

2005 SESSION

INTRODUCED

052733236

HOUSE BILL NO. 2782

Offered January 17, 2005

A BILL for the relief of Michael A. Fabyanic.

Patrons—Black, Albo, Alexander, Athey, Bland, Dillard, Fralin, Hall, Hugo, Janis, Jones, S.C., Marshall, R.G., McDonnell, McQuigg, Miller, Morgan, Orrock, Rapp, Scott, E.T., Sherwood, Ward, Watts, Weatherholtz, Welch and Wright

Unanimous consent to introduce

Referred to Committee on Appropriations

Whereas, in 1998, Michael A. Fabyanic (Mr. Fabyanic) was serving as a deputy sheriff in the Sheriff's Office of Frederick County; and

Whereas, in December of 1998, Mr. Fabyanic was on duty when he performed a traffic stop in an attempt to place under arrest Timothy Helsaback (Mr. Helsaback) who was traveling on a near Winchester, Virginia; and

Whereas, as Mr. Fabyanic attempted to effect the arrest, Mr. Helsaback resisted and a struggle ensued; and

Whereas, during the struggle, Mr. Helsaback managed to remove Mr. Fabyanic's handgun from the holster; and

Whereas, fortunately, Mr. Fabyanic gained control of the weapon but was forced to fire at Mr. Helsaback; and

Whereas, as a result of the gunshot, Mr. Helsaback was seriously wounded; and

Whereas, in the criminal trial that followed, Mr. Helsaback was convicted of assaulting a police officer; and

Whereas, Mr. Helsaback filed a civil lawsuit naming the Frederick County, the Sheriff's Office, and Mr. Fabyanic personally, alleging violation of Mr. Helsaback's civil rights under Title 42 U.S.C. 1983; and

Whereas, Mr. Helsaback also included a state claim alleging aggravated battery, malicious wounding, and attempted homicide; and

Whereas, the Division of Risk Management appointed one lawyer to represent all three entities against which Mr. Helsaback made allegations; and

Whereas, Mr. Fabyanic requested additional counsel, but the request was denied by the Division; and

Whereas, Mr. Fabyanic hired private legal counsel to assist in representing him in the civil case; and

Whereas, Mr. Fabyanic incurred legal fees in the amount of \$12,000 as a result of the use of private counsel, which were not paid by the state; and

Whereas, Mr. Fabyanic has no other means to obtain adequate relief except by this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That there is hereby appropriated from the general fund of the state treasury the sum of \$12,000 for the relief of Michael A. Fabyanic, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution by Michael A. Fabyanic of a release and waiver forever releasing (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof and (ii) all other parties of interest from any present or future claims he may have against such enumerated parties in connection with the aforesaid occurrence.*

INTRODUCED

HB2782