

By Senator Cruz

18-00127-21

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1 A bill to be entitled
2 An act providing for the relief of Clemente Aguirre-
3 Jarquin for his wrongful incarceration; providing an
4 appropriation to the Department of Financial Services
5 for a specified purpose; directing the Chief Financial
6 Officer to draw a warrant for the purchase of an
7 annuity contract in a specified amount in Mr. Aguirre-
8 Jarquin's name within a specified timeframe; requiring
9 the Chief Financial Officer to execute necessary
10 agreements; providing for the waiver of certain
11 tuition and fees for Mr. Aguirre-Jarquin, subject to
12 specified requirements; specifying conditions for
13 payment; providing that the act does not waive certain
14 defenses or increase the state's limits of liability;
15 providing a limitation on the payment of compensation;
16 prohibiting any further award to include certain fees
17 and costs; providing an effective date.

18
19 WHEREAS, Clemente Aguirre-Jarquin was arrested on June 17,
20 2004, was tried and convicted of two counts of first-degree
21 murder and one count of burglary with an assault or battery on
22 February 28, 2006, and was sentenced to death on June 30, 2006,
23 and

24 WHEREAS, Mr. Aguirre-Jarquin has always maintained his
25 innocence, and

26 WHEREAS, Mr. Aguirre-Jarquin spent 10 years and 8 months on
27 death row, and

28 WHEREAS, new DNA, forensic, and testimonial evidence
29 discovered after his 2006 conviction and death sentence

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30 powerfully show Mr. Aguirre-Jarquin's innocence and point to
31 another suspect whose DNA was found at the crime scene and who
32 has confessed to these crimes on multiple occasions, and

33 WHEREAS, based on that new evidence, the Florida Supreme
34 Court in October 2016 unanimously reversed an order from the
35 Circuit Court for the 18th Judicial Circuit which had denied Mr.
36 Aguirre-Jarquin's motion for a new trial, and

37 WHEREAS, the Florida Supreme Court vacated Mr. Aguirre-
38 Jarquin's convictions and death sentence, and remanded the case
39 to the Circuit Court for the 18th Judicial Circuit for a new
40 trial, and

41 WHEREAS, Mr. Aguirre-Jarquin spent another 2 years
42 incarcerated while the state attorney's office continued to
43 press charges after the remand to the Circuit Court for the 18th
44 Judicial Circuit, during which the state provided no opportunity
45 for Mr. Aguirre-Jarquin to be released on bail pending trial,
46 and

47 WHEREAS, on November 5, 2018, with jury selection still in
48 progress before the new trial and after the presentation of
49 pretrial testimony by witnesses whom the state intended to call
50 at trial and who supported the defense's position that the
51 suspect whose DNA was found at the crime scene was the person
52 solely responsible for the murders in question, the state orally
53 pronounced a nolle prosequi as related to the retrial of Mr.
54 Aguirre-Jarquin, and

55 WHEREAS, Mr. Aguirre-Jarquin finally was released from the
56 state's custody on November 5, 2018, after spending 14 years, 4
57 months, and 19 days—5,255 consecutive days—in the custody of the
58 state, and

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59 WHEREAS, there is no credible evidence of Mr. Aguirre-
60 Jarquin's guilt, and, likewise, there is clear and convincing
61 evidence of his innocence, and

62 WHEREAS, within 90 days after his release from custody, Mr.
63 Aguirre-Jarquin filed a petition to determine his eligibility
64 for compensation under chapter 961, Florida Statutes, but the
65 Circuit Court for the 18th Judicial Circuit ruled that the
66 petition was untimely because it was not filed within 90 days of
67 the Florida Supreme Court's decision vacating his convictions
68 and remanding the case to the circuit court for a new trial,
69 despite the fact that Mr. Aguirre-Jarquin was not released from
70 incarceration following that ruling, and

71 WHEREAS, the Legislature acknowledges that the state's
72 system of justice yielded an imperfect result that had tragic
73 consequences for Mr. Aguirre-Jarquin, and

74 WHEREAS, the Legislature acknowledges that, as a result of
75 his continuous physical confinement, Mr. Aguirre-Jarquin
76 suffered significant physical, mental, and emotional damages
77 that are unique to him, in that he was physically restrained,
78 often placed in solitary confinement, and prevented from
79 exercising the freedom to which all innocent citizens are
80 entitled, and

81 WHEREAS, the Legislature is providing compensation to Mr.
82 Aguirre-Jarquin to acknowledge the fact that he suffered
83 significant damages that are unique to him, and

84 WHEREAS, the Legislature apologizes to Mr. Aguirre-Jarquin
85 on behalf of the state, NOW, THEREFORE,

86
87 Be It Enacted by the Legislature of the State of Florida:

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89 Section 1. The facts stated in the preamble to this act are
90 found and declared to be true.

91 Section 2. The sum of \$720,000 is appropriated from the
92 General Revenue Fund to the Department of Financial Services
93 under the conditions provided in this act.

94 Section 3. The Chief Financial Officer is directed to draw
95 a warrant in the sum specified in section 2 for the purposes
96 provided in this act.

97 Section 4. The Department of Financial Services shall pay
98 the funds appropriated under this act to an insurance company or
99 other financial institution admitted and authorized to issue
100 annuity contracts in this state and selected by Mr. Aguirre-
101 Jarquin to purchase an annuity. The Chief Financial Officer
102 shall execute all necessary agreements to implement this act and
103 to maximize the benefit to Mr. Aguirre-Jarquin.

104 Section 5. Tuition and fees for Mr. Aguirre-Jarquin are
105 waived for up to a total of 120 hours of instruction at any
106 career center established pursuant to s. 1001.44, Florida
107 Statutes, Florida College System institution established under
108 part III of chapter 1004, Florida Statutes, or state university.
109 Such waiver is dependent upon Mr. Aguirre-Jarquin's meeting and
110 maintaining the regular admission requirements of, and being
111 registered at, such career center, institution, or state
112 university and making satisfactory academic progress as defined
113 by the educational institution in which he is enrolled.

114 Section 6. The Chief Financial Officer shall purchase the
115 annuity as required by this act within 20 days of delivery by
116 Mr. Aguirre-Jarquin of his election of annuity, as set forth in

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117 section 4.

118 Section 7. The Legislature does not waive any defense of
119 sovereign immunity or increase the limits of liability on behalf
120 of the state or any person or entity that is subject to s.
121 768.28, Florida Statutes, or any other law.

122 Section 8. This award is intended to provide the sole
123 compensation for all present and future claims arising out of
124 the factual situation described in this act which resulted in
125 Mr. Aguirre-Jarquin's arrest, conviction, and incarceration.
126 There may not be any further award to include attorney fees,
127 lobbying fees, costs, or other similar expenses to Mr. Aguirre-
128 Jarquin by the state or any agency, instrumentality, or
129 political subdivision thereof, or any other entity, including
130 any county constitutional officer, officer, or employee, in
131 state or federal court.

132 Section 9. This act shall take effect upon becoming a law.