

SENATE BILL 569

Unofficial Copy  
D3

2003 Regular Session  
(3r1057)

**ENROLLED BILL**  
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Hughes and Gladden**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Civil Damages - State Compensation for Erroneous Conviction and**  
3 **Imprisonment - ~~Evidentiary Standard and Eligibility~~**  
4 **Financial and Other Appropriate Counseling**

5 FOR the purpose of ~~requiring the Board of Public Works to grant certain economic~~  
6 ~~damages and authorizing the Board to grant certain noneconomic damages to~~  
7 ~~certain individuals who are erroneously convicted, sentenced, and confined~~  
8 ~~under a State law for crimes the individuals did not commit; authorizing the~~  
9 ~~Board of Public Works to provide certain counseling; requiring that the~~  
10 ~~eligibility of certain individuals for a certain grant be based on certain pardons~~  
11 ~~by the Governor under certain circumstances or based on a court's~~  
12 ~~determination by clear and convincing evidence that the convictions of the~~  
13 ~~individuals are in error and that the individuals are innocent of did not commit~~  
14 ~~the crime; defining certain terms; prohibiting the Board of Public Works from~~  
15 ~~paying any part of a certain grant to any individuals other than certain~~  
16 ~~individuals eligible to receive the grant under certain circumstances; altering a~~  
17 ~~certain statement in a pardon required to rebut a certain presumption~~

1 *authorizing the Board of Public Works to grant a reasonable amount for any*  
 2 *financial or other appropriate counseling for an individual who is erroneously*  
 3 *convicted, sentenced, and imprisoned under State law for a crime the individual*  
 4 *did not commit if the individual received a certain pardon from the Governor;*  
 5 *providing for the application of this Act;* and generally relating to damages for  
 6 certain individuals erroneously convicted, sentenced, and confined under State  
 7 law.

8 ~~BY repealing and reenacting, with amendments,~~

9 ~~Article - Correctional Services~~

10 ~~Section 7-601(e)~~

11 ~~Annotated Code of Maryland~~

12 ~~(1999 Volume and 2002 Supplement)~~

13 BY repealing and reenacting, with amendments,

14 Article - State Finance and Procurement

15 Section 10-501

16 Annotated Code of Maryland

17 (2001 Replacement Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Correctional Services**

21 ~~7-601:~~

22 ~~(e) There is a presumption that the grantee of a pardon was lawfully and~~  
 23 ~~properly convicted of a crime against the State unless the order granting the pardon~~  
 24 ~~states that the grantee has been shown [conclusively] BY CLEAR AND CONVINCING~~  
 25 ~~EVIDENCE to have been convicted in error.~~

26 **Article - State Finance and Procurement**

27 10-501.

28 (a) ~~(1) IN THIS SECTION THE FOLLOWING TERMS WORDS HAVE THE~~  
 29 ~~MEANINGS INDICATED:~~

30 ~~(2) (I) "ECONOMIC DAMAGES" MEANS LOSS OF EARNINGS AND~~  
 31 ~~MEDICAL EXPENSES.~~

32 ~~(II) "ECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE~~  
 33 ~~DAMAGES.~~

34 ~~(3) (I) "NONECONOMIC DAMAGES" MEANS PAIN, SUFFERING,~~  
 35 ~~INCONVENIENCE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM,~~  
 36 ~~MENTAL ANGUISH, EMOTIONAL PAIN AND SUFFERING, LOSS OF SOCIETY,~~

1 ~~COMPANIONSHIP, COMFORT, PROTECTION, CARE, MARITAL CARE, PARENTAL CARE,~~  
 2 ~~FILIAL CARE, ATTENTION, ADVICE, COUNSEL, TRAINING, GUIDANCE, EDUCATION, OR~~  
 3 ~~OTHER NONPECUNIARY INJURY.~~

4 (H) "NONECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE  
 5 DAMAGES.

6 (B) (1) Subject to subsection (b) (C) of this section, the Board of Public  
 7 Works {may} ~~SHALL~~ grant to an individual erroneously convicted, sentenced, and  
 8 confined under State law for a crime the individual did not commit an amount  
 9 commensurate with the {actual} ~~ECONOMIC DAMAGES AND NONECONOMIC damages~~  
 10 sustained by the individual, ~~AND MAY GRANT AN AMOUNT FOR NONECONOMIC~~  
 11 ~~DAMAGES SUSTAINED BY A REASONABLE AMOUNT FOR ANY FINANCIAL OR OTHER~~  
 12 ~~APPROPRIATE COUNSELING FOR THE INDIVIDUAL,~~ due to the confinement.

13 (2) In making a grant under paragraph (1) of this subsection, the Board  
 14 of Public Works shall use money in the General Emergency Fund or money that the  
 15 Governor provides in the annual budget.

16 (3) ~~IN ADDITION TO A GRANT MADE UNDER PARAGRAPH (1) OF THIS~~  
 17 ~~SUBSECTION, THE BOARD OF PUBLIC WORKS MAY PROVIDE FINANCIAL OR OTHER~~  
 18 ~~APPROPRIATE COUNSELING FOR THE INDIVIDUAL.~~

19 (b) (C) An individual is eligible for a grant under subsection (a) (B) of this  
 20 section only if:

21 (1) the individual has received from the Governor a full pardon stating  
 22 that the individual's conviction has been shown {conclusively} ~~BY CLEAR AND~~  
 23 ~~CONVINCING EVIDENCE~~ to be in error; ~~OR~~

24 (2) ~~A COURT HAS DETERMINED BY CLEAR AND CONVINCING EVIDENCE~~  
 25 ~~THAT:~~

26 (1) ~~THE INDIVIDUAL'S CONVICTION IS IN ERROR; AND~~

27 (2) ~~THE INDIVIDUAL IS INNOCENT OF~~ DID NOT COMMIT THE  
 28 ~~CRIME.~~

29 (c) (D) The Board of Public Works may pay the grant determined under  
 30 subsection (a) (B) of this section in a lump sum or in installments.

31 (d) (E) (1) The Board of Public Works may not pay any part of a grant  
 32 made under this section to any individual other than the {pardoned} individual  
 33 ~~DETERMINED TO BE ELIGIBLE UNDER SUBSECTION (C) OF THIS SECTION.~~

34 (2) (i) An individual may not pay any part of a grant received under  
 35 this section to another person for services rendered in connection with the collection  
 36 of the grant.

37 (ii) An obligation incurred in violation of this paragraph is void.

1 (iii) A payment made in violation of this paragraph shall be forfeited  
2 to the State.

3 ~~{(e)}~~ ~~(F)~~ This section does not prohibit an individual from contracting for  
4 services to:

- 5 (1) determine the individual's innocence;
- 6 (2) obtain a pardon; or
- 7 (3) obtain the individual's release from confinement.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
9 construed to apply only prospectively and may not be applied or interpreted to have  
10 any effect on or application to any application for a grant by the Board of Public Works  
11 filed before the effective date of this Act.

12 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect October 1, 2003.