

By: Senator(s) Jackson (11th), Barnett,
Jordan

To: Judiciary, Division A;
Appropriations

SENATE BILL NO. 2348

1 AN ACT TO AMEND SECTION 11-44-7, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE COMPENSATION AWARD FOR WRONGFUL CONVICTION; AND FOR
3 RELATED PURPOSES.

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

5 **SECTION 1.** Section 11-44-7, Mississippi Code of 1972, is
6 amended as follows:

7 11-44-7. (1) In order to obtain a judgment under this
8 chapter, a claimant must prove by a preponderance of the evidence
9 that:

10 (a) He was convicted of one or more felonies and
11 subsequently sentenced to a term of imprisonment, and has served
12 all or any part of the sentence; and

13 (i) He has been pardoned for the felony or
14 felonies for which he was sentenced and which are the grounds for
15 the complaint and the pardon is based on the innocence of the
16 claimant which must be affirmatively stated in the pardon; or

17 (ii) His judgment of conviction was reversed or
18 vacated; and



19 1. The accusatory instrument was dismissed or
20 nol prossed; or

21 2. If a new trial was ordered, he was found
22 not guilty at the new trial; and

23 (b) He did not commit the felony or felonies for which
24 he was sentenced and which are the grounds for the complaint, or
25 the acts or omissions for which he was sentenced did not
26 constitute a felony; and

27 (c) He did not commit or suborn perjury, or fabricate
28 evidence to bring about his conviction.

29 (2) If the court finds that the claimant was wrongfully
30 convicted and incarcerated pursuant to subsection (1) of this
31 section, the court shall award:

32 (a) Fifty Thousand Dollars (\$50,000.00) for each year
33 of incarceration regardless of the number of felonies for which a
34 claimant was convicted, but the total amount for each claimant
35 shall not exceed * * * One Million Dollars (\$1,000,000.00). There
36 shall be no compensation for any preindictment detention. This
37 award shall be paid to the claimant in installments of Fifty
38 Thousand Dollars (\$50,000.00) per year until the award is fully
39 paid. The state may purchase an annuity to satisfy this
40 obligation.

41 (b) Reasonable attorney's fees for bringing a claim
42 under this chapter calculated at ten percent (10%) of the amount
43 awarded under paragraph (a) of this subsection for preparing and



44 filing the claim, twenty percent (20%) for litigating the claim if
45 it is contested by the Attorney General, and twenty-five percent
46 (25%) if the claim is appealed, plus expenses. These fees shall
47 not be deducted from the compensation due the claimant, nor is
48 counsel entitled to receive additional fees from the client for a
49 claim under this section.

50 (3) The award shall not be subject to:

51 (a) Any cap applicable to private parties in civil
52 lawsuits;

53 (b) Any taxes, except that those portions of the
54 judgment awarded as attorney's fees for bringing a claim under
55 this chapter shall be taxable as income to the attorney; or

56 (c) Treatment as gross income to a claimant under the
57 provisions of Title 27, Chapter 7, Mississippi Code of 1972.

58 (4) A claimant may choose to pursue a claim under this
59 chapter in lieu of pursuing a claim against the State of
60 Mississippi or a political subdivision thereof under the
61 Mississippi Tort Claims Act, Section 11-46-1 et seq., Mississippi
62 Code of 1972. Any claimant who obtains an award under this
63 chapter may not obtain an award by reason of the same subject
64 against the State of Mississippi or a political subdivision
65 thereof under the provisions of the Mississippi Tort Claims Act,
66 Section 11-46-1 et seq., Mississippi Code of 1972.

67 (5) The immunity of the State of Mississippi and any
68 political subdivision thereof is hereby waived with respect to the



69 claims described in this chapter and within the limits prescribed
70 by this chapter.

71 **SECTION 2.** This act shall take effect and be in force from
72 and after July 1, 2022.

