

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

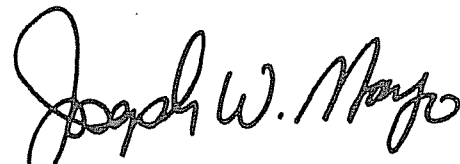
No. 845

H.P. 621

House of Representatives, March 9, 1993

An Act to Create a Cause of Action Against the State for Wrongful Imprisonment.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.
Cosponsored by Representative: COTE of Auburn.

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

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Sec. 1. 14 MRSA c. 747 is enacted to read:

CHAPTER 747

WRONGFUL IMPRISONMENT

§8241. Wrongful imprisonment

1. Exceptions to immunity. Notwithstanding any immunity of the State from suit, including the Maine Tort Claims Act, chapter 741, the State is liable for the wrongful imprisonment of a person.

2. Action. The State is liable for damages for wrongful imprisonment of a person if that person alleges and proves the following by clear and convincing evidence:

A. That the person was convicted of a criminal offense under the laws of this State;

B. That as a result of that conviction, the person was sentenced to a period of incarceration and was actually incarcerated;

C. That subsequent to the conviction and as a condition precedent to suit, the person received a full and free pardon pursuant to the Constitution of Maine, Article V, Part First, Section 11, which is accompanied by a written finding by the Governor who grants the pardon that the person is innocent of the crime for which that person was convicted; and

D. That the court finds that the person is innocent of the crime for which the person was convicted.

3. Scope of law. For purposes of this chapter, a person is deemed to have committed a criminal offense notwithstanding a finding by a state or federal court that the law under which the person was convicted is violative of the Constitution of Maine or the United States Constitution.

4. Governor's denial of request. A Governor's failure to issue a written finding that the person is innocent of the crime for which the person was convicted is final and not subject to judicial view.

5. Settlement. After commencement of an action under subsection 2, the Attorney General may compromise or settle any claim under this chapter.

2 §8242. Limitation on damages

4 1. Damages; limitation. In any action for damages
6 permitted by this chapter, the claim for and award of damages,
including costs, against the State may not exceed \$300,000 for
all claims arising as a result of a single conviction.

8 2. Costs. Court costs, interest and all other costs that a
10 court may assess are included within the damages limitation
specified by this section.

12 3. Exclusion from judgment of award. A judgment or award
14 against the State pursuant to this chapter may not include
punitive or exemplary damages.

16 4. Payable from General Fund. Any judgment or award of
18 damages permitted by this chapter must be paid from the General
Fund.

20 §8243. Jurisdiction

22 The Superior Court has original jurisdiction over all claims
24 permitted under this chapter.

26 §8244. Limitation of action.

28 Every claim for wrongful imprisonment permitted under this
30 chapter is forever barred from the courts of this State unless an
action is begun in the courts within 2 years after the date of
the full and free pardon of the conviction on which the claim is
32 based.

34 **Sec. 2. Application.** Any claim that, pursuant to this Act,
36 constitutes a right of action but for the 2-year statute of
limitations established in this Act is maintainable if brought
within one year of the effective date of this Act.

38 Application to the Governor for a hearing under this Act by
40 a person convicted of a criminal offense prior to the effective
date of this Act must be made to the Governor within 3 months of
42 the effective date of this Act.

44 **STATEMENT OF FACT**

46 This bill establishes the State's liability for wrongful
imprisonment.

48 The bill is modeled on Title 14, chapter 743, which was
50 repealed on November 1, 1988, except that this bill establishes
the limitation on damages at \$300,000.