

Senate Bill No. 12-B

An act providing an appropriation to compensate Wilton Dedge; providing authority to draw warrant; providing a limitation on the authority to draw the warrant; requiring the purchase of an annuity; providing for waiver of specified tuition and fees; providing conditions for payment; providing legislative intent; providing an effective date.

WHEREAS, Wilton Dedge was convicted of rape and imprisoned for 22 years, and

WHEREAS, the initial conviction was appealed and reversed, and

WHEREAS, on retrial Wilton Dedge was again convicted, which conviction was affirmed on appeal, and

WHEREAS, the Circuit Court in the Eighteenth Judicial Circuit granted the state's motion to dismiss pending charges and discharge Wilton Dedge from custody based on DNA evidence that excluded Wilton Dedge as the perpetrator of the crime, and

WHEREAS, Wilton Dedge was in fact released on August 12, 2004, and

WHEREAS, Wilton Dedge and his parents filed suit in the Second Judicial Circuit requesting, among other things, a declaratory judgment that Mr. Dedge's liberty was taken by the government without compensation and requesting damages for the taking of Mr. Dedge's liberty, and

WHEREAS, the suit was dismissed by order of the Second Judicial Circuit court, which found that claims for damages from the state are banned by the doctrine of sovereign immunity, and that only the Legislature can address the issue of compensation under existing law, and

WHEREAS, Wilton Dedge has appealed the order to the First District Court of Appeal, Case No. 1D05-4288, and

WHEREAS, the Legislature recognizes that no system of justice is impervious to human error. "Given the myriad safeguards provided to assure a fair trial, and taking into account the reality of the human fallibility of the participants, there can be no such thing as an error-free, perfect trial, and . . . the Constitution does not guarantee such a trial." United States v. Hasting, 461 U.S. 499 (1983), and

WHEREAS, the Legislature acknowledges that the state's system of justice yielded an imperfect result with tragic consequences in this case, and

WHEREAS, the Legislature acknowledges that Wilton Dedge incurred significant damages unique to Wilton Dedge as a result of his conviction and physical confinement and that all the damages flowed from the fact that he was physically restrained and prevented from exercising the freedom to which all innocent citizens are entitled, and

WHEREAS, the Legislature acknowledges that Wilton Dedge performed valuable services for the state while imprisoned, including serving as a licensed wastewater plant operator, and

WHEREAS, the Legislature acknowledges that Wilton Dedge's parents incurred significant expenses related to his defense and related to the prolonged efforts to establish his innocence and secure his release from prison, and

WHEREAS, the Legislature is providing compensation to Wilton Dedge to acknowledge the fact that he suffered significant damages unique to Wilton Dedge which resulted from his physical restraint and the deprivation of freedom, and

WHEREAS, the Legislature is providing compensation to Wilton Dedge based on a moral desire to acknowledge his undisputed and actual innocence and not on a recognition of a constitutional right or violation, and

WHEREAS, the Legislature intends that compensation made pursuant to this act shall be the sole compensation to be provided by the state for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment, and

WHEREAS, the Legislature apologizes to Wilton Dedge on behalf of the state, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. There is appropriated from the General Revenue Fund the sum of \$2 million to the Department of Financial Services under the conditions provided in this act.

Section 3. The Chief Financial Officer is directed to draw a warrant in the sum of \$2 million for the purposes provided in this act. After March 6, 2006, the Chief Financial Officer is no longer authorized to draw a warrant under this section.

Section 4. The Department of Financial Services shall pay the funds appropriated under this act to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state and selected by Wilton Dedge, to purchase an annuity. The Department of Financial Services is directed to execute all necessary agreements to implement this act.

Section 5. Tuition and fees shall be waived for up to a total of 120 hours of instruction at any career center established pursuant to s. 1001.44, Florida Statutes, at any community college established under part III of chapter 1004, Florida Statutes, or any state university. For any educational benefit made, Wilton Dedge is required to meet and maintain the regular admission

requirements of, and be registered at, such career center, community college, or state university and make satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.

Section 6. The Chief Financial Officer shall purchase the annuity as required by this act upon delivery by Wilton Dedge to the Chief Financial Officer, the Department of Financial Services, the President of the Senate, and the Speaker of the House of Representatives of all of the following:

(1) An executed release and waiver on behalf of Wilton Dedge and his parents, heirs, successors, and assigns forever releasing the State of Florida and any agency, instrumentality, officer, employee, or political subdivision thereof or any other entity subject to the provisions of s. 768.28, Florida Statutes, from any and all present or future claims, or declaratory relief the claimant or any of his parents, heirs, successors, or assigns may have against such enumerated entities and arising out of the factual situation in connection with the conviction for which compensation is awarded. However, declaratory action to obtain judicial expungement of Wilton Dedge's judicial and executive branch records as otherwise provided by law is not prohibited by this act.

(2) An order from the court having jurisdiction of the legal claim filed by Wilton Dedge and his parents dismissing the claim with prejudice.

Section 7. The Legislature shall not be deemed by this act to have waived any defense of sovereign immunity or to have increased the limits of liability on behalf of the state or any person or entity subject to the provisions of s. 768.28, Florida Statutes, or any other law.

Section 8. This award is intended to provide the sole compensation for any and all present and future claims arising out of the factual situation in connection with Wilton Dedge's conviction and imprisonment. No further award for attorney's fees, lobbying fees, costs, or other similar expenses shall be made by the state.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor December 14, 2005.

Filed in Office Secretary of State December 14, 2005.