

By Senators Webster and Haridopolos

9-844A-06

See HB 47-B

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A bill to be entitled

An act providing an appropriation to compensate Wilton Dedge; providing authority to draw warrant; providing a limitation on the authority to draw the warrant; requiring a specified distribution of funds; providing a condition for payment; providing legislative intent; providing an effective date.

WHEREAS, Wilton Dedge was convicted of rape and imprisoned for 22 years, and

WHEREAS, the initial conviction was appealed and reversed, and

WHEREAS, on retrial Wilton Dedge was again convicted, which conviction was affirmed on appeal, and

WHEREAS, the Circuit Court in the Eighteenth Judicial Circuit granted the state's motion to dismiss pending charges and discharge Wilton Dedge from custody based on DNA evidence that excluded Wilton Dedge as the perpetrator of the crime, and

WHEREAS, Wilton Dedge was in fact released on August 12, 2004, and

WHEREAS, Wilton Dedge and his parents filed suit in the Second Judicial Circuit requesting, among other things, a declaratory judgment that Mr. Dedge's liberty was taken by the government without compensation and requesting damages for the taking of Mr. Dedge's liberty and property, and

WHEREAS, the suit was dismissed by order of the Second Judicial Circuit court, which found that Mr. Dedge's parents have no standing to recover damages suffered by an adult child, that claims for damages from the state are banned by

1 | the doctrine of sovereign immunity, and that only the
2 | Legislature can address the issue of compensation under
3 | existing law, and

4 | WHEREAS, Wilton Dedge has appealed the order to the
5 | First District Court of Appeal, Case No. 1D05-4288, which
6 | appeal is pending, and

7 | WHEREAS, the Legislature recognizes that no system of
8 | justice is impervious to human error. "Given the myriad
9 | safeguards provided to assure a fair trial, and taking into
10 | account the reality of the human fallibility of the
11 | participants, there can be no such thing as an error-free,
12 | perfect trial, and ... the Constitution does not guarantee
13 | such a trial." United States v. Hastings, 461 U.S. 499(1983),
14 | and

15 | WHEREAS, the Legislature acknowledges that the state's
16 | system of justice yielded an imperfect result with tragic
17 | consequences in this case, and

18 | WHEREAS, the Legislature acknowledges that Wilton Dedge
19 | incurred significant losses unique to Wilton Dedge as a result
20 | of his conviction and physical confinement and that all the
21 | losses flowed from the fact that he was physically restrained
22 | and prevented from exercising the freedom to which all
23 | innocent citizens are entitled, and

24 | WHEREAS, the Legislature acknowledges that Wilton Dedge
25 | performed valuable services for the state while imprisoned,
26 | including serving as a licensed waste-water plant operator,
27 | and

28 | WHEREAS, the Legislature acknowledges that Wilton
29 | Dedge's parents incurred significant expenses related to his
30 | defense and related to the prolonged efforts to establish his
31 | innocence and secure his release from prison, and

1 WHEREAS, the Legislature is providing compensation to
2 Wilton Dedge to acknowledge the fact that he suffered
3 significant damages unique to Wilton Dedge which resulted from
4 his physical restraint and the deprivation of freedom, and

5 WHEREAS, the Legislature is providing compensation to
6 Wilton Dedge based on a moral desire to acknowledge his
7 undisputed and actual innocence and not on a recognition of a
8 constitutional right or violation, and

9 WHEREAS, the Legislature intends that compensation made
10 pursuant to this act shall be the sole compensation to be
11 provided by the state for any and all present and future
12 claims arising out of the factual situation in connection with
13 Wilton Dedge's conviction and imprisonment, and

14 WHEREAS, the Legislature apologizes to Wilton Dedge on
15 behalf of the state, NOW, THEREFORE,

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. The facts stated in the preamble to this
20 act are found and declared to be true.

21 Section 2. There is appropriated from the General
22 Revenue Fund the sum of \$2,000,000 to be paid to Wilton Dedge
23 under the conditions provided in this act.

24 Section 3. The Chief Financial Officer is directed to
25 draw a warrant to the State Board of Administration in the sum
26 of \$2,000,000 for the purposes provided in this act, the funds
27 to be distributed in accordance with the letter of agreement
28 between Wilton Dedge, Mr. and Mrs. Walter Gary Dedge, Sr., and
29 the State Board of Administration. The State Board of
30 Administration, the State Division of Retirement, and the
31 State Department of Management Services are required to

1 provide such support and assistance as directed by the terms
2 of the letter of agreement and are authorized and directed to
3 provide for health care insurance, including mental health and
4 dental coverage for Wilton Dedge, the expense of which shall
5 be borne by Wilton Dedge. Access to state education programs
6 shall be provided on a scholarship basis without tuition or
7 fees, provided that Wilton Dedge shall be required to meet and
8 maintain the regular admission requirements of, and be
9 registered at, such state educational program. After March 6,
10 2006, the Chief Financial Officer is no longer authorized to
11 draw a warrant under this section.

12 Section 4. The State Board of Administration shall
13 disburse funds under the letter of agreement upon delivery by
14 Wilton Dedge to the Chief Financial Officer, the State Board
15 of Administration, the President of the Senate, and the
16 Speaker of the House of Representatives of all of the
17 following:

18 (1) An executed release and waiver on behalf of Wilton
19 Dedge and his parents, heirs, successors, and assigns forever
20 releasing the State of Florida and any agency,
21 instrumentality, officer, employee, or political subdivision
22 thereof or any other entity subject to the provisions of s.
23 768.28, Florida Statutes, from any and all present or future
24 claims the claimant or any of his parents, heirs, successors,
25 or assigns may have against such enumerated entities and
26 arising out of the factual situation in connection with the
27 conviction for which compensation is awarded.

28 (2) An order from the court having jurisdiction of the
29 legal claim filed by Wilton Dedge and his parents dismissing
30 the claim with prejudice, provided that it is the intent of
31 this legislation to allow Wilton Dedge to obtain full

1 expungement of the judicial and executive branch records of
2 his conviction as otherwise provided by law.

3 Section 5. The Legislature shall not be deemed by this
4 act to have waived any defense of sovereign immunity or to
5 have increased the limits of liability on behalf of the state
6 or any person or entity subject to the provisions of s.
7 768.28, Florida Statutes, or any other law.

8 Section 6. This award is intended to provide sole
9 compensation for any and all present and future claims arising
10 out of the factual situation in connection with Wilton Dedge's
11 conviction and imprisonment. No further award for attorney's
12 fees, lobbying fees, costs, or other similar expenses will be
13 made by the state.

14 Section 7. This act shall take effect upon becoming a
15 law.

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