

## CHAPTER 171

AN ACT concerning compensation for wrongful imprisonment, amending and supplementing P.L.1997, c.227 and amending P.L.1967, c.43.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1997, c.227 (C.52:4C-1) is amended to read as follows:

C.52:4C-1 Findings, declarations relative to persons mistakenly imprisoned.

1. The Legislature finds and declares that innocent persons who have been convicted of crimes and subsequently imprisoned have been frustrated in seeking legal redress and that such persons should have an available avenue of redress to seek compensation for damages. The Legislature intends by enactment of the provisions of this act that those innocent persons who can demonstrate by clear and convincing evidence that they were mistakenly convicted and imprisoned be able to recover damages against the State.

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

2. Section 2 of P.L.1997, c.227 (C.52:4C-2) is amended to read as follows:

C.52:4C-2 Suit for damages.

2. a. Notwithstanding the provisions of any other law, any person convicted and subsequently imprisoned for one or more crimes which he did not commit may, under the conditions hereinafter provided, bring a suit for damages in Superior Court against the Department of the Treasury.

b. Any award of damages to such person in an action against the State or any political subdivision thereof or against any employee of the State or any political subdivision thereof with respect to the same subject matter shall be offset by any award of damages awarded under this act.

3. Section 3 of P.L.1997, c.227 (C.52:4C-3) is amended to read as follows:

C.52:4C-3 Evidence claimant must establish.

3. The person (hereinafter titled, "the claimant") shall establish the following by clear and convincing evidence:

a. That he was convicted of a crime and subsequently sentenced to a term of imprisonment, served all or any part of his sentence; and

b. He did not commit the crime for which he was convicted; and

c. He did not commit or suborn perjury, fabricate evidence, or by his own conduct cause or bring about his conviction. Neither a confession or admission later found to be false shall constitute committing or suborning perjury, fabricating evidence, or causing or bringing about his conviction under this subsection; and

d. He did not plead guilty to the crime for which he was convicted.

4. Section 5 of P.L.1997, c.227 (C.52:4C-5) is amended to read as follows:

C.52:4C-5 Damages, attorney fees.

5. a. (1) Damages awarded under this act shall not exceed the greater of:

- (a) twice the amount of the claimant's income in the year prior to his incarceration; or
- (b) \$50,000 for each year of incarceration.

(2) In the event that damages exceed \$1 million, the court may order that the award be paid as an annuity with a payout over a maximum period of 20 years. The court shall consider the best interests of the claimant in making such determination.

b. In addition to the damages awarded pursuant to subsection a., the claimant shall be entitled to receive reasonable attorney fees and costs related to the litigation. A claimant may also be awarded other non-monetary relief as sought in the complaint including, but not limited to vocational training, tuition assistance, counseling, housing assistance, and health insurance coverage as appropriate.

c. Damages awarded under this act shall not be subject to treatment as gross income to the claimant under the provisions of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

5. Section 17 of P.L.1967, c.43 (C.2A:158A-17) is amended to read as follows:

C.2A:158A-17 Lien on property of defendant.

17. a. The reasonable value of the services rendered to a defendant pursuant to P.L.1967, c.43 (C.2A:158A-1 et seq.) may in all cases be a lien on any and all property to which the defendant shall have or acquire an interest. The Public Defender shall effectuate such lien whenever the reasonable value of the services rendered to a defendant appears to exceed \$150.00 and may effectuate such lien where the reasonable value of those services appears to be less than \$150.00.

To effectuate such a lien, the Public Defender shall file a notice setting forth the services rendered to the defendant and the reasonable value thereof with the Clerk of the Superior Court. The filing of said notice with the Clerk of the Superior Court shall from the date thereof constitute a lien on said property for a period of 10 years, unless sooner discharged and except for such time limitations shall have the force and effect of a Judgment at Law. Within 10 days of the filing of the Notice of Lien, the Public Defender shall send by certified mail, or serve personally, a copy of such notice with a statement of the date of the filing thereof to or upon the defendant at his last known address. If the Public Defender shall fail to give notice, the lien shall be void.

b. In any case where the defendant is awarded damages pursuant to P.L.1997, c.227 (C.52:4C-1 et seq.) on grounds that the defendant did not commit the crime for which he was convicted and imprisoned, the Public Defender shall discharge any lien for services rendered concerning that crime.

C.52:4C-7 Applicability of act.

6. The provisions of this amendatory and supplementary act (P.L.2013, c.171) shall apply to any claimant released from imprisonment or granted a pardon on or after the effective date of this act.

7. This act shall take effect immediately.

Approved December 27, 2013.