

By Senator Torres

15-00274-20

202024__

1 A bill to be entitled
2 An act providing for the relief of Clemente Aguirre-
3 Jarquin; providing an appropriation to compensate
4 Clemente Aguirre-Jarquin for being wrongfully
5 incarcerated for nearly 15 years; directing the Chief
6 Financial Officer to draw a warrant for the purchase
7 of an annuity; requiring the Department of Financial
8 Services to pay specified funds; providing for the
9 waiver of certain tuition and fees for Mr. Aguirre-
10 Jarquin; specifying conditions for payment; providing
11 that the act does not waive certain defenses or
12 increase the state's limits of liability; providing a
13 limitation on the payment of compensation; prohibiting
14 any further award to include certain fees and costs;
15 providing an effective date.

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17 WHEREAS, Clemente Aguirre-Jarquin was arrested on June 17,
18 2004, tried, and convicted of two counts of first-degree murder
19 and one count of burglary with an assault or battery on February
20 28, 2006, and sentenced to death on June 30, 2006, and

21 WHEREAS, Clemente Aguirre-Jarquin has always maintained his
22 innocence, and

23 WHEREAS, Clemente Aguirre-Jarquin spent 10 years and 8
24 months on death row, and

25 WHEREAS, new DNA, forensic, and testimonial evidence
26 discovered after his 2006 conviction and death sentence
27 powerfully show Clemente Aguirre-Jarquin's innocence and point
28 to another suspect whose DNA was found at the crime scene and
29 who has confessed to these crimes on multiple occasions, and

15-00274-20

202024__

30 WHEREAS, in October of 2016, based on that new evidence,
31 the Florida Supreme Court unanimously reversed an order from the
32 Circuit Court for the 18th Judicial Circuit that had denied
33 Clemente Aguirre-Jarquin's motion for a new trial based on the
34 new evidence, and

35 WHEREAS, the Florida Supreme Court vacated Clemente
36 Aguirre-Jarquin's convictions and death sentence, and remanded
37 the case to the Circuit Court for the 18th Judicial Circuit for
38 a new trial, and

39 WHEREAS, Clemente Aguirre-Jarquin then spent another 2
40 years incarcerated while the State Attorney's Office continued
41 to press charges after the remand to the Circuit Court for the
42 18th Judicial Circuit, during which the state provided no
43 opportunity for Clemente Aguirre-Jarquin to be released on bail
44 pending trial, and

45 WHEREAS, on November 5, 2018, with jury selection still in
46 progress before the new trial and after the presentation of
47 pretrial testimony by witnesses whom the state intended to call
48 at trial and who supported the defense's position that the
49 suspect whose DNA was found at the crime scene was the person
50 solely responsible for the murders in question, the state orally
51 pronounced a nolle prosequi as related to the retrial of
52 Clemente Aguirre-Jarquin, and

53 WHEREAS, Clemente Aguirre-Jarquin was first released from
54 the state's custody on November 5, 2018, after spending 14
55 years, 4 months, and 19 days, or 5,255 total days, between June
56 17, 2004, and November 5, 2018, without interruption, in the
57 state's custody, and

58 WHEREAS, there is no credible evidence of Clemente Aguirre-

15-00274-20

202024__

59 Jarquin's guilt, and likewise, there is clear and convincing
60 evidence of Clemente Aguirre-Jarquin's innocence, and

61 WHEREAS, within 90 days of first being released from
62 custody, Clemente Aguirre-Jarquin filed a petition to determine
63 his eligibility for compensation under chapter 961, Florida
64 Statutes, but the Circuit Court for the 18th Judicial Circuit
65 ruled that the petition was untimely because it was not filed 2
66 years earlier, or within 90 days of the Florida Supreme Court's
67 decision vacating his convictions and remanding the case to the
68 circuit court for a new trial, even though Clemente Aguirre-
69 Jarquin was never released from incarceration following the
70 Florida Supreme Court's mandate, and

71 WHEREAS, the Legislature acknowledges that the state's
72 system of justice yielded an imperfect result that had tragic
73 consequences in Clemente Aguirre-Jarquin's case, and

74 WHEREAS, the Legislature acknowledges that, as a result of
75 his continuous physical confinement, Clemente Aguirre-Jarquin
76 suffered significant physical, mental, and emotional damages
77 that are unique to Clemente Aguirre-Jarquin and such damages are
78 due to the fact that he was physically restrained, often in
79 solitary confinement, and prevented from exercising the freedom
80 to which all innocent citizens are entitled, and

81 WHEREAS, the Legislature is providing compensation to
82 Clemente Aguirre-Jarquin to acknowledge the fact that he
83 suffered significant damages that are unique to Clemente
84 Aguirre-Jarquin, and

85 WHEREAS, the Legislature apologizes to Clemente Aguirre-
86 Jarquin on behalf of the state, NOW, THEREFORE,

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15-00274-20

202024__

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

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

92 Section 2. The sum of \$720,000 is appropriated from the
93 General Revenue Fund to the Department of Financial Services
94 under the conditions provided in this act.

95 Section 3. The Chief Financial Officer is directed to draw
96 a warrant in the sum specified in section 2 for the purposes
97 provided in this act.

98 Section 4. The Department of Financial Services shall pay
99 the funds appropriated under this act to an insurance company or
100 other financial institution admitted and authorized to issue
101 annuity contracts in this state and selected by Clemente
102 Aguirre-Jarquin to purchase an annuity. The Chief Financial
103 Officer shall execute all necessary agreements to implement this
104 act and to maximize the benefit to Clemente Aguirre-Jarquin.

105 Section 5. Tuition and fees for Clemente Aguirre-Jarquin
106 shall be waived for up to a total of 120 hours of instruction at
107 any career center established pursuant to s. 1001.44, Florida
108 Statutes, Florida College System institution established under
109 part III of chapter 1004, Florida Statutes, or state university.
110 For any educational benefit made, Clemente Aguirre-Jarquin must
111 meet and maintain the regular admission requirements of, and be
112 registered at, such career center, institution, or state
113 university and make satisfactory academic progress as defined by
114 the educational institution in which he is enrolled.

115 Section 6. The Chief Financial Officer shall purchase the
116 annuity as required by this act within 20 days of delivery by

15-00274-20

202024__

117 Clemente Aguirre-Jarquin of his election of annuity, as set
118 forth in section 4.

119 Section 7. The Legislature does not waive any defense of
120 sovereign immunity or increase the limits of liability on behalf
121 of the state or any person or entity that is subject to s.
122 768.28, Florida Statutes, or any other law.

123 Section 8. This award is intended to provide the sole
124 compensation for any and all present and future claims arising
125 out of the factual situation described in this act which
126 resulted in Clemente Aguirre-Jarquin's arrest, conviction, and
127 incarceration. There may not be any further award to include
128 attorney fees, lobbying fees, costs, or other similar expenses
129 to Clemente Aguirre-Jarquin by the state or any agency,
130 instrumentality, or political subdivision thereof, or any other
131 entity, including any county constitutional officer, officer, or
132 employee, in state or federal court.

133 Section 9. This act shall take effect upon becoming a law.