
SENATE BILL 6692

State of Washington

59th Legislature

2006 Regular Session

By Senator McCaslin

Read first time 01/19/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to damages for unjust conviction and incarceration;
2 adding a new section to chapter 4.96 RCW; and adding a new section to
3 chapter 36.16 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.96 RCW
6 to read as follows:

7 (1) A person injured by an unjust conviction and incarceration may
8 sue in a court of competent jurisdiction of the county in which such
9 violation occurred, and shall recover from the county damages
10 sustained, including reasonable attorneys' fees and costs of bringing
11 the suit.

12 (2)(a) Any person suing under this section must allege and prove
13 that:

14 (i) His or her conviction has been reversed or set aside on the
15 ground that he or she is not guilty of the offense of which he or she
16 was convicted, or on new trial or rehearing he or she was found not
17 guilty of such offense, as appears from the record or certificate of
18 the court setting aside or reversing such conviction, or that he or she

1 has been pardoned upon the stated ground of innocence and unjust
2 conviction; and

3 (ii) He or she did not commit any of the acts charged or his or her
4 acts, deeds, or omissions in connection with such charge constituted no
5 offense against the state of Washington, and he or she did not by
6 misconduct or neglect cause or bring about his or her own prosecution.

7 (b) Proof of the requisite facts shall be by a certificate of the
8 court or pardon wherein such facts are alleged to appear, and other
9 evidence thereof shall not be received.

10 (c) No pardon or certified copy of a pardon may be considered
11 unless it contains recitals that the pardon was granted after the
12 applicant had exhausted all recourse to the courts and that the time
13 for any court to exercise its jurisdiction had expired.

14 (d) The amount of damages awarded shall not exceed one hundred
15 thousand dollars for each twelve-month period of incarceration for any
16 plaintiff who was unjustly sentenced to death and fifty thousand
17 dollars for each twelve-month period of incarceration for any other
18 plaintiff.

19 (3) Any action to enforce any cause of action under this section
20 shall be forever barred unless commenced not later than two years after
21 the cause of action accrues.

22 (4) The cause of action under this section is available only with
23 regard to convictions that are entered on or after the effective date
24 of this act.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.16 RCW
26 to read as follows:

27 The legislative authority of a county may purchase liability
28 insurance in an amount it deems reasonable to protect the county, its
29 officers, and employees against liability for a claim of unjust
30 conviction and incarceration under section 1 of this act.

--- END ---