HB 89 - AS AMENDED BY THE HOUSE

16Mar2023... 0472h

2023 SESSION

23-0037
07/04

HOUSE BILL ***89***

AN ACT relative to posthumous exonerations.

SPONSORS: Rep. Meuse, Rock. 37; Rep. Hamblet, Rock. 26

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill provides that the general court may grant a posthumous exoneration in a case where, over time, the manifest injustice of the law or policy for which the person was convicted becomes evident. The bill grants a posthumous exoneration of the convictions of Willard Uphaus and Eunice "Goody" Cole.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to posthumous exonerations.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Posthumous Exoneration. The general court recognizes that on occasion a mistake may be made in the criminal justice process that does not become evident until after the person who was the subject of the mistake is deceased, or with the passage of time the manifest injustice of a law or policy for which someone was arrested and prosecuted and punished becomes apparent after the person is deceased.

2 New Section; Posthumous Exoneration. Amend RSA 651 by inserting after section 5-b the following new section:

651:5-c Posthumous Exoneration. In cases where the judgment of history is that an individual now deceased suffered an unjust criminal prosecution, the general court may, notwithstanding the provisions of part II, article 52 of the New Hampshire constitution and RSA 651:5, acknowledge the injustice and posthumously exonerate any arrest and conviction of the individual for the sole purpose of correcting the historic record. Posthumous exoneration under this section shall not be considered a pardon or annulment. Such legislative action to posthumously remedy manifest historic injustice shall not entitle the heirs or the estate of the person who suffered the injustice to recover damages from the state, nor shall it be deemed to create any other legal right or remedy in any person as a result of such posthumous exoneration.

3 Posthumous Exoneration of Conviction of Willard Uphaus. Pursuant to RSA 651:5-c, as inserted by section 1 of this act, the general court finds the conviction and imprisonment of Willard Uphaus in connection with the provisions of the New Hampshire subversive activities act was a manifest injustice and by this act corrects that historical error and exonerates Willard Uphaus.

4 Posthumous Exoneration of Arrests and Flogging and Imprisonment of Eunice “Goody" Cole. Pursuant to RSA 651:5-c, as inserted by section 1 of this act, the general court finds the arrests, convictions, floggings and imprisonment of Eunice “Goody” Cole for witchcraft and familiarity with the devil was a manifest injustice, and by this act corrects that historical error and exonerates Eunice "Goody" Cole.

5 Effective Date. This act shall take effect upon its passage.