

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 838

Short Title: Compensate for Erroneous Conviction.

(Public)

Sponsors: Senator Wellons.

Referred to: Judiciary I.

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR COMPENSATION TO PERSONS ERRONEOUSLY
CONVICTED OF CRIMINAL OFFENSES IN CASES IN WHICH THE
CONVICTION WAS VACATED OR OTHERWISE SET ASIDE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-82 reads as rewritten:

"§ 148-82. Provision for compensation.

(a) Any person who, having been convicted of a felony and having been imprisoned therefor in a State prison of this State, and who was thereafter or who shall hereafter be granted a pardon of innocence by the Governor upon the grounds that the crime with which the person was charged either was not committed at all or was not committed by that person, may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the granting of the pardon.

(b) Any person who was convicted of a felony and imprisoned in the State prison system but whose conviction was later vacated or otherwise set aside by a court may apply to the Governor for a finding that the crime with which the person was charged either was not committed at all or was not committed by that person. The Governor shall handle such an application as if it were an application for a pardon. A finding by the

1 Governor that the crime was not committed at all or was not committed by the applicant
2 entitles the applicant to petition a claim against the State for the pecuniary loss sustained
3 by the applicant through the applicant's erroneous conviction and imprisonment, provided
4 the petition is presented within five years of the granting of such a finding by the
5 Governor."

6 Section 2. G.S. 148-84 reads as rewritten:

7 "**§ 148-84. Evidence; action by Industrial Commission; payment and amount of**
8 **compensation.**

9 At the hearing the claimant may introduce evidence in the form of affidavits or
10 testimony to support the claim, and the Attorney General may introduce counter
11 affidavits or testimony in refutation. If the Industrial Commission finds from the evidence
12 that the claimant received a pardon of innocence for the reason that the crime was not
13 committed at all, or was not committed by the claimant, or that the claimant was granted
14 a finding by the Governor under G.S. 148-82(b) that the crime was not committed at all
15 or was not committed by the claimant, and that the claimant was imprisoned and has been
16 vindicated in connection with the alleged offense for which he or she was imprisoned, the
17 Industrial Commission shall determine the amount the claimant is entitled to be paid for
18 the claimant's pecuniary loss and shall enter an award for that amount. The Director of
19 the Budget shall pay the amount of the award to the claimant out of the Contingency and
20 Emergency Fund, or out of any other available State funds. The Industrial Commission
21 shall award to the claimant an amount equal to ten thousand dollars (\$10,000) for each
22 year or the pro rata amount for the portion of each year of the imprisonment actually
23 served, but in no event shall the compensation exceed a total amount of one hundred fifty
24 thousand dollars (\$150,000). The Industrial Commission shall give written notice of its
25 decision to all parties concerned. The determination of the Industrial Commission shall
26 be subject to judicial review upon appeal of the claimant or the State according to the
27 provisions and procedures set forth in Article 31 of Chapter 143 of the General Statutes."

28 Section 3. This act is effective when it becomes law.