

By Senator Brandes

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

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

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30 woman and was convicted of capital murder and attempted sexual  
31 battery on March 7, 1985, and

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

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

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

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

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

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

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

58 WHEREAS, the Legislature acknowledges that the state's

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59 system of justice yielded an imperfect result that had tragic  
60 consequences in this case, and

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

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

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

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

75

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

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

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

86 Section 3. Tuition and fees for Mr. DuBoise shall be waived  
87 for up to a total of 120 hours of instruction at any career

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88 center established pursuant to s. 1001.44, Florida Statutes,  
89 Florida College System institution established under part III of  
90 chapter 1004, Florida Statutes, or state university. For any  
91 educational benefit he receives, Mr. DuBoise must meet and  
92 maintain the regular admission and registration requirements of  
93 the career center, institution, or state university and make  
94 satisfactory academic progress as defined by the educational  
95 institution in which he is enrolled.

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

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

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

109 Section 7. If, after the time that monetary compensation is  
110 paid under this act, a court enters a monetary judgment in favor  
111 of Mr. DuBoise in a civil action related to his wrongful  
112 incarceration, or Mr. DuBoise enters into a settlement agreement  
113 with the state or any political subdivision thereof related to  
114 his wrongful incarceration, Mr. DuBoise shall reimburse the  
115 state for the monetary compensation awarded under this act, less  
116 any sums paid for attorney fees or costs incurred in litigating

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117 the civil action or obtaining the settlement agreement. A  
118 reimbursement required under this section may not exceed the  
119 amount of monetary award Mr. DuBoise received for damages in the  
120 civil action or settlement agreement. The court must include in  
121 the order of judgment an award to the state of any amount  
122 required to be deducted under this section. Claimant Mr. DuBoise  
123 must notify the Department of Legal Affairs upon filing any such  
124 civil action.

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

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

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