

# STATE OF NEW YORK

10797--A

## IN ASSEMBLY

April 1, 2026

Introduced by M. of A. HOOKS, MEEKS -- read once and referred to the Committee on Judiciary -- 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 claims for unjust conviction and imprisonment

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

1 Section 1. Section 8-b of the court of claims act, as added by chapter  
2 1009 of the laws of 1984, subdivision 2 as amended by chapter 210 of the  
3 laws of 2007, is amended to read as follows:

4 § 8-b. Claims for unjust conviction and imprisonment. 1. The legisla-  
5 ture finds and declares that innocent persons who have been wrongly  
6 convicted of crimes and subsequently imprisoned have been frustrated in  
7 seeking legal redress due to a variety of substantive and technical  
8 obstacles in the law and that such persons should have an available  
9 avenue of redress over and above the existing tort remedies to seek  
10 compensation for damages. The legislature intends by enactment of the  
11 provisions of this section that those innocent persons who can demon-  
12 strate by clear and convincing evidence that they were unjustly  
13 convicted and imprisoned be able to recover damages against the state.  
14 In light of the substantial burden of proof that must be carried by such  
15 persons, it is the intent of the legislature that the court, in exercis-  
16 ing its discretion as permitted by law regarding the weight and admissi-  
17 bility of evidence submitted pursuant to this section, shall, in the  
18 interest of justice, give due consideration to difficulties of proof  
19 caused by the passage of time, the death or unavailability of witnesses,  
20 the destruction of evidence or other factors not caused by such persons  
21 or those acting on their behalf.

22 2. Any person convicted and subsequently imprisoned for one or more  
23 felonies or misdemeanors against the state which [~~he~~] such person did  
24 not commit may, under the conditions hereinafter provided, present a  
25 claim for damages against the state. In scheduling court appearances and  
26 filing deadlines, the court shall give docket priority at each stage of  
27 the proceeding to such claims for damages under this subdivision where

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

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1 the claimant asserts proof of innocence through DNA evidence. Any  
2 adjournments granted in the course of such a proceeding should be for as  
3 short a time as is practicable.

4 3. In order to present the claim for unjust conviction and imprison-  
5 ment, claimant must establish by documentary evidence that:

6 (a) [~~he has~~] they have been convicted of one or more felonies or  
7 misdemeanors against the state and subsequently sentenced to a term of  
8 imprisonment, and has served all or any part of the sentence; and

9 (b) (i) [~~he has~~] they have been pardoned upon the ground of innocence  
10 of the crime or crimes for which [~~he was~~] they were sentenced and which  
11 are the grounds for the complaint; or (ii) [~~his~~] their judgment of  
12 conviction was reversed or vacated, and the accusatory instrument  
13 dismissed or, if a new trial was ordered, either [~~he was~~] they were  
14 found not guilty at the new trial or [~~he was~~] they were not retried and  
15 the accusatory instrument dismissed; provided that the judgement of  
16 conviction was reversed or vacated, and the accusatory instrument was  
17 dismissed, on any of the following grounds: (A) paragraph (a), (b), (c),  
18 (e) or (g) of subdivision one of section 440.10 of the criminal proce-  
19 dure law; or (B) subdivision one (where based upon grounds set forth in  
20 item (A) hereof), two, three (where the count dismissed was the sole  
21 basis for the imprisonment complained of) or five of section 470.20 of  
22 the criminal procedure law; or (C) comparable provisions of the former  
23 code of criminal procedure or subsequent law; or (D) the statute, or  
24 application thereof, on which the accusatory instrument was based  
25 violated the constitution of the United States or the state of New York;  
26 or they have had one or more felonies and misdemeanors dismissed with  
27 prejudice following serving all or part of the sentence; and

28 (c) [~~his~~] their claim is not time-barred by the provisions of subdivi-  
29 sion seven of this section.

30 4. The claim shall state facts in sufficient detail to permit the  
31 court to find that claimant is likely to succeed at trial in proving  
32 that (a) [~~he~~] they did not commit any of the acts charged in the accusa-  
33 tory instrument or conviction or [~~his~~] their acts or omissions charged  
34 in the accusatory instrument or conviction did not constitute a felony  
35 or misdemeanor against the state, and (b) [~~he~~] they did not by [~~his~~]  
36 their own conduct cause or bring about [~~his~~] their conviction. The claim  
37 shall be verified by the claimant. If the court finds after reading the  
38 claim that claimant is not likely to succeed at trial, it shall dismiss  
39 the claim, either on its own motion or on the motion of the state.

40 5. In order to obtain a judgment in [~~his~~] their favor, claimant must  
41 prove by clear and convincing evidence that:

42 (a) [~~he has~~] they have been convicted of one or more felonies or  
43 misdemeanors against the state and subsequently sentenced to a term of  
44 imprisonment, and has served all or any part of the sentence; and

45 (b) (i) [~~he has~~] they have been pardoned upon the ground of innocence  
46 of the crime or crimes for which [~~he was~~] they were sentenced and which  
47 are the grounds for the complaint; or (ii) [~~his~~] their judgment of  
48 conviction was reversed or vacated, and the accusatory instrument  
49 dismissed or, if a new trial was ordered, either [~~he was~~] they were  
50 found not guilty at the new trial or [~~he was~~] they were not retried and  
51 the accusatory instrument dismissed; provided that the judgement of  
52 conviction was reversed or vacated, and the accusatory instrument was  
53 dismissed, on any of the following grounds: (A) paragraph (a), (b), (c),  
54 (e) or (g) of subdivision one of section 440.10 of the criminal proce-  
55 dure law; or (B) subdivision one (where based upon grounds set forth in  
56 item (A) hereof), two, three (where the count dismissed was the sole

1 basis for the imprisonment complained of) or five of section 470.20 of  
2 the criminal procedure law; or (C) comparable provisions of the former  
3 code of criminal procedure or subsequent law; or (D) the statute, or  
4 application thereof, on which the accusatory instrument was based  
5 violated the constitution of the United States or the state of New York;  
6 or they have had one or more felonies and misdemeanors dismissed with  
7 prejudice following serving all or part of the sentence; and

8 (c) [~~he~~] they did not commit any of the acts charged in the accusatory  
9 instrument or conviction that caused their incarceration or [~~his~~] their  
10 acts or omissions charged in the accusatory instrument or conviction did  
11 not constitute a felony or misdemeanor against the state; and

12 (d) [~~he~~] they did not by [~~his~~] their own conduct cause or bring about  
13 [~~his~~] their conviction by pleading guilty to the crime that caused their  
14 incarceration.

15 6. If the court finds that the claimant is entitled to a judgment, it  
16 shall award damages in such sum of money as the court determines will  
17 fairly and reasonably compensate [~~him~~] them.

18 7. Any person claiming compensation under this section based on a  
19 pardon that was granted before the effective date of this section or the  
20 dismissal of an accusatory instrument or conviction that occurred before  
21 the effective date of this section shall file [~~his~~] their claim within  
22 [~~two~~] five years after the effective date of this section. Any person  
23 claiming compensation under this section based on a pardon that was  
24 granted on or after the effective date of this section or the dismissal  
25 of an accusatory instrument or conviction that occurred on or after the  
26 effective date of this section shall file [~~his~~] their claim within [~~two~~]  
27 five years after the pardon or dismissal.

28 § 2. This act shall take effect immediately.