

By Senator Polsky

29-00570A-21

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1 A bill to be entitled
2 An act for the relief of Robert Earl DuBoise;
3 providing an appropriation to compensate him for being
4 wrongfully incarcerated for almost 37 years; directing
5 the Chief Financial Officer to draw a warrant payable
6 directly to Mr. DuBoise; providing for the waiver of
7 certain tuition and fees for Mr. DuBoise; requiring
8 the Chief Financial Officer to pay the directed funds
9 without requiring that Mr. DuBoise sign a liability
10 release; declaring that the Legislature does not waive
11 certain defenses or increase the state's limits of
12 liability with respect to this act; prohibiting funds
13 awarded under this act to Mr. DuBoise from being used
14 or paid for attorney or lobbying fees; prohibiting Mr.
15 DuBoise from submitting a compensation application
16 under certain provisions upon his receipt of payment
17 under the act; requiring specific reimbursement to the
18 state should a civil award be issued subsequent to Mr.
19 DuBoise's receipt of payment under the act; requiring
20 Mr. DuBoise to notify the Department of Legal Affairs
21 upon filing certain civil actions; requiring the
22 department to file a specified notice under certain
23 circumstances; providing that certain benefits are
24 vacated upon specified findings; providing an
25 effective date.

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27 WHEREAS, Robert Earl DuBoise was arrested on October 22,
28 1983, for the August 18, 1983, rape and murder of a Tampa Bay
29 woman and was convicted of capital murder and attempted sexual

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30 battery on March 7, 1985, and

31 WHEREAS, Mr. DuBoise spent 3 years on death row, and

32 WHEREAS, on March 10, 1988, the Florida Supreme Court
33 issued a mandate vacating Mr. DuBoise's death sentence, and on
34 April 4, 1988, he was resentenced to life imprisonment for
35 murder and a consecutive 15-year sentence for attempted sexual
36 battery, and

37 WHEREAS, Mr. DuBoise has maintained his innocence since his
38 arrest and for the entirety of his incarceration for the past 37
39 years, and

40 WHEREAS, on September 11, 2020, the Conviction Review Unit
41 (CRU) for the State Attorney's Office for the 13th Judicial
42 Circuit issued a 49-page "CRU Summary Fact-Finding Report" based
43 on a comprehensive investigation spanning nearly 1 year,
44 culminating in the conclusion that "Robert DuBoise's conviction
45 should be vacated and Robert DuBoise be exonerated of the
46 charges against him," and

47 WHEREAS, on September 14, 2020, the Circuit Court for the
48 13th Judicial Circuit granted, with the concurrence of the
49 state, a motion for postconviction relief, vacated the judgment
50 and sentence of Mr. DuBoise, and ordered a new trial, and

51 WHEREAS, the CRU report found that there was no credible
52 evidence of Mr. DuBoise's guilt and, likewise, that there was
53 clear and convincing evidence of his innocence, and

54 WHEREAS, on September 14, 2020, as the result of the CRU
55 report, the state orally pronounced a nolle prosequi with regard
56 to the retrial of Mr. DuBoise, and

57 WHEREAS, the Legislature acknowledges that the state's
58 system of justice yielded an imperfect result that had tragic

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59 consequences in this case, and

60 WHEREAS, the Legislature acknowledges that, as a result of
61 his physical confinement, Mr. DuBoise suffered significant
62 damages that are unique to him, and that the damages are due to
63 the fact that he was physically restrained and prevented from
64 exercising the freedom to which all innocent citizens are
65 entitled, and

66 WHEREAS, before his conviction for the aforementioned
67 crimes, Mr. DuBoise had prior convictions for unrelated
68 nonviolent felonies, and

69 WHEREAS, because of his prior nonviolent felony
70 convictions, Mr. DuBoise is ineligible for compensation under
71 chapter 961, Florida Statutes, and

72 WHEREAS, the Legislature apologizes to Mr. DuBoise on
73 behalf of the state, NOW, THEREFORE,

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

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

79 Section 2. The sum of \$1.85 million is appropriated from
80 the General Revenue Fund to the Department of Financial Services
81 for the relief of Mr. DuBoise for his wrongful incarceration.
82 The Chief Financial Officer is directed to draw a warrant in the
83 sum of \$1.85 million payable directly to Robert Earl DuBoise.

84 Section 3. Tuition and fees for Mr. DuBoise shall be waived
85 for up to a total of 120 hours of instruction at any career
86 center established pursuant to s. 1001.44, Florida Statutes,
87 Florida College System institution established under part III of

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88 chapter 1004, Florida Statutes, or state university. For any
89 educational benefit made, Mr. DuBoise must meet and maintain the
90 regular admission and registration requirements of the career
91 center, institution, or state university and make satisfactory
92 academic progress as defined by the educational institution in
93 which he is enrolled.

94 Section 4. The Chief Financial Officer shall pay the funds
95 directed by this act without requiring that the wrongfully
96 incarcerated person, Mr. DuBoise, sign a liability release.

97 Section 5. With respect to the relief for Mr. DuBoise as
98 described in this act, the Legislature does not waive any
99 defense of sovereign immunity or increase the limits of
100 liability on behalf of the state or any person or entity that is
101 subject to s. 768.28, Florida Statutes, or any other law. Funds
102 awarded under this act to Mr. DuBoise may not be used or be paid
103 for attorney fees or lobbying fees related to this claim.

104 Section 6. Upon his receipt of payment under this act, Mr.
105 DuBoise may not submit an application for compensation under
106 chapter 961, Florida Statutes.

107 Section 7. If, after the time that monetary compensation is
108 paid under this act, a court enters a monetary judgment in favor
109 of Mr. DuBoise in a civil action related to his wrongful
110 incarceration, or Mr. DuBoise enters into a settlement agreement
111 with the state or any political subdivision thereof related to
112 his wrongful incarceration, Mr. DuBoise shall reimburse the
113 state for the monetary compensation awarded under this act, less
114 any sums paid for attorney fees or costs incurred in litigating
115 the civil action or obtaining the settlement agreement. A
116 reimbursement required under this section may not exceed the

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117 amount of monetary award Mr. DuBoise received for damages in the
118 civil action or settlement agreement. The court must include in
119 the order of judgment an award to the state of any amount
120 required to be deducted under this section. Claimant Mr. DuBoise
121 must notify the Department of Legal Affairs upon filing any such
122 civil action.

123 Section 8. The department must then file a notice of
124 payment of monetary compensation in the civil action, and the
125 notice shall constitute a lien upon any judgment or settlement
126 recovered under the civil action which is equal to the sum of
127 monetary compensation paid to the claimant under this act, less
128 any attorney fees and litigation costs.

129 Section 9. If any future judicial determination determines
130 that Mr. DuBoise, by DNA evidence or otherwise, participated in
131 any manner in the death or sexual battery for which he was
132 incarcerated, the unused benefits to which he is entitled under
133 this act are vacated.

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