

LC01322

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO CRIMINAL PROCEDURE -- ESTABLISHING COMPENSATION FOR THOSE WRONGFULLY CONVICTED

Introduced By: Senator C Levesque

Date Introduced: February 02, 2006

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 25.2

4 COMPENSATION FOR THOSE WRONGFULLY CONVICTED

5 **12-25.2-1. Findings – Declarations relative to person wrongfully convicted.** – (a) The
6 legislature finds and declares that innocent persons who have been convicted of crimes and
7 subsequently imprisoned have been frustrated in seeking legal redress and that such persons
8 should have an available avenue of redress over and above the existing tort remedies to seek
9 compensation for damages. The legislature intends by enactment of the provisions of this chapter
10 that those innocent persons who can demonstrate by clear and convincing evidence that they were
11 mistakenly convicted and imprisoned be able to recover damages against the state.

12 (b) In light of the substantial burden of proof that must be carried by such persons, it is
13 the intent of the legislature that the court, in exercising its discretion as permitted by law
14 regarding the weight and admissibility of evidence submitted pursuant to this section, may, in the
15 interest of justice, give due consideration to difficulties of proof caused by the passage of time,
16 the death or unavailability of witnesses, the destruction of evidence or other factors not caused by
17 such persons or those acting on their behalf.

18 **12-25.2-2. Suit for damages.** – Notwithstanding the provisions of any other law, any

1 person convicted and subsequently imprisoned for one or more crimes which he did not commit
2 may, under the conditions hereinafter provided, bring a suit for damages in superior court against
3 the office of the general treasurer.

4 **12-25.2-3. Evidence claimant must establish.** – The person (hereinafter titled, "the
5 claimant") shall establish the following by clear and convincing evidence:

6 (a) That he or she was convicted of a crime and subsequently sentenced to a term of
7 imprisonment, served all or any part of his or her sentence; and

8 (b) He or she did not commit the crime for which he or she was convicted.

9 **12-25.2-4. Time to bring suit.** – The suit, accompanied by a statement of the facts
10 concerning the claim for damages, verified in the manner provided for the verification of
11 complaints in civil actions, shall be brought by the claimant within a period of two (2) years after
12 his or her release from imprisonment, or after the grant of a pardon to him or her, provided,
13 however, that any eligible claimant released or pardoned during the five (5) year period prior to
14 June 30, 2006, shall have two (2) years from the effective date of this chapter to file a suit.

15 **12-25.2-5. Damages -- Attorney fees.** – (a) Damages awarded under this act shall not
16 exceed twice the amount of the claimant's income in the year prior to his incarceration or fifty
17 thousand dollars (\$50,000) for each year of incarceration, whichever is greater. Total damages
18 awarded shall not be subject to taxation by the state of Rhode Island.

19 (b) In addition to the damages awarded pursuant to subsection (a), the claimant shall be
20 entitled to receive reasonable attorney fees.

21 (c) In addition to damages awarded, a claimant may also be awarded educational and
22 social services paid for at the state's expense.

23 **12-25.2-6. Noneligibility.** – (a) A person serving a term of imprisonment for a crime
24 other than a crime of which the person was mistakenly convicted shall not be eligible to file a
25 claim for damages pursuant to the provisions of this chapter.

26 (b) A person shall not be eligible to file a claim for damages pursuant to the provisions of
27 this chapter if the sentence for the crime of which the person was mistakenly convicted was
28 served concurrently with the sentence for the conviction of another crime.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would provide that innocent persons convicted of crimes and imprisoned can
2 recover damages against the state by suing the office of the general treasurer in superior court and
3 this act recites the specifics of this type of lawsuit.

4 This act would take effect upon passage.

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