(Reprinted with amendments adopted on April 18, 2025)
FIRST REPRINT **A.B. 63**

ASSEMBLY BILL NO. 63–COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to civil actions for wrongful conviction. (BDR 3-440)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to actions concerning persons; revising provisions relating to civil actions for wrongful conviction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who is not currently incarcerated for any offense to bring a civil action for his or her wrongful conviction against this State in a district court seeking damages or other relief. (NRS 41.900-41.970) **Section 1** of this bill defines the term "incarcerated" for such purposes.

Existing law also requires, among other things, that a person seeking such damages or other relief prove by a preponderance of the evidence that: (1) the person's conviction was reversed or vacated and his or her charges were dismissed; (2) the basis for reversing or vacating the conviction was not legal error that was unrelated to his or her innocence, and if a new trial was ordered, the person was found not guilty at the new trial or the person was not retried and his or her charges were dismissed; or (3) the person was pardoned by the State Board of Pardons Commissioners on the grounds that the person was innocent. (NRS 41.900) **Section 1.5** of this bill makes technical changes relating to when a conviction is reversed or vacated.

If a person brings an action for wrongful conviction which results in the court entering a certificate of innocence, existing law requires the court to award monetary damages based upon the length of time for which the person was imprisoned and for which the person was on parole or required to register as a sex offender. Existing law additionally authorizes the court to award, in addition to monetary damages, reasonable attorney's fees, certain reimbursements and, subject to a limitation of $100,000 in a calendar year, payment for the cost of: (1) tuition, books and fees for the person to enroll in any course or academic program at an institution operated by the Nevada System of Higher Education; (2) participation in Medicare or Medicaid or a qualified health plan; (3) programs for reentry into the

community; (4) counseling services; (5) housing assistance; and (6) programs for assistance for financial literacy. Finally, existing law also authorizes the court to award any other relief, which is not subject to the limitation of $100,000 in a calendar year. (NRS 41.950) **Section 2** of this bill makes any other relief awarded by the court subject to the limitation of $100,000 in a calendar year.

Section 3 of this bill clarifies that the amendatory provisions of this bill apply to an action for wrongful conviction that is filed on or after the effective date of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in NRS 41.900 to 41.970, inclusive, unless the context otherwise requires, "incarcerated" means confined in a local detention facility, county jail or state prison.

Sec. 1.5. NRS 41.900 is hereby amended to read as follows:

41.900 1. A person who is not currently incarcerated for any offense may bring a civil action for his or her wrongful conviction against this State in a district court seeking damages or other relief provided by NRS 41.950.

2. The court shall award damages for wrongful conviction in accordance with NRS 41.950 if the person proves by a preponderance of the evidence that:

(a) He or she was convicted of a felony in this State and was subsequently imprisoned for the conviction;

(b) He or she did not commit the felony for which he or she was convicted and the person:

(1) Was not an accessory or accomplice to the acts that were the basis of the conviction;

(2) Did not commit the acts that were the basis of the conviction; and

(3) Did not aid, abet or act as an accomplice or accessory to a person who committed the acts that were the basis of the conviction;

(c) He or she was not convicted of an offense necessarily included in the offense charged;

(d) Any of the following occurred:

(1) The judgment of conviction was reversed or vacated ***,*** ~~[and]~~ the charging document was dismissed ~~[;~~

~~(2) The]~~ ***and the*** basis for reversing or vacating the judgment of conviction was not legal error that was unrelated to his or her innocence ~~[, and if a court ordered]~~ ***;***

(2) The judgment of conviction was reversed or vacated and, following a new trial, the person was found not guilty at the

new trial or the person was not retried and the charging document was dismissed; or

(3) The person was pardoned by the State Board of Pardons Commissioners on the grounds that he or she was innocent; and

(e) The person did not commit perjury or fabricate evidence at the criminal proceeding that brought about his or her felony conviction and the person did not by his or her own conduct cause or bring about his or her felony conviction.

