

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1352

H. P. 990

House of Representatives, March 5, 1971

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Doyle of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Indemnity for Persons Erroneously
Convicted and Pardoned.

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

R. S., T. 15, c. 308, additional. Title 15 of the Revised Statutes is amended by adding a new chapter 308 to read as follows:

CHAPTER 308

INDEMNITY FOR PERSONS ERRONEOUSLY

CONVICTED AND PARDONED

§ 2181. Claim against State; persons authorized to present; presentation

Any person who, having been convicted of any crime against the State of Maine amounting to a felony, and having been imprisoned therefor in the State Prison shall hereafter be granted a pardon by the Governor for the reason that the crime with which he was charged was either not committed at all or, if committed, was not committed by him, or who, being innocent of the crime with which he was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he was imprisoned, may, under the conditions hereinafter provided, present a claim against the State to the Commissioner of Finance and Administration for the pecuniary injury sustained by him through such erroneous conviction and imprisonment.

§ 2182. Claim against State; formalities; time for presentation

Such claim, accompanied by a statement of the facts constituting the claim, verified in the manner provided for the verification of complaints in civil actions, must be presented by the claimant to the Commissioner of Finance and Administration within a period of 6 months after judgment of acquittal or discharge given, or after pardon granted, or after release from imprison-

ment, and at least 4 months prior to the next meeting of the Legislature of this State; and no claim not so presented shall be considered by the Commissioner of Finance and Administration.

§ 2183. Hearing on claim; fixing time and place; notice

Upon presentation of any such claim, the Commissioner of Finance and Administration shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for such hearing.

§ 2184. Hearing on claim; proof

On such hearing the claimant shall introduce evidence in support of the claim, and the Attorney General may introduce evidence in opposition thereto. The claimant must prove the facts set forth in the statement constituting the claim, including the fact that the crime with which he was charged was either not committed at all, or, if committed, was not committed by him, the fact that he did not, by any act or omission on his part, either intentionally or negligently, contribute to the bringing about of his arrest or conviction for the crime with which he was charged, and the pecuniary injury sustained by him through his erroneous conviction and imprisonment.

§ 2185. Report of findings to Legislature; recommendation; limitation on amount of recovery

If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant did not, by any act or omission either intentionally or negligently, contribute to the bringing about of his arrest or conviction, and that the claimant has sustained pecuniary injury through his erroneous conviction and imprisonment, the Commissioner of Finance and Administration shall report the facts of the case and its conclusions to the next Legislature, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for such pecuniary injury; but the amount of the appropriation so recommended shall not exceed in any case, the sum of \$10,000.

§ 2186. Copy of report and recommendation to Controller

The Commissioner of Finance and Administration shall make up its report and recommendation and shall give to the State Controller a statement showing its recommendations for appropriations under the provisions of this chapter, as provided by law in cases of other claimants against this State for which no appropriations have been made.

§ 2187. Rules and regulations; promulgation

The Commissioner of Finance and Administration is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect this chapter.

STATEMENT OF FACT

It is the intent of this legislation to pay compensation from state funds to persons who have been incarcerated and later adjudged innocent of the crime for which they were charged. A per diem rate of \$10 is suggested.