

ASSEMBLY BILL NO. 63—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to civil actions for wrongful conviction. (BDR 3-440)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to actions concerning persons; revising provisions relating to civil actions for wrongful conviction; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a person who is not currently incarcerated for any
2 offense to bring a civil action for his or her wrongful conviction against this State in
3 a district court seeking damages or other relief. (NRS 41.900) **Section 1** of this bill
4 instead authorizes a person who is not currently in custody to bring such a civil
5 action.

6 If a person brings an action for wrongful conviction which results in the court
7 entering a certificate of innocence, existing law requires the court to award
8 monetary damages based upon the length of time for which the person was
9 imprisoned and for which the person was on parole or required to register as a sex
10 offender. Existing law additionally authorizes the court to award, in addition to
11 monetary damages, reasonable attorney’s fees, certain reimbursements and, subject
12 to a limitation of \$100,000 in a calendar year, payment for the cost of: (1) tuition,
13 books and fees for the person to enroll in any course or academic program at an
14 institution operated by the Nevada System of Higher Education; (2) participation in
15 Medicare or Medicaid or a qualified health plan; (3) programs for reentry into the
16 community; (4) counseling services; (5) housing assistance; and (6) programs for
17 assistance for financial literacy. Finally, existing law also authorizes the court to
18 award any other relief, which is not subject to the limitation of \$100,000 in a
19 calendar year. (NRS 41.950) **Section 2** of this bill makes any other relief awarded
20 by the court subject to the limitation of \$100,000 in a calendar year.

21 **Section 3** of this bill clarifies that the amendatory provisions of this bill apply
22 to an action for wrongful conviction that is filed on or after the effective date of this
23 bill.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 41.900 is hereby amended to read as follows:
2 41.900 1. A person who is not currently ~~incarcerated~~ *in*
3 *custody* for any offense may bring a civil action for his or her
4 wrongful conviction against this State in a district court seeking
5 damages or other relief provided by NRS 41.950.
6 2. The court shall award damages for wrongful conviction in
7 accordance with NRS 41.950 if the person proves by a
8 preponderance of the evidence that:
9 (a) He or she was convicted of a felony in this State and was
10 subsequently imprisoned for the conviction;
11 (b) He or she did not commit the felony for which he or she was
12 convicted and the person:
13 (1) Was not an accessory or accomplice to the acts that were
14 the basis of the conviction;
15 (2) Did not commit the acts that were the basis of the
16 conviction; and
17 (3) Did not aid, abet or act as an accomplice or accessory to a
18 person who committed the acts that were the basis of the conviction;
19 (c) He or she was not convicted of an offense necessarily
20 included in the offense charged;
21 (d) Any of the following occurred:
22 (1) The judgment of conviction was reversed or vacated and
23 the charging document was dismissed;
24 (2) The basis for reversing or vacating the judgment of
25 conviction was not legal error that was unrelated to his or her
26 innocence, and if a court ordered a new trial, the person was found
27 not guilty at the new trial or the person was not retried and the
28 charging document was dismissed; or
29 (3) The person was pardoned by the State Board of Pardons
30 Commissioners on the grounds that he or she was innocent; and
31 (e) The person did not commit perjury or fabricate evidence at
32 the criminal proceeding that brought about his or her felony
33 conviction and the person did not by his or her own conduct cause
34 or bring about his or her felony conviction.
35 3. The court, in exercising its discretion as permitted by law
36 regarding the weight and admissibility of evidence, may, in the
37 interest of justice, give due consideration to:
38 (a) The difficulty of providing evidence caused by the passage
39 of time;
40 (b) The death or unavailability of a witness;
41 (c) The destruction of evidence; or



1 (d) Any other factor not caused by the person or any other
2 person acting on his or her behalf.

3 4. The court may appoint an attorney to aid a person in an
4 action brought pursuant to this section.

5 5. For the purposes of subsection 2, the following do not
6 constitute committing perjury, fabricating evidence or causing or
7 bringing about the conviction of the person:

8 (a) A confession or an admission later found to be false; or

9 (b) If the judgment of conviction was reversed or vacated and
10 the charging document dismissed, a guilty plea for a felony.

