

[First Reprint]

**SENATE, No. 1219**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED JANUARY 30, 2012

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Stack, Bateman, Assemblyman O'Scanlon and Senator  
Cunningham**

**SYNOPSIS**

Increases compensation for wrongful imprisonment.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on  
October 1, 2012, with amendments.



**(Sponsorship Updated As Of: 9/13/2013)**

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

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1997, c.227 (C.52:4C-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares that innocent persons who  
11 have been convicted of crimes and subsequently imprisoned have  
12 been frustrated in seeking legal redress and that such persons should  
13 have an available avenue of redress **[over and above the existing**  
14 **tort remedies]** to seek compensation for damages. The Legislature  
15 intends by enactment of the provisions of this act that those  
16 innocent persons who can demonstrate by clear and convincing  
17 evidence that they were mistakenly convicted and imprisoned be  
18 able to recover damages against the State.

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

27 (cf: P.L.1997, c.227, s.1)

28  
29 2. Section 2 of P.L.1997, c.227 (C.52:4C-2) is amended to read  
30 as follows:

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

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

41 (cf: P.L.1997, c.227, s.2)

42  
43 3. Section 3 of P.L.1997, c.227 (C.52:4C-3) is amended to read  
44 as follows:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted October 1, 2012.

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

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

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

8 c. He did not **【**by his own conduct cause or bring about his  
9 conviction**】** commit or suborn perjury, fabricate evidence, or by his  
10 own conduct cause or bring about his conviction. Neither a  
11 confession or admission later found to be false, nor a guilty plea to  
12 a crime the claimant did not commit, shall constitute committing or  
13 suborning perjury, fabricating evidence, or causing or bringing  
14 about his conviction under this subsection.

15 (cf: P.L.1997, c.227, s.3)

16

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

19 5. a. (1) **【**Damages**】** Except as otherwise provided in paragraph  
20 (2) of this subsection, damages awarded under this act shall not  
21 exceed the greater of:

22 (a) twice the amount of the claimant's income in the year prior  
23 to his incarceration; or **【**\$20,000.00**】**

24 (b) **【**\$50,000**】** for each year of incarceration**【**, whichever is  
25 greater**】**.

26 (2) Beginning on the first day of the fifth July following  
27 enactment, and on the first day of each fifth July thereafter, the  
28 amount set forth in subparagraph (b) of paragraph (1) of subsection  
29 a. of this section shall be increased to reflect changes in the  
30 Consumer Price Index (CPI) for all urban consumers for the nation,  
31 as reported by the United States Department of Labor. The State  
32 Treasurer shall be responsible for calculating the amount of the  
33 increases required by this section, and shall make that information  
34 available through publication on the Department of Treasury  
35 website.

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

40 b. In addition to the damages awarded pursuant to subsection  
41 a., the claimant shall be entitled to receive<sup>1</sup>**【**:

42 (1)<sup>1</sup> reasonable attorney fees<sup>1</sup>**【**;<sup>1</sup> and

43 <sup>1</sup>**【**(2) other services as may be ordered by the court. The court  
44 shall order any such services following an evaluation by the  
45 probation department of the claimant's family situation, educational  
46 history, vocational training, employment history, and financial  
47 resources, including whether or not the claimant is eligible to be an

1 enrollee or covered person under a health insurance contract, policy  
2 or plan. Services may also include ] costs related to the litigation.  
3 A claimant may also be awarded other non-monetary relief as  
4 sought in the complaint including, but not limited to<sup>1</sup> vocational  
5 training, tuition assistance, counseling, housing assistance, and  
6 health insurance coverage as appropriate.

7 c. Damages awarded under this act shall not be subject to  
8 treatment as gross income to the claimant under the provisions of  
9 the <sup>1</sup>[State tax code] “New Jersey Gross Income Tax Act,”  
10 N.J.S.54A:1-1 et seq.<sup>1</sup>  
11 (cf: P.L.1997, c.227, s.5)

12  
13 5. Section 17 of P.L.1967, c.43 (C.2A:158A-17) is amended to  
14 read as follows:

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

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

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

40 (cf: P.L.1969, c.29, s.1)

41  
42 6. (New section) The provisions of this amendatory and  
43 supplementary act (P.L. , c. ) (pending before the Legislature  
44 as this bill) shall apply to any claimant released from imprisonment  
45 or granted a pardon on or after the effective date of this act.

46  
47 7. This act shall take effect immediately.