

By Senator Smith

29-00063-11

201152

1 A bill to be entitled

2 An act for the relief of Larry Bostic; providing an
3 appropriation to compensate Larry Bostic for wrongful
4 imprisonment and for being a victim of a miscarriage
5 of justice; directing the Chief Financial Officer to
6 draw a warrant; requiring the purchase of an annuity;
7 providing for the waiver of specified tuition and
8 fees; providing for the waiver of fees and premiums
9 for enrollment in the state health insurance plan;
10 providing conditions for payment; providing
11 legislative intent; prohibiting the payment of certain
12 fees and costs; providing an effective date.

13
14 WHEREAS, in 1989, Larry Bostic was convicted in Broward
15 County, Florida, of rape and robbery, and was sentenced to 8
16 years in prison to be followed by 5 years probation, and

17 WHEREAS, while on probation awarded to him for crimes he
18 did not commit, Mr. Bostic was reimprisoned for 17 years, and
19 after serving more than 18 years in prison, during which time he
20 maintained his innocence, Mr. Bostic was fully exonerated
21 through DNA testing, and such results were matched to the actual
22 perpetrator of the rape and robbery, and

23 WHEREAS, an order of the circuit court, entered on
24 September 21, 2007, judicially established the fact that Mr.
25 Bostic should not have been incarcerated for the rape and
26 robbery, and

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

29 WHEREAS, *United States v. Hasting*, 461 U.S. 499, 508

29-00063-11

201152__

30 (1983), reads, in part, "[G]iven the myriad safeguards provided
31 to assure a fair trial, and taking into account the reality of
32 the human fallibility of the participants, there can be no such
33 thing as an error-free, perfect trial, and ... the Constitution
34 does not guarantee such a trial[,]" and

35 WHEREAS, the Legislature acknowledges that the state's
36 system of justice infrequently yields imperfect results that may
37 have tragic consequences, and

38 WHEREAS, this act is based on a moral desire to acknowledge
39 those who are wrongfully convicted of a felony offense, who are
40 incarcerated as a result of that conviction, and who are
41 determined to be actually innocent and is not a recognition of a
42 constitutional right or violation, NOW, THEREFORE,

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. The facts stated in the preamble to this act are
47 found and declared to be true.

48 Section 2. There is appropriated from the General Revenue
49 Fund to the Department of Financial Services the sum of \$1.7
50 million under the conditions provided in this act.

51 Section 3. The Chief Financial Officer is directed to draw
52 a warrant in the sum of \$1.7 million for the purposes provided
53 in this act.

54 Section 4. The Department of Financial Services shall pay
55 the funds appropriated under this act to an insurance company or
56 other financial institution admitted and authorized to issue
57 annuity contracts in this state and selected by Larry Bostic for
58 the purchase of an annuity. The Department of Financial Services

29-00063-11

201152__

59 shall execute all necessary agreements to implement this act.

60 Section 5. Tuition and fees for Larry Bostic shall be
61 waived for up to a total of 120 hours of instruction at any
62 career center established pursuant to s. 1001.44, Florida
63 Statutes, at any community college established under part III of
64 chapter 1004, Florida Statutes, or any state university. For any
65 educational benefit made, Larry Bostic shall meet and maintain
66 the regular admission requirements of, and be registered at,
67 such career center, community college, or state university and
68 make satisfactory academic progress as defined by the
69 educational institution in which the claimant is enrolled.

70 Section 6. Enrollment for Larry Bostic shall be made into
71 the State of Florida Health Insurance System, similar to that
72 available to employees of the State of Florida. All fees and
73 premiums shall be waived during the lifetime of Larry Bostic.

74 Section 7. The Chief Financial Officer shall purchase the
75 annuity as required by this act upon delivery by Larry Bostic to
76 the Chief Financial Officer, the Department of Financial
77 Services, the President of the Senate, and the Speaker of the
78 House of Representatives of an executed release and waiver on
79 behalf of Larry Bostic and his heirs, successors, and assigns
80 forever releasing the State of Florida and any agency,
81 instrumentality, officer, employee, or political subdivision
82 thereof or any other entity subject to the provisions of s.
83 768.28, Florida Statutes, from any and all present or future
84 claims or declaratory relief that the claimant, or his heirs,
85 successors, or assigns, may have against such enumerated
86 entities and arising out of the factual situation in connection
87 with the conviction for which compensation is awarded. However,

29-00063-11

201152__

88 this act does not prohibit declaratory action to obtain judicial
89 expunction of Larry Bostic's judicial and executive branch
90 records as otherwise provided by law.

91 Section 8. The Legislature may not be deemed by this act to
92 have waived any defense of sovereign immunity or to have
93 increased the limits of liability on behalf of the state or any
94 person or entity subject to the provisions of s. 768.28, Florida
95 Statutes, or any other law.

96 Section 9. This award is intended to provide the sole
97 compensation for any and all present and future claims arising
98 out of the factual situation in connection with Larry Bostic's
99 conviction and imprisonment, and no part of the award shall be
100 paid for attorney's fees, lobbying fees, costs, or other similar
101 expenses.

102 Section 10. This act shall take effect upon becoming a law.