3. The court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence, may, in the interest of justice, give due consideration to:

(a) The difficulty of providing evidence caused by the passage of time;

(b) The death or unavailability of a witness;

(c) The destruction of evidence; or

(d) Any other factor not caused by the person or any other person acting on his or her behalf.

4. The court may appoint an attorney to aid a person in an action brought pursuant to this section.

5. For the purposes of subsection 2, the following do not constitute committing perjury, fabricating evidence or causing or bringing about the conviction of the person:

(a) A confession or an admission later found to be false; or

(b) If the judgment of conviction was reversed or vacated and the charging document dismissed, a guilty plea for a felony.

6. As used in this section, "innocence" means that a person did not engage in:

(a) The conduct for which he or she was convicted; and

(b) Any conduct constituting a lesser included or inchoate offense of the crime for which he or she was convicted.

Sec. 2. NRS 41.950 is hereby amended to read as follows:

41.950 1. In an action brought pursuant to NRS 41.900 which results in the court entering a certificate of innocence pursuant to NRS 41.910, the court shall award the person:

(a) If the person was imprisoned for:

(1) One to 10 years, $50,000 for each year the person was imprisoned for his or her wrongful conviction;

(2) Eleven to 20 years, $75,000 for each year the person was imprisoned for his or her wrongful conviction; or

(3) Twenty-one years or more, $100,000 for each year the person was imprisoned for his or her wrongful conviction; and

(b) Not less than $25,000 for each year the person was on parole or not less than $25,000 for each year the person was required to register as a sex offender, whichever period of time was greater.

2. In addition to any damages awarded pursuant to subsection 1, the court may award:

(a) Reasonable attorney's fees, not to exceed $25,000, unless a greater amount is authorized by a court upon a finding of good cause shown.

(b) Subject to the limitations in subsection 6, ~~[payment]~~ ***reimbursement*** for the cost of:

(1) Tuition, books and fees for the person to enroll in any course or academic program at an institution operated by the Nevada System of Higher Education commenced not later than 3 years and completed not later than 10 years after the date the award of damages is issued pursuant to subsection 1.

(2) Participation by the person in Medicare or Medicaid, if the person is eligible for Medicare or Medicaid, or a qualified health plan offered on the health insurance exchange administered by the Silver State Health Insurance Exchange which has been designated by the Exchange as a Bronze or Silver plan, if the person is not eligible for Medicare or Medicaid. The court shall not award payment pursuant to this subparagraph for any period in which the person is enrolled in an employer-based health insurance plan.

(3) Programs for reentry into the community for the person commenced not later than 3 years and completed not later than 5 years after the date the award of damages is issued pursuant to subsection 1.

(4) Counseling services for the person commenced not later than 2 years after the date the award of damages is issued pursuant to subsection 1.

(5) Housing assistance in an amount not greater than $15,000 per year.

(6) Programs for assistance for financial literacy for the person commenced not later than 2 years and completed not later than 3 years after the date the award of damages is issued pursuant to subsection 1.

(7) Any other relief.

(c) Reimbursement for:

(1) Restitution ordered to be paid by the person in the criminal proceeding for which he or she was wrongfully convicted; and

(2) Medical care paid for by the person while he or she was imprisoned for his or her wrongful conviction.

~~[(d) Any other relief.]~~

3. Any award of damages issued pursuant to subsection 1 must be rounded up to the nearest half year.

4. A court shall not award and a person shall not receive compensation for any period of imprisonment during which the

person was concurrently serving a sentence for a conviction of another offense for which the person was lawfully convicted and ~~[imprisoned.]~~ ***incarcerated.***

5. If counseling services are awarded to the person pursuant to subsection 2, the person may select a relative to receive counseling with the person. As used in this subsection, "relative" means a person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

6. A court shall not award payment pursuant to paragraph (b) of subsection 2:

(a) In an amount greater than $100,000 in a calendar year.

(b) For a length of time that exceeds the period of time described in subsection 1 during which the person was imprisoned or on parole.

7. As used in this section, "qualified health plan" has the meaning ascribed to it in NRS 695I.080.

Sec. 3. The amendatory provisions of this act apply to an action for wrongful conviction that is filed on or after the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

㉚