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## HOUSE BILL NO. 2050

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on January 28, 2009)

(Patron Prior to Substitute—Delegate Gear)

*A BILL for the relief of Teddy Pierries Thompson.*

Whereas, Teddy Pierries Thompson was arrested on May 8, 2000 in the City of Hampton and charged with robbery, use of a firearm in the commission of a felony, and possession of a firearm by a felon; and

Whereas, Thompson consistently maintained his innocence concerning the charges and pled not guilty at the jury trial held on March 19, 2001; and

Whereas, Antonio Mitchell, the victim of the robbery, testified at the trial that a gunman approached him on a street corner of Langley Avenue in Hampton at approximately 10:30 p.m. on March 26, 2000, and robbed him of his wallet, his driver's license, and a fleece jacket; and

Whereas, Mitchell testified that he examined a photo spread on April 24, 2000, nearly a month after the robbery, and identified a photo of Thompson as the person who had robbed him; and

Whereas, Thompson presented evidence at the trial that he rented out a recording studio in Virginia Beach between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000, at the very time Thompson was alleged to have committed the robbery in Hampton at approximately 10:30 p.m.; and

Whereas, the owner of the recording studio testified that Thompson was at the recording studio in Virginia Beach continuously between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000, and produced his time sheet log for the night in question showing that he had rented the studio to Thompson; and

Whereas, another witness testified that he was with Thompson at the recording studio in Virginia Beach continuously between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000; and

Whereas, Thompson produced the written receipt showing that he had rented time at the recording studio in Virginia Beach between the hours of 8:00 p.m. and 1:30 p.m. on the evening of March 26, 2000; and

Whereas, it was noted at trial that Thompson had a solid alibi, supported by credible, un rebutted documentary and eyewitness evidence, which indicated he was present at a recording studio in Virginia Beach at the very time the robbery was taking place in Hampton; and

Whereas, a second victim of the robbery, Pete Holland, appeared at a pretrial hearing at the Hampton Circuit Court in November of 2000 and pointed to Thompson, who was sitting at the defense table, and said, "That's not the one. That's not the man that robbed me"; and

Whereas, the prosecutor asked Holland if he was sure that Thompson wasn't the robber, and Holland persisted in saying, "That's not the man that robbed me"; and

Whereas, when the prosecutor pulled out the pictures from the photo spread and showed them to Holland, Holland was unable to identify Thompson as the robber and said, "I told you once before, that's not the man who robbed me"; and

Whereas, Holland agreed to testify at Thompson's upcoming trial and gave his address to the defense attorney, who tried to subpoena Holland five separate times for the next scheduled trial date, but the defense attorney was unable to locate Holland and get him into court again, which resulted in forcing Thompson to go forward at trial without the testimony of Holland; and

Whereas, it was noted at trial that the police obtained a search warrant and searched Thompson's residence shortly after Mitchell made his photo spread identification, but the police did not find any handgun or any property belonging to Mitchell; and

Whereas, in addition it was noted at trial that the police did a traffic stop of Jerel Ballard four days after Mitchell's robbery and found Ballard in possession of Mitchell's driver's license; and

Whereas, it was also noted at trial that Ballard, a person with no connection whatsoever to Thompson, initially told police that he found the driver's license on the ground, but later changed his story to claim that his cousin had given him the driver's license; and

Whereas, it was further noted at trial that Thompson consistently maintained his innocence and did not make any confessions or incriminating statements; and

Whereas, despite the foregoing evidence, the jury found Thompson guilty as charged at the trial on March 9, 2001; and

Whereas, because the 17-year old Thompson was a juvenile at the time of the offense, the jury was not asked to fix Thompson's sentence and the matter was referred to a judge for sentencing; and

Whereas, at the sentencing hearing on June 25, 2001, Thompson continued to protest his innocence

