

West's Revised Statutes of Nebraska Annotated Currentness

Chapter 29. Criminal Procedure

→ Article 46. Nebraska Claims for Wrongful Conviction and Imprisonment Act

29-4601. Act, how cited

Sections 29-4601 to 29-4608 shall be known and may be cited as the Nebraska Claims for Wrongful Conviction and Imprisonment Act.

29-4602. Legislative findings

The Legislature finds that innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have been uniquely victimized, have distinct problems reentering society, and have difficulty achieving legal redress due to a variety of substantive and technical obstacles in the law. The Legislature also finds that such persons should have an available avenue of redress. In light of the particular and substantial horror of being imprisoned for a crime one did not commit, the Legislature intends by enactment of the Nebraska Claims for Wrongful Conviction and Imprisonment Act that persons who can demonstrate that they were wrongfully convicted shall have a claim against the state as provided in the act.

29-4603. Recovery; claimant; proof required

In order to recover under the Nebraska Claims for Wrongful Conviction and Imprisonment Act, the claimant shall prove each of the following by clear and convincing evidence:

- (1) That he or she was convicted of one or more felony crimes and subsequently sentenced to a term of imprisonment for such felony crime or crimes and has served all or any part of the sentence;
- (2) With respect to the crime or crimes under subdivision (1) of this section, that the Board of Pardons has pardoned the claimant, that a court has vacated the conviction of the claimant, or that the conviction was reversed and remanded for a new trial and no subsequent conviction was obtained;
- (3) That he or she was innocent of the crime or crimes under subdivision (1) of this section; and
- (4) That he or she did not commit or suborn perjury, fabricate evidence, or otherwise make a false statement to cause or bring about such conviction or the conviction of another, with respect to the crime or crimes under subdivision (1) of this section, except that a guilty plea, a confession, or an admission, coerced by law enforcement and later found to be false, does not constitute bringing about his or her own conviction of such crime or crimes.

29-4604. Recovery of damages; determination of amount; restrictions

(1) A claimant under the Nebraska Claims for Wrongful Conviction and Imprisonment Act shall recover damages found to proximately result from the wrongful conviction and that have been proved based upon a preponderance of the evidence.

(2) The following costs shall not offset damages:

- (a) Costs of imprisonment; and
 - (b) Value of any care or education provided to the claimant while he or she was imprisoned.
- (3) No damages shall be payable to the claimant for any period of time during which he or she was concurrently imprisoned for any unrelated criminal offense.
- (4) In no case shall damages awarded under the act exceed five hundred thousand dollars per claimant per occurrence.
- (5) A claimant's cause of action under the act shall not be assignable and shall not survive the claimant's death.

29-4605. Extinguishment of lien for costs of defense services

If the court finds that any property of the claimant was subjected to a lien to recover costs of defense services rendered by the state to defend the claimant in connection with the criminal case that resulted in his or her wrongful conviction, the court shall extinguish the lien.

29-4606. Provision of services to claimant; how treated

Nothing contained in the Nebraska Claims for Wrongful Conviction and Imprisonment Act shall preclude the state from providing services to the claimant upon exoneration, and the reasonable value of services provided shall be treated as an advance against any award or judgment under the act.

29-4607. Filing of claim

A claim brought pursuant to the Nebraska Claims for Wrongful Conviction and Imprisonment Act shall be filed under the State Tort Claims Act.

29-4608. Claimant; rights; recovery under act; effect

Nothing in the Nebraska Claims for Wrongful Conviction and Imprisonment Act shall limit the claimant from making any other claim available against any other party or based upon any other theory of recovery, except that a claimant who recovers a claim under the act shall not have any other claim against the state based upon any other theory of recovery or law.

Current through the 101st Legislature 1st Special Session 2009
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