

LD 478, Sec. 3 would repeal this entire chapter. Sec. 2 proposes to enact a new chapter to take its place

TITLE 14
COURT PROCEDURE – CIVIL
CHAPTER 747
WRONGFUL IMPRISONMENT

§8241. Wrongful imprisonment

1. Exceptions to immunity. Notwithstanding any immunity of the State from suit, including the Maine Tort Claims Act, chapter 741, the State is liable for the wrongful imprisonment of a person.

2. Action. The State is liable for damages for wrongful imprisonment of a person if that person alleges and proves the following by clear and convincing evidence:

- A. That the person was convicted of a criminal offense under the laws of this State;
- B. That as a result of that conviction, the person was sentenced to a period of incarceration and was actually incarcerated;
- C. That subsequent to the conviction and as a condition precedent to suit, the person received a full and free pardon pursuant to the Constitution of Maine, Article V, Part First, Section 11, which is accompanied by a written finding by the Governor who grants the pardon that the person is innocent of the crime for which that person was convicted; and
- D. That the court finds that the person is innocent of the crime for which the person was convicted.

3. Scope of law. For purposes of this chapter, a person is deemed to have committed a criminal offense notwithstanding a finding by a state or federal court that the law under which the person was convicted is violative of the Constitution of Maine or the United States Constitution.

4. Governor's denial of request. A Governor's failure to issue a written finding that the person is innocent of the crime for which the person was convicted is final and not subject to judicial view.

5. Settlement. After commencement of an action under subsection 2, the Attorney General may compromise or settle any claim under this chapter.

§8242. Limitation on damages

1. Damages; limitation. In any action for damages permitted by this chapter, the claim for and award of damages, including costs, against the State may not exceed \$300,000 for all claims arising as a result of a single conviction.

2. Costs. Court costs, interest and all other costs that a court may assess are included within the damages limitation specified by this section.

3. Exclusion from judgment or award. A judgment or award against the State pursuant to this chapter may not include punitive or exemplary damages.

4. Payable from General Fund. Any judgment or award of damages permitted by this chapter must be paid from the General Fund.

§8243. Jurisdiction

The Superior Court has original jurisdiction over all claims permitted under this chapter.

§8244. Limitation of action

Every claim for wrongful imprisonment permitted under this chapter is forever barred from the courts of this State unless an action is begun in the courts within 2 years after the date of the full and free pardon of the conviction on which the claim is based.

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