

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 205

6
7 H.P. 171

House of Representatives, January 29, 1985

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 EDWIN H. PERT, Clerk

10 Presented by Speaker Martin of Eagle Lake.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Create a Cause of Action Against
18 the State for Wrongful Imprisonment.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1 14 MRSA c. 743 is enacted to read:

23 CHAPTER 743

24 WRONGFUL IMPRISONMENT

25 §8201. Wrongful imprisonment

26 1. Exceptions to immunity. Notwithstanding any
27 immunity of the State from suit, including the Maine
28 Tort Claims Act, chapter 741, the State shall be lia-
29 ble for the wrongful imprisonment of a person.

30 2. Action. The State shall be liable for dam-
31 ages for wrongful imprisonment of a person, provided
32 that the person alleges and proves the following:

1 A. That he was convicted of an offense under the
2 laws of this State;

3 B. As a result of that conviction, he was sen-
4 tenced to a period of incarceration and was actu-
5 ally incarcerated, or he was sentenced to pay a
6 fine and actually paid the fine;

7 C. Subsequent to the conviction, the person re-
8 ceived a pardon pursuant to the Constitution of
9 Maine, Article V, Part First, Section 11; and

10 D. By a preponderance of the evidence, that he
11 did not commit any of the acts charged or that
12 his acts, deeds or omissions did not constitute
13 an offense under the laws of this State.

14 3. Settlement. The Attorney General may compro-
15 mise or settle any claim under this chapter.

16 §8202. Limitation on damages

17 1. Damages; limitation. In any action for dam-
18 ages permitted by this chapter, the claim for and
19 award of damages, including costs, against the State
20 shall not exceed \$100,000 for all claims arising as a
21 result of a single conviction.

22 2. Costs. Court costs, interest and all other
23 costs which a court may assess shall be included
24 within the damage limit specified by this section.

25 3. Claims in excess of limit. When a claimant
26 under this chapter believes the claim against the
27 State is in excess of the limit established in sub-
28 section 1, he may apply to the Legislature for a spe-
29 cial authorization to proceed within another speci-
30 fied limit.

31 4. Exclusion from judgment or award. A judgment
32 or award against the State pursuant to this chapter
33 shall not include punitive or exemplary damages.

34 5. Payable from General Fund. Any judgment or
35 award of damages permitted by this chapter shall be
36 paid out of the General Fund.

1 6. In forma pauperis. The court may appoint
2 counsel for the claimant when it appears to the court
3 that the claimant has not sufficient means to employ
4 counsel. The court shall order reasonable compensa-
5 tion to be paid counsel.

6 §8203. Jurisdiction

7 The Superior Court shall have original jurisdic-
8 tion over all claims permitted under this chapter.

9 §8204. Limitation of action

10 Every claim for wrongful imprisonment permitted
11 under this chapter shall be forever barred from the
12 courts of this State, unless an action is begun in
13 the courts within 2 years after the date of the par-
14 don of the conviction upon which the claim is based.

15 Sec. 2. Application. Any claim which, pursuant
16 to this Act, would constitute a right of action, but
17 for the 2-year statute of limitations established in
18 this Act, shall be maintainable if brought within one
19 year of the effective date of this Act.

20 STATEMENT OF FACT

21 The purpose of this bill is to establish a new
22 cause of action against the State for any person
23 wrongfully imprisoned. In order to pursue a claim
24 under the chapter enacted by this bill, a person must
25 establish that:

26 1. He was convicted;

27 2. He was incarcerated or paid a fine as a re-
28 sult of that conviction;

29 3. He was pardoned for the conviction by the
30 Governor; and

31 4. He did not commit the acts charged, or he did
32 not commit any offense recognized by this State
33 through his acts, deeds or omissions. Any award for
34 damages against the State shall not exceed \$100,000
35 unless the Legislature shall authorize another higher
36 limit.

1 The bill places a 2-year statute of limitations
2 upon the right of action, but allows otherwise state
3 actions to be brought within one year of the effec-
4 tive date of this Act.

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