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HOUSE BILL NO. 1380**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on March 1, 2006)

(Patron Prior to Substitute—Delegate Moran)

A BILL for the relief of Phillip Thurman.

Whereas, Phillip Thurman (Mr. Thurman) was arrested on November 30, 1984, on suspicion in a rape committed in Alexandria, Virginia; and

Whereas, Mr. Thurman was incarcerated from that time through the time of his trial; and

Whereas, Mr. Thurman pled not guilty and maintained his innocence throughout the trial; and

Whereas, on June 7, 1985, Mr. Thurman was convicted by a jury in the Circuit Court of the City of Alexandria for rape, assault and battery, and abduction; and

Whereas, on August 22, 1985, Mr. Thurman was sentenced to serve a term of 31 years in the state penitentiary; and

Whereas, during the period of his incarceration, Mr. Thurman consistently maintained his innocence; and

Whereas, Mr. Thurman was released on parole on November 17, 2004, after serving approximately 20 years of his sentence; and

Whereas, after his release, Mr. Thurman married the woman that he was dating when he was convicted, has reestablished a relationship with his three children, and has begun to develop a strong relationship with his nine grandchildren, many of whom he had never met; and

Whereas, Mr. Thurman has also achieved certification in the installation of fiber optic cable, but has been unable to obtain employment; and

Whereas, subsequent to Mr. Thurman's release from prison, DNA tests were conducted on a sampling of biological evidence contained in files for cases between 1973 and 1988, prior to the availability of DNA testing; and

Whereas, DNA testing of the biological material contained in Mr. Thurman's case file excluded him as a suspect in the crimes for which he was convicted; and

Whereas, Mr. Thurman petitioned Governor Mark Warner for a grant of clemency on the grounds that substantial evidence supported the conclusion that he was unjustly convicted and actually innocent; and

Whereas, S. Randolph Sengel, attorney for the Commonwealth of the City of Alexandria, supported Mr. Thurman's release and indicated in a letter to Governor Warner that "[I] am satisfied beyond a reasonable doubt and to a reasonable degree of certainty that Phillip Thurman did not commit the offenses of which he was convicted in this case. I respectfully ask that Mr. Thurman be granted a pardon as to these offenses"; and

Whereas, on December 22, 2005, Governor Warner granted Mr. Thurman an absolute pardon; and

Whereas, Mr. Thurman has also suffered severe physical, emotional, and psychological damage as a result of his incarceration and has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That the following shall be paid for the relief of Phillip Thurman from the general fund of the state treasury, upon execution of a release and waiver forever releasing (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof, (ii) any legal counsel appointed pursuant to § 19.2-159 of the Code of Virginia, and (iii) all other parties of interest from any present or future claims he may have against such enumerated parties in connection with the aforesaid occurrence: (a) the sum of \$150,000, to be paid to Phillip Thurman on or before August 1, 2006, by check issued by the State Treasurer on warrant of the Comptroller and (b) the sum of \$501,150 to be used by the State Treasurer to purchase an annuity for the primary benefit of Phillip Thurman providing for equal monthly payments, for a period certain of 15 years commencing on or before September 1, 2006. The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of Phillip Thurman to his spouse upon his death.

§ 2. That Phillip Thurman shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is

60 *provided. The tuition benefit provided by this section shall expire on July 1, 2011.*