

AMENDMENTS TO LB496

(Amendments to Standing Committee amendments, AM1054)

Introduced by Hunt, 8.

1 1. Insert the following new sections:

2 Sec. 7. Section 29-4603, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-4603 In order to recover under the Nebraska Claims for Wrongful
5 Conviction and Imprisonment Act, the claimant shall prove each of the
6 following by clear and convincing evidence:

7 (1) That he or she either:

8 (a) Was ~~was~~ convicted of one or more felony crimes and subsequently
9 sentenced to a term of imprisonment for such felony crime or crimes and
10 has served all or any part of the sentence; ~~or~~

11 (b) Had a DNA sample collected pursuant to subsection (3) of section
12 29-4106 and was detained or imprisoned on the charge or charges which
13 provided the authority for obtaining such sample;

14 (2) With respect to a ~~the~~ crime or crimes under subdivision (1)(a)
15 ~~(1)~~ of this section, that the Board of Pardons has pardoned the claimant,
16 that a court has vacated the conviction of the claimant, or that the
17 conviction was reversed and remanded for a new trial and no subsequent
18 conviction was obtained;

19 (3) With respect to a charge or charges under subdivision (1)(b) of
20 this section, that such charge or charges were later dismissed;

21 (4) ~~(3)~~ That he or she was innocent of the crime or crimes under
22 subdivision (1) of this section; and

23 (5) ~~(4)~~ That he or she did not commit or suborn perjury, fabricate
24 evidence, or otherwise make a false statement to cause or bring about
25 such conviction or the conviction of another, with respect to the crime
26 or crimes under subdivision (1) of this section, except that a guilty

1 plea, a confession, or an admission, coerced by law enforcement and later
2 found to be false, does not constitute bringing about his or her own
3 conviction of such crime or crimes.

4 Sec. 8. Section 29-4604, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 29-4604 (1) A claimant under the Nebraska Claims for Wrongful
7 Conviction and Imprisonment Act shall recover damages found to
8 proximately result from the wrongful conviction or collection of a DNA
9 sample and detention or imprisonment and that have been proved based upon
10 a preponderance of the evidence.

11 (2) The following costs shall not offset damages:

12 (a) Costs of imprisonment; and

13 (b) Value of any care or education provided to the claimant while he
14 or she was imprisoned.

15 (3) No damages shall be payable to the claimant for any period of
16 time during which he or she was concurrently imprisoned for any unrelated
17 criminal offense.

18 (4) In no case shall damages awarded under the act exceed five
19 hundred thousand dollars per claimant per occurrence.

20 (5) A claimant's cause of action under the act shall not be
21 assignable and shall not survive the claimant's death.

22 Sec. 9. Section 29-4605, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 29-4605 If the court finds that any property of the claimant was
25 subjected to a lien to recover costs of defense services rendered by the
26 state to defend the claimant in connection with the criminal case that
27 resulted in his or her wrongful conviction or collection of a DNA sample
28 and detention or imprisonment, the court shall extinguish the lien.

29 2. Renumber the remaining sections and correct the repealer
30 accordingly.