AS PASSED BY THE SENATE

March 20, 2012

**S. 1037**

Introduced by Senators Anderson and Ford

S. Printed 3/20/12--S.

Read the first time January 10, 2012.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 22 TO CHAPTER 13, TITLE 24 SO AS TO PROVIDE THAT CERTAIN PERSONS WHO HAVE BEEN WRONGFULLY CONVICTED OF AND IMPRISONED FOR A CRIME MAY RECOVER THE MONETARY VALUE OF THE LOSS SUSTAINED THROUGH THE WRONGFUL CONVICTION AND IMPRISONMENT.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 24 of the 1976 Code is amended to read:

“Article 22

Compensation for a Wrongful Conviction

Section 24-13-2310. For the purposes of this article, ‘wrongly convicted’ means a person who was convicted of an offense, was incarcerated for the offense for at least ninety days, was incarcerated solely on the basis of the conviction of the offense, and is innocent of the offense.

Section 24-13-2320. (A) A person may only file a claim for wrongful conviction if the person’s conviction was overturned by a court of competent jurisdiction and the matter has reached final judgment or the person has been pardoned.

(B) A person may file a claim for wrongful conviction to be heard before a judge in the circuit that exercised jurisdiction over the offense. The claim shall be awarded if the court finds by clear and convincing evidence that the claimant was wrongly convicted.

Section 24-13-2330. A person wrongly convicted must be awarded an amount equal to fifteen thousand dollars for each year, or a pro rata amount for the portion of each year, of the incarceration actually served. However, the award shall not exceed fifty thousand dollars. All awards shall be made from the Wrongful Conviction Compensation Fund.

Section 24-13-2340. A person is not entitled to an award pursuant to this article if the person:

(1) was convicted of any of the acts charged in conjunction with the offense for which he was wrongfully convicted;

(2) served the term of incarceration concurrently with a sentence imposed for any other conviction;

(3) served a term of incarceration less than ninety days;

(3) is serving a term of imprisonment for the conviction of another crime; or

(4) the person pled guilty or nolo contendere to the offense for which he is seeking compensation.

Section 24-13-2350. A person awarded compensation pursuant to this article who is subsequently convicted of a felony is not eligible to receive any unpaid amounts of the award.

Section 24-13-2360. There is established in the State Treasury the ‘Wrongful Conviction Compensation Fund’. This fund is separate and distinct from the general fund of the State and all other funds. The fund shall consist of appropriations and donations, contributions, bequests, or other gifts. The proceeds in the fund may only be used to satisfy awards for wrongful convictions. Earnings and interest on this fund must be credited to it and any balance at the end of a fiscal year carries forward to the fund in the succeeding fiscal year.”

SECTION 2. This act takes effect upon approval of the Governor. This act only applies to persons whose convictions have been overturned or persons who have received a pardon after the effective date.

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