

CHAPTER 2023-320

Senate Bill No. 62

An act for the relief of Robert Earl DuBoise; providing an appropriation to compensate Mr. DuBoise for being wrongfully incarcerated for almost 37 years; directing the Chief Financial Officer to draw a warrant payable directly to Mr. DuBoise; providing for the waiver of certain tuition and fees for Mr. DuBoise; requiring the Chief Financial Officer to pay the directed funds without requiring that Mr. DuBoise sign a liability release; declaring that the Legislature does not waive certain defenses or increase the state's limits of liability with respect to the act; prohibiting funds awarded under the act to Mr. DuBoise from being used or paid for specified attorney or lobbying fees; prohibiting Mr. DuBoise from submitting a compensation application under certain provisions upon his receipt of payment under this act; requiring specific reimbursement to the state should a civil award be issued subsequent to Mr. DuBoise's receipt of payment under the act; requiring Mr. DuBoise to notify the Department of Legal Affairs upon filing certain civil actions; requiring the department to file a specified notice under certain circumstances; providing that certain benefits are vacated upon specified findings; providing an effective date.

WHEREAS, Robert Earl DuBoise was arrested on October 22, 1983, for the August 18, 1983, rape and murder of a Tampa Bay woman and was convicted of capital murder and attempted sexual battery on March 7, 1985, and

WHEREAS, Mr. DuBoise spent 3 years on death row, and

WHEREAS, on March 10, 1988, the Florida Supreme Court issued a mandate vacating Mr. DuBoise's death sentence, and on April 4, 1988, he was resentenced to life imprisonment for murder and a consecutive 15-year sentence for attempted sexual battery, and

WHEREAS, Mr. DuBoise has maintained his innocence since his arrest and for the entirety of his incarceration for the past 37 years, and

WHEREAS, on September 11, 2020, the Conviction Review Unit (CRU) for the State Attorney's Office for the 13th Judicial Circuit issued a 49-page "CRU Summary Fact-Finding Report" based on a comprehensive investigation spanning nearly 1 year, culminating in the conclusion that "Robert DuBoise's conviction should be vacated and Robert DuBoise be exonerated of the charges against him," and

WHEREAS, on September 14, 2020, the Circuit Court for the 13th Judicial Circuit granted, with the concurrence of the state, a motion for postconviction relief, vacated the judgment and sentence of Mr. DuBoise, and ordered a new trial, and

WHEREAS, the CRU report found that there was no credible evidence of Mr. DuBoise's guilt and, likewise, that there was clear and convincing evidence of his innocence, and

WHEREAS, on September 14, 2020, as the result of the CRU report, the state orally pronounced a nolle prosequi with regard to the retrial of Mr. DuBoise, and

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

WHEREAS, the Legislature acknowledges that, as a result of his physical confinement, Mr. DuBoise suffered significant damages that are unique to him, and that the damages are due to the fact that he was physically restrained and prevented from exercising the freedom to which all innocent citizens are entitled, and

WHEREAS, before his conviction for the aforementioned crimes, Mr. DuBoise had prior convictions for unrelated nonviolent felonies, and

WHEREAS, because of his prior nonviolent felony convictions, Mr. DuBoise is ineligible for compensation under chapter 961, Florida Statutes, and

WHEREAS, the Legislature apologizes to Mr. DuBoise 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. The sum of \$1.85 million is appropriated from the General Revenue Fund to the Department of Financial Services for the relief of Robert Earl DuBoise for his wrongful incarceration. The Chief Financial Officer is directed to draw a warrant in the sum of \$1.85 million payable directly to Robert Earl DuBoise.

Section 3. Tuition and fees for Mr. DuBoise 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, Florida College System institution established under part III of chapter 1004, Florida Statutes, or state university. For any educational benefit he receives, Mr. DuBoise must meet and maintain the regular admission and registration requirements of the career center, institution, or state university and make satisfactory academic progress as defined by the educational institution in which he is enrolled.

Section 4. The Chief Financial Officer shall pay the funds directed by this act without requiring that the wrongfully incarcerated person, Mr. DuBoise, sign a liability release.

Section 5. With respect to the relief for Mr. DuBoise as described in this act, the Legislature does not waive any defense of sovereign immunity or increase the limits of liability on behalf of the state or any person or entity that is subject to s. 768.28, Florida Statutes, or any other law. Funds awarded under this act to Mr. DuBoise may not be used or be paid for attorney fees or lobbying fees related to this claim.

Section 6. Upon his receipt of payment under this act, Mr. DuBoise may not submit an application for compensation under chapter 961, Florida Statutes.

Section 7. Claimant Mr. DuBoise must notify the Department of Legal Affairs upon filing any civil action related to his wrongful incarceration. If, after the time that monetary compensation is paid under this act, a court enters a monetary judgment in favor of Mr. DuBoise in a civil action related to his wrongful incarceration, or Mr. DuBoise enters into a settlement agreement with the state or any political subdivision thereof related to his wrongful incarceration, Mr. DuBoise must reimburse the state for the monetary compensation awarded under this act, less any sums paid for attorney fees or costs incurred in litigating the civil action or obtaining the settlement agreement. A reimbursement required under this section may not exceed the amount of monetary award Mr. DuBoise received for damages in the civil action or settlement agreement. The court must include in the order of judgment an award to the state of any amount required to be deducted under this section.

Section 8. The department must file a notice of payment of monetary compensation in the civil action, and the notice shall constitute a lien upon any judgment or settlement recovered under the civil action which is equal to the sum of monetary compensation paid to the claimant under this act, less any attorney fees and litigation costs.

Section 9. If any future judicial determination finds that Mr. DuBoise, by DNA evidence or otherwise, participated in any manner in the death or sexual battery for which he was incarcerated, the unused benefits to which he is entitled under this act are vacated.

Section 10. This act shall take effect upon becoming a law.

Approved by the Governor June 9, 2023.

Filed in Office Secretary of State June 9, 2023.