

STATE OF NEW YORK

8013--A

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- 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.

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

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1 2. Any person convicted and subsequently imprisoned for one or more
2 felonies or misdemeanors against the state which [~~he~~] such person did
3 not commit may, under the conditions hereinafter provided, present a
4 claim for damages against the state. In scheduling court appearances and
5 filing deadlines, the court shall give docket priority at each stage of
6 the proceeding to such claims for damages under this subdivision where
7 the claimant asserts proof of innocence through DNA evidence. Any
8 adjournments granted in the course of such a proceeding should be for as
9 short a time as is practicable.

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

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

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

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

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

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

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

51 (b) (i) [~~he has~~] they have been pardoned upon the ground of innocence
52 of the crime or crimes for which [~~he was~~] they were sentenced and which
53 are the grounds for the complaint; or (ii) [~~his~~] their judgment of
54 conviction was reversed or vacated, and the accusatory instrument
55 dismissed or, if a new trial was ordered, either [~~he was~~] they were
56 found not guilty at the new trial or [~~he was~~] they were not retried and

1 the accusatory instrument dismissed; provided that the judgement of
2 conviction was reversed or vacated, and the accusatory instrument was
3 dismissed, on any of the following grounds: (A) paragraph (a), (b), (c),
4 (e) or (g) of subdivision one of section 440.10 of the criminal proce-
5 dure law; or (B) subdivision one (where based upon grounds set forth in
6 item (A) hereof), two, three (where the count dismissed was the sole
7 basis for the imprisonment complained of) or five of section 470.20 of
8 the criminal procedure law; or (C) comparable provisions of the former
9 code of criminal procedure or subsequent law; or (D) the statute, or
10 application thereof, on which the accusatory instrument was based
11 violated the constitution of the United States or the state of New York;
12 or they have had one or more felonies and misdemeanors dismissed with
13 prejudice following serving all or part of the sentence; and

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

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

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

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

34 § 2. This act shall take effect immediately.