

MAINE STATE LEGISLATURE

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L.D. 992
(Filing No. H-591)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
111TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 761, L.D. 992,
"RESOLVE, to Reimburse David James McDaniel for Dam-
ages Suffered as a Result of Wrongful Imprisonment."

Amend the Resolve by striking out all of the ti-
tle and inserting in its place the following:

'AN ACT to Establish a Right of Action for Wrong-
ful Imprisonment.'

Further amend the Resolve by striking out every-
thing after the title and inserting in its place the
following:

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

CHAPTER 743

WRONGFUL IMPRISONMENT

§8201. Wrongful imprisonment

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

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

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

B. As a result of that conviction, he was sen-
tenced to a period of incarceration and was actu-
ally incarcerated, or he was sentenced to pay a

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1 fine and actually paid the fine;

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

5 D. By a preponderance of the evidence, that he
6 did not commit any of the acts charged or that
7 his acts, deeds or omissions did not constitute
8 an offense under the laws of this State.

9 §8202. Limitation on damages

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

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

18 3. Claims in excess of limit. When a claimant
19 under this chapter believes the claim against the
20 State is in excess of the limit established in sub-
21 section 1, he may apply to the Legislature for a spe-
22 cial authorization to proceed within another speci-
23 fied limit.

24 4. Exclusion from judgment or award. A judgment
25 or award against the State pursuant to this chapter
26 shall not include punitive or exemplary damages.

27 5. Payable from General Fund. Any judgment or
28 award of damages permitted by this chapter shall be
29 paid out of the General Fund.

30 6. In forma pauperis. The court may appoint
31 counsel for the claimant when it appears to the court
32 that the claimant has not sufficient means to employ
33 counsel. The court shall order reasonable compensa-

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1 tion to be paid counsel.

2 §8203. Jurisdiction

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

5 §8204. Limitation of action

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

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

16 STATEMENT OF FACT

17 The purpose of this amendment is to establish a
18 new cause of action against the State for any person
19 wrongfully imprisoned. In order to pursue a claim
20 under the chapter enacted by this amendment, a person
21 must establish that:

22 1. He was convicted;

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

25 3. He was pardoned for the conviction by the
26 Governor; and

27 4. He did not commit the acts charged, or he did
28 not commit any offense recognized by this State
29 through his acts, deeds or omissions. Any award for
30 damages against the State shall not exceed \$100,000

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1 unless the Legislature shall authorize another higher
2 limit.

3 The amendment places a 2-year statute of limita-
4 tions upon the right of action, but allows otherwise
5 state actions to be brought within one year of the
6 effective date of this Act.

7 6439032284

Filed by Rep. Benoit of South Portland
Reproduced and distributed under the direction
of the Clerk of the House
3/27/84 (Filing No. H-591)