



1 deemed to have waived any defense of sovereign  
2 immunity nor increased the limits of liability  
3 as a result of the act or the payment of a  
4 claim thereunder; providing legislative intent  
5 with respect to amounts awarded under the act;  
6 authorizing the Legislature to make an official  
7 apology; providing an effective date.  
8

9 WHEREAS, the Legislature recognizes that no system of  
10 justice is impervious to human error, and

11 WHEREAS, United States v. Hasting, 461 U.S. 499 (1983),  
12 reads, in part, "Given the myriad safeguards provided to  
13 assure a fair trial, and taking into account the reality of  
14 the human fallibility of the participants, there can be no  
15 such thing as an error-free, perfect trial, and . . . the  
16 Constitution does not guarantee such a trial," and

17 WHEREAS, the Legislature acknowledges that the state's  
18 system of justice infrequently yields imperfect results which  
19 may have tragic consequences, and

20 WHEREAS, this act is based on a moral desire to  
21 acknowledge those who are wrongfully convicted of a felony  
22 offense, incarcerated as a result of that conviction, and  
23 determined to be actually innocent and is not a recognition of  
24 a constitutional right or violation, and

25 WHEREAS, the Legislature intends that any compensation  
26 made pursuant to this act be the sole compensation to be  
27 provided by the state for any and all present and future  
28 claims arising out of the factual situation in connection with  
29 the claimant's conviction and imprisonment, NOW, THEREFORE,

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

1           Section 1. Claim for compensation for wrongful  
2 incarceration.--

3           (1) A person who has been wrongfully convicted of a  
4 felony offense and incarcerated within the Department of  
5 Corrections as a result of that conviction may be financially  
6 compensated if the claimant is actually innocent.

7           (2) As used in this section, the term "actually  
8 innocent" means:

9           (a) The claimant was charged, by indictment or  
10 information, with the commission of an offense classified as a  
11 felony;

12           (b) The claimant was convicted of the offense;

13           (c) The claimant was sentenced to incarceration for a  
14 term of imprisonment as a result of the conviction;

15           (d) The claimant's acts did not constitute a crime;  
16 and

17           (e) A court of competent jurisdiction found by clear  
18 and convincing evidence that the claimant is actually innocent  
19 as defined in this act and issued an order vacating,  
20 dismissing, or reversing the conviction and sentence and  
21 providing that no further proceedings can or will be held  
22 against the claimant on any facts and circumstances alleged in  
23 the proceedings which resulted in the conviction.

24           (3) A claimant shall not be eligible for compensation  
25 if the claimant submits a completed application to the  
26 Department of Legal Affairs later than 2 years after the order  
27 vacating, reversing, or dismissing the sentence.

28           (4) The claimant must submit to the Department of  
29 Legal Affairs for review and processing the following  
30 documents as an application package, as proof of the  
31 claimant's eligibility for compensation:

1           (a) A certified copy of the judgment and sentence in  
2 the case, including fingerprints;

3           (b) A set of the claimant's fingerprints, prepared by  
4 the sheriff of the county in which the claimant resides and  
5 taken within 6 months before the date on which the claim is  
6 filed;

7           (c) A recent photograph of the claimant in a format no  
8 larger than 2 inches by 3 inches;

9           (d) A certified copy of the order vacating,  
10 dismissing, or reversing the conviction;

11           (e) A record from the Department of Corrections  
12 showing the actual dates of the claimant's incarceration and a  
13 photograph of the claimant taken by the department; and

14           (f) A brief sworn statement reciting the facts upon  
15 which the claim for compensation is based and showing that the  
16 claimant is actually innocent and in compliance with all  
17 requirements of this act.

18           (5)(a) Upon receipt of an application, the Department  
19 of Legal Affairs shall examine the application. Within 30 days  
20 after receipt of the application, the department shall notify  
21 the applicant of any apparent errors or omissions and request  
22 any additional information the department is permitted by law  
23 to require. The department shall not deny a claim for failure  
24 to correct an error or omission or supply additional  
25 information unless the department timely notified the claimant  
26 within the 30-day period specified in this paragraph.

