

# STATE OF NEW YORK

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10797

## IN ASSEMBLY

April 1, 2026

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Introduced by M. of A. HOOKS -- read once and referred to the Committee on Judiciary

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  
28 the claimant asserts proof of innocence through DNA evidence. Any

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

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1 adjournments granted in the course of such a proceeding should be for as  
2 short a time as is practicable.

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

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

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

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

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

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

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

43 (b) ~~[(i) he has been pardoned upon the ground of innocence of the  
44 crime or crimes for which he was sentenced and which are the grounds for  
45 the complaint; or (ii) his judgment of conviction was reversed or  
46 vacated, and the accusatory instrument dismissed or, if a new trial was  
47 ordered, either he was found not guilty at the new trial or he was not  
48 retried and the accusatory instrument dismissed; provided that the  
49 judgement of conviction was reversed or vacated, and the accusatory  
50 instrument was dismissed, on any of the following grounds: (A) paragraph  
51 (a), (b), (c), (e) or (g) of subdivision one of section 440.10 of the  
52 criminal procedure law; or (B) subdivision one (where based upon grounds  
53 set forth in item (A) hereof), two, three (where the count dismissed was  
54 the sole basis for the imprisonment complained of) or five of section  
55 470.20 of the criminal procedure law; or (C) comparable provisions of  
56 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]~~ they have had one or more felonies and misdemeanors dismissed with prejudice following serving all or part of the sentence; and

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

(d) [~~he~~] they did not by [~~his~~] their own conduct cause or bring about [~~his~~] their conviction.

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

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

§ 2. This act shall take effect immediately.