11 6. As used in this section, "innocence" means that a person did
12 not engage in:

13 (a) The conduct for which he or she was convicted; and

14 (b) Any conduct constituting a lesser included or inchoate
15 offense of the crime for which he or she was convicted.

16 **Sec. 2.** NRS 41.950 is hereby amended to read as follows:

17 41.950 1. In an action brought pursuant to NRS 41.900 which
18 results in the court entering a certificate of innocence pursuant to
19 NRS 41.910, the court shall award the person:

20 (a) If the person was imprisoned for:

21 (1) One to 10 years, \$50,000 for each year the person was
22 imprisoned for his or her wrongful conviction;

23 (2) Eleven to 20 years, \$75,000 for each year the person was
24 imprisoned for his or her wrongful conviction; or

25 (3) Twenty-one years or more, \$100,000 for each year the
26 person was imprisoned for his or her wrongful conviction; and

27 (b) Not less than \$25,000 for each year the person was on parole
28 or not less than \$25,000 for each year the person was required to
29 register as a sex offender, whichever period of time was greater.

30 2. In addition to any damages awarded pursuant to subsection
31 1, the court may award:

32 (a) Reasonable attorney's fees, not to exceed \$25,000, unless a
33 greater amount is authorized by a court upon a finding of good
34 cause shown.

35 (b) Subject to the limitations in subsection 6, ~~[payment]~~
36 *reimbursement* for the cost of:

37 (1) Tuition, books and fees for the person to enroll in any
38 course or academic program at an institution operated by the
39 Nevada System of Higher Education commenced not later than 3
40 years and completed not later than 10 years after the date the award
41 of damages is issued pursuant to subsection 1.

42 (2) Participation by the person in Medicare or Medicaid, if
43 the person is eligible for Medicare or Medicaid, or a qualified health
44 plan offered on the health insurance exchange administered by the
45 Silver State Health Insurance Exchange which has been designated



1 by the Exchange as a Bronze or Silver plan, if the person is not
2 eligible for Medicare or Medicaid. The court shall not award
3 payment pursuant to this subparagraph for any period in which the
4 person is enrolled in an employer-based health insurance plan.

5 (3) Programs for reentry into the community for the person
6 commenced not later than 3 years and completed not later than 5
7 years after the date the award of damages is issued pursuant to
8 subsection 1.

9 (4) Counseling services for the person commenced not later
10 than 2 years after the date the award of damages is issued pursuant
11 to subsection 1.

12 (5) Housing assistance in an amount not greater than \$15,000
13 per year.

14 (6) Programs for assistance for financial literacy for the
15 person commenced not later than 2 years and completed not later
16 than 3 years after the date the award of damages is issued pursuant
17 to subsection 1.

18 ***(7) Any other relief.***

19 (c) Reimbursement for:

20 (1) Restitution ordered to be paid by the person in the
21 criminal proceeding for which he or she was wrongfully convicted;
22 and

23 (2) Medical care paid for by the person while he or she was
24 imprisoned for his or her wrongful conviction.

25 ~~[(d) Any other relief.]~~

26 3. Any award of damages issued pursuant to subsection 1 must
27 be rounded up to the nearest half year.

28 4. A court shall not award and a person shall not receive
29 compensation for any period of imprisonment during which the
30 person was concurrently serving a sentence for a conviction of
31 another offense for which the person was lawfully convicted and
32 imprisoned.

33 5. If counseling services are awarded to the person pursuant to
34 subsection 2, the person may select a relative to receive counseling
35 with the person. As used in this subsection, "relative" means a
36 person who is related by blood, adoption, marriage or domestic
37 partnership within the third degree of consanguinity or affinity.

38 6. A court shall not award payment pursuant to paragraph (b)
39 of subsection 2:

40 (a) In an amount greater than \$100,000 in a calendar year.

41 (b) For a length of time that exceeds the period of time
42 described in subsection 1 during which the person was imprisoned
43 or on parole.

44 7. As used in this section, "qualified health plan" has the
45 meaning ascribed to it in NRS 695I.080.



1 **Sec. 3.** The amendatory provisions of this act apply to an
2 action for wrongful conviction that is filed on or after the effective
3 date of this act.

4 **Sec. 4.** This act becomes effective upon passage and approval.



