.

10

11

12 STATEMENT

13

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.

25

26

27

28

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

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1036

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1996

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1036.

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 committee adopted amendments to S-1036 clarifying that the bill is intended to cover only persons mistakenly convicted. The committee amendments also clarified that in considering claims for mistaken imprisonment, the court may give due consideration to the difficulties of proof caused by the passage of time, the death of witnesses and the destruction of evidence. In addition, the amendments added language providing 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.

STATEMENT TO

[First Reprint]

SENATE, No. 1036

with Senate Floor Amendments
(Proposed By Senators SINGER and CARDINALE)

ADOPTED: DECEMBER 19, 1996

S-1036 would allow any person mistakenly convicted and imprisoned to bring an action for damages against the State. These amendments would provide the amount of damages awarded under the bill 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.

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).

§§1 - 6
C. 52:4C-1
To
52:4C-6

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

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] 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, 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.

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,

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.

³ 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 ³; 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 ³.

20

21 ²5. ³a. ³ 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. ²

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

27

28 ²[15.] 6. ²a. 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. ¹

36

37 ¹[5.] ²[6.] 7. ² 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.