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60 to the judge, saying, "I know it's serious, but I don't even know how I got in this predicament. It ain't  
61 like I was there with somebody ... at the wrong place, at the wrong time. It's none of that. It's just, I'm  
62 being accused of a crime that I didn't commit ... You go through this everyday. You hear robbery cases  
63 everyday. So me telling you that I didn't commit this crime, it's probably the same thing somebody else  
64 done told you. [But] it's not [always a lie]. I didn't commit this crime." (Sentencing Transcript, p. 30);  
65 and

66 Whereas, the judge sentenced Thompson on June 25, 2001, to an active sentence of eight years  
67 imprisonment on the robbery, three years imprisonment on the use of firearm, and five years  
68 imprisonment on the possession of firearm by felon; and

69 Whereas, Thompson subsequently filed a Petition for Appeal with the Virginia Court of Appeals,  
70 which was denied on March 2, 2002; and

71 Whereas, Thompson then filed a Petition for Appeal with the Virginia Supreme Court; and

72 Whereas, the Virginia Supreme Court denied the petition on June 11, 2002; and

73 Whereas, Thompson continued to work for his freedom by filing a petition for writ of habeas corpus  
74 in the Hampton Circuit Court on June 10, 2003, which was denied on March 28, 2006; and

75 Whereas, Thompson appealed the denial of the habeas petition to the Virginia Supreme Court, which  
76 was denied on September 12, 2006; and

77 Whereas, new evidence was subsequently revealed that supported Thompson's innocence; namely,  
78 Antonio Mitchell, the sole prosecution witness linking Thompson to the crime, contacted the Hampton  
79 Police and told them that he realized that he had made a mistake and that someone other than  
80 Thompson had robbed him; and

81 Whereas, based on this new evidence, Matthew W. Hoffman, Deputy Commonwealth Attorney for  
82 the City of Hampton, having debriefed Mitchell and been persuaded that Mitchell was telling the truth,  
83 moved to set aside Thompson's convictions on the grounds that Thompson had been wrongfully  
84 convicted; and

85 Whereas, on September 10, 2007, the Honorable Judge Louis R. Lerner, Judge of the Hampton  
86 Circuit Court, granted the motion and entered an order vacating the convictions; and

87 Whereas, Thompson was incarcerated from the time of his arrest on May 8, 2000 until he was  
88 released on September 10, 2007; and

89 Whereas, at the time of his arrest, Thompson was only 17 years old; and

90 Whereas, Thompson has lost the opportunity to complete his education and to earn potential income  
91 from employment during his eight years of incarceration; and

92 Whereas, Thompson has also suffered severe physical, emotional, and psychological damage as a  
93 result of this wrongful incarceration and has no other means to obtain adequate relief except by action  
94 of this body; now, therefore,

95 **Be it enacted by the General Assembly of Virginia:**

96 1. § 1. That the following shall be paid for the relief of Teddy Pierries Thompson from the general  
97 fund of the state treasury, upon execution of a release and waiver forever releasing (i) the  
98 Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof, (ii)  
99 any legal counsel appointed pursuant to §19.2-159 of the Code of Virginia, and (iii) all other parties of  
100 interest from any present or future claims he may have against such enumerated parties in connection  
101 with the aforesaid occurrence: (a) the sum of \$51,999, to be paid to Teddy Pierries Thompson on or  
102 before August 1, 2009, by check issued by the State Treasurer on warrant of the Comptroller and (b)  
103 the sum of \$207,996 to be used by the State Treasurer to purchase an annuity for the primary benefit of  
104 Teddy Pierries Thompson providing for equal monthly payments, for a period certain of 25 years  
105 commencing on or before September 1, 2009. The State Treasurer shall purchase the annuity at the  
106 lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth,  
107 including any A+ rated company from which the State Lottery Department may purchase an annuity.  
108 The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and  
109 mortgages.

110 § 2. That Teddy Pierries Thompson shall be entitled to receive career and technical training within  
111 the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost  
112 for the tuition benefit shall be paid by the community college at which the career or technical training  
113 is provided. The tuition benefit provided by this section shall expire on July 1, 2015.