

By Senator Grall

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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 the act; prohibiting funds awarded under the act to
14 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 this act; requiring specific reimbursement to the
19 state 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. Claimant Mr. DuBoise must notify the Department
110 of Legal Affairs upon filing any civil action related to his
111 wrongful incarceration. If, after the time that monetary
112 compensation is paid under this act, a court enters a monetary
113 judgment in favor of Mr. DuBoise in a civil action related to
114 his wrongful incarceration, or Mr. DuBoise enters into a
115 settlement agreement with the state or any political subdivision
116 thereof related to his wrongful incarceration, Mr. DuBoise must

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117 reimburse the state for the monetary compensation awarded under
118 this act, less any sums paid for attorney fees or costs incurred
119 in litigating the civil action or obtaining the settlement
120 agreement. A reimbursement required under this section may not
121 exceed the amount of monetary award Mr. DuBoise received for
122 damages in the civil action or settlement agreement. The court
123 must include in the order of judgment an award to the state of
124 any amount required to be deducted under this section.

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

131 Section 9. If any future judicial determination finds that
132 Mr. DuBoise, by DNA evidence or otherwise, participated in any
133 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.