

FEB 21 1996
JUDICIARY

HOUSE FILE 2286
BY BERNAU, MORELAND, and DINKLA

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to compensation for certain miscarriages of
2 justice.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2286

1 Section 1. Section 669.14, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 14. A claim to compensate for the
4 miscarriage of justice for a person innocent of a criminal
5 offense who is erroneously convicted of the offense. For
6 purposes of this section, damages shall include only lost
7 income and other economic damages incurred during the person's
8 incarceration following conviction, attorney's fees and court
9 costs incurred by the person defending the criminal action,
10 and victim restitution paid by the person subsequent to
11 conviction. A claim under this subsection must be brought
12 only after the person has been released from incarceration and
13 released from probation or parole.

14 Sec. 2. NEW SECTION. 669.25 LIABILITY FOR ERRONEOUS
15 CONVICTIONS.

16 Notwithstanding any provision of this chapter to the
17 contrary, claims against the state which request the payment
18 of damages under section 669.14, subsection 14, shall be
19 permitted and may be filed directly in the district court in
20 the county in which the plaintiff resides or in which the
21 erroneous conviction occurred. To recover damages for an
22 erroneous conviction the plaintiff must prove by a
23 preponderance of the evidence only that the plaintiff did not
24 commit the offense for which the plaintiff was convicted.
25 Negligence or misconduct on the part of either the government
26 or the defense attorney in the criminal action is not an
27 element which must be proved to be able to recover damages.
28 The state may seek indemnification from the defense attorney
29 or from the political subdivision which employed the
30 prosecuting attorney if the state is required to pay a claim
31 under this section that resulted from the negligence or
32 misconduct of the defense attorney or prosecuting attorney.

33 Sec. 3. NEW SECTION. 670.4A INDEMNIFICATION FOR
34 ERRONEOUS CONVICTIONS.

35 Notwithstanding section 670.4, a municipality shall be

1 liable for a claim for indemnification by the state if the
2 state proves that, due to the negligence or misconduct of a
3 prosecuting attorney, the state paid a claim under section
4 669.25.

5 EXPLANATION

6 This bill waives state tort immunity in situations where a
7 person is erroneously convicted of a criminal offense. The
8 person need not prove negligence or misconduct on the part of
9 the government or the person's defense attorney, but must
10 prove by a preponderance of the evidence that the person did
11 not commit the criminal offense. A person who is erroneously
12 convicted may recover lost income and other economic damages
13 as a result of imprisonment following the conviction,
14 attorney's fees and court costs incurred defending the
15 criminal action, and victim restitution paid.

16 The bill provides that a person who claims to have been
17 erroneously convicted may file the action in the district
18 court for the county in which the person resides or the county
19 in which the conviction occurred after the person is released
20 from incarceration and probation or parole.

21 The state may seek indemnification from the defense
22 attorney or political subdivision which employed the
23 prosecuting attorney if negligence or misconduct by either
24 resulted in the claim against the state. The political
25 subdivision cannot claim immunity from an indemnification
26 action under chapter 670.

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