STATE OF NEW YORK

893--A

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the court of claims act, in relation to proof of claims for unjust conviction and imprisonment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 3 of section 8-b of the court of claims act, as added by chapter 1009 of the laws of 1984, is amended to read as follows:

(b) (i) he **or she** has been pardoned upon the ground of innocence of the crime or crimes for which he **or she** was sentenced and which are the grounds for the complaint; or (ii) his **or her** judgment of conviction was reversed or vacated, and the accusatory instrument dismissed or, if a new trial was ordered, either he **or she** was found not guilty at the new trial or **he or she** was not retried and the accusatory instrument dismissed; provided that the judgement of conviction was reversed or vacated, and the accusatory instrument was dismissed, on any of the following grounds: (A) paragraph (a), (b), (c), (e) [~~or~~], (g) **or (h)** of subdivision one of section 440.10 of the criminal procedure law; or (B) subdivision one (where based upon grounds set forth in item (A) hereof), two, three (where the count dismissed was the sole basis for the imprisonment complained of) or five of section 470.20 of the criminal procedure law; or (C) comparable provisions of the former code of criminal procedure or subsequent law; or (D) the statute, or application thereof, on which the accusatory instrument was based violated the constitution of the United States or the state of New York; and

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. Paragraph (b) of subdivision 5 of section 8-b of the court of claims act, as added by chapter 1009 of the laws of 1984, is amended to read as follows:

(b) (i) he **or she** has been pardoned upon the ground of innocence of the crime or crimes for which he **or she** was sentenced and which are the grounds for the complaint; or (ii) his **or her** judgment of conviction was reversed or vacated, and the accusatory instrument dismissed or, if a new trial was ordered, either he **or she** was found not guilty at the new trial or he **or she** was not retried and the accusatory instrument dismissed; provided that the judgement of conviction was reversed or vacated, and the accusatory instrument was dismissed, on any of the following grounds: (A) paragraph (a), (b), (c), (e) [~~or~~], (g) **or (h)** of subdivision one of section 440.10 of the criminal procedure law; or (B) subdivision one (where based upon grounds set forth in item (A) hereof), two, three (where the count dismissed was the sole basis for the imprisonment complained of) or five of section 470.20 of the criminal procedure law; or (C) comparable provisions of the former code of criminal procedure or subsequent law; or (D) the statute, or application thereof, on which the accusatory instrument was based violated the constitution of the United States or the state of New York; and

§ 3. This act shall take effect immediately.