27           (b) The department shall process and review the claim  
28 within a reasonable period of time after receiving a completed  
29 application, which may not exceed 90 days.

30           (6) If the Department of Legal Affairs determines that  
31 the claim for compensation is supported by sufficient proof,

1 the department must forward a request for payment to the Chief  
2 Financial Officer who shall pay the claim according to the  
3 recommendation, subject to a specific appropriation made by  
4 the Legislature pursuant to subsection (8).

5 (a) The department shall recommend compensation at the  
6 rate of \$50,000 for each year of wrongful incarceration,  
7 prorated as necessary to compensate for portions of years.

8 (b) The department shall request sufficient funding in  
9 its Legislative Budget Request pursuant to chapter 216 Florida  
10 Statutes, to make payments that it recommends pursuant to the  
11 provisions of this act.

12 (c) If the claimant has not executed the release and  
13 waiver pursuant to paragraph (7)(a), the claimant is not  
14 precluded from filing a claim bill in accordance with the  
15 current Rules of the House of Representatives and the Rules of  
16 the Senate, which shall be the sole redress of any dispute  
17 regarding any part of this act.

18 (7)(a) Before payment is tendered pursuant to this  
19 act, the claimant must present to the Chief Financial Officer  
20 an executed release and waiver on behalf of the claimant or  
21 his or her heirs, successors, and assigns, forever releasing  
22 the state or any agency, instrumentality, officer, or  
23 employee, or any political subdivision thereof, or any other  
24 entity subject to the provisions of s. 768.28, Florida  
25 Statutes, from any and all present or future claims that the  
26 claimant or his or her heirs, successors, or assigns may have  
27 against such entities and arising out of the factual situation  
28 in connection with the conviction for which compensation is  
29 being sought under this act.

1           (b) Declaratory action to obtain judicial expungement  
2 of the claimant's judicial and executive branch records as  
3 otherwise provided by law is not prohibited by this act.

4           (8) Payment shall be made to a claimant pursuant to  
5 specific appropriation to the Department of Legal Affairs made  
6 by the Legislature for the benefit of the claimant. Payment  
7 shall be made within 90 days after the effective date of the  
8 appropriation.

9           (9) Any claimant who is compensated pursuant to this  
10 act shall also have tuition and fees waived for up to a total  
11 of 120 hours of instruction at any career center established  
12 pursuant to s. 1001.44, Florida Statutes, any community  
13 college established under part III of chapter 1004, Florida  
14 Statutes, or any state university. For any educational benefit  
15 made, the claimant is required to meet and maintain the  
16 regular admission requirements of, and be registered at, such  
17 career center, community college, or state university and make  
18 satisfactory academic progress as defined by the educational  
19 institution in which the claimant is enrolled.

20           (10) The Legislature shall not be deemed by this act  
21 or by the payment of any claim to have waived any defense of  
22 sovereign immunity or to have increased the limits of  
23 liability on behalf of the state or any person subject to the  
24 provisions of s. 768.28, Florida Statutes, or any other law.

25           (11) Any amount awarded by this act is intended to  
26 provide the sole compensation for any and all present and  
27 future claims arising out of the factual situation in  
28 connection with the claimant's conviction and imprisonment. No  
29 further award for attorney's fees, lobbying fees, costs, or  
30 other similar expenses shall be made by the state.

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1           (12) The Legislature is authorized to make an official  
2 apology to a claimant under this act on behalf of the State of  
3 Florida.

4           Section 2. This act shall take effect October 1, 2007.

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6                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7   COMMITTEE SUBSTITUTE FOR  
8   Senate Bill 2464

- 9 -       The bill is amended to provide for one lump-sum payment,  
10       rather than ten annual installments in cases where the  
11       total amount exceeds \$500,000.  
12 -       The Department of Legal Affairs must submit a legislative  
13       budget request, for the benefit of the claimant. The  
14       claim must be paid within 90 days of the effective date  
15       of the specific appropriation.  
16 -       The bill provides that should the claimant elect not to  
17       execute the release and waiver required for payment of  
18       compensation, he or she may seek redress through the  
19       legislative claim bill process.  
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