

By: Representatives Taylor, Osborne, Sanders To: Judiciary B

HOUSE BILL NO. 641

1 AN ACT TO AMEND SECTION 11-44-7, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE THE LIMITATION FOR DAMAGES WHEN A PERSON IS WRONGFULLY  
3 CONVICTED OR INCARCERATED; AND FOR 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 \* \* \*. There shall be no compensation for  
35 any preindictment detention. This award shall be paid to the  
36 claimant in installments of Fifty Thousand Dollars (\$50,000.00) or  
37 more per year until the award is fully paid. The state may  
38 purchase an annuity to satisfy this obligation.

39                   (b) Reasonable attorney's fees for bringing a claim  
40 under this chapter calculated at ten percent (10%) of the amount  
41 awarded under paragraph (a) of this subsection for preparing and  
42 filing the claim, twenty percent (20%) for litigating the claim if  
43 it is contested by the Attorney General, and twenty-five percent



44 (25%) if the claim is appealed, plus expenses. These fees shall  
45 not be deducted from the compensation due the claimant, nor is  
46 counsel entitled to receive additional fees from the client for a  
47 claim under this section.

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

49 (a) Any cap applicable to private parties in civil  
50 lawsuits;

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

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

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

65 (5) The immunity of the State of Mississippi and any  
66 political subdivision thereof is hereby waived with respect to the  
67 claims described in this chapter and within the limits prescribed  
68 by this chapter.



69           **SECTION 2.** This act shall take effect and be in force from  
70 and after July 1, 2023.

