VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act for the relief of Robert Paul Davis.

[H 1010]

Approved

Whereas, Robert Paul Davis (Robert Davis) spent almost 13 years in prison within the Virginia Department of Corrections for crimes he did not commit; and

Whereas, on February 19, 2003, the Crozet Fire Department and Albemarle County law-enforcement officers responded to a fire on Cling Lane in Crozet, Virginia, and upon entering the home, investigators discovered the bodies of Nola Annette Charles and her son, William Thomas Charles; and

Whereas, the deaths of Nola Annette Charles and William Thomas Charles were determined to be homicides; and

Whereas, investigation by law enforcement led to the arrest on February 21, 2003, of William Rockland Fugett, Jr. (Rocky Fugett), age 19, and his sister Jessica Gale Fugett (Jessica Fugett), age 15; and

Whereas, Rocky Fugett and Jessica Fugett lived across the street from the home of the Charleses and knew the Charles family; and

Whereas, Rocky Fugett and Jessica Fugett attended Western Albemarle High School, where Robert Davis also attended; and

Whereas, Rocky Fugett and Jessica Fugett were interrogated by investigators of the Albemarle County Police Department on February 21, 2003; and

Whereas, Rocky Fugett and Jessica Fugett admitted to the murders of Nola Annette Charles and William Thomas Charles and also implicated Robert Davis and others not prosecuted; and

Whereas, Rocky Fugett and Jessica Fugett were known to have bullied and harbored a deep hatred of Robert Davis; and

Whereas, there was substantial physical and forensic evidence linking Rocky Fugett and Jessica Fugett to the deaths of Nola Annette Charles and Williams Thomas Charles; and

Whereas, the statements by Rocky Fugett and Jessica Fugett implicating Robert Davis in the deaths of Nola Annette Charles and William Thomas Charles were never corroborated by any independent evidence; and

Whereas, Robert Davis was arrested on February 22, 2003, and subsequently interrogated by investigators of the Albemarle County Police Department; and

Whereas the video-taped interrogation commenced at 2:00 a.m., February 22, 2003, and continued until 8:00 a.m., February 22, 2003; and

Whereas, at the time of his arrest, Robert Davis was 18 years of age, was a senior at Western Albemarle High School, and had no prior adult criminal record; and

Whereas, at the time of his arrest, Robert Davis had a learning disability and had attended a special school for learning disabled students; and

Whereas, at the time of his arrest, Robert Davis was ill with a virus, was on antibiotic medication, and periodically used a breathing device for his asthma; and

Whereas, Robert Davis denied any involvement in the deaths of Nola Annette Charles and William Thomas Charles at least 78 times during almost six hours of video-taped interrogation; and

Whereas, Robert Davis asked to be given a polygraph examination at least five times and stated at least 26 times that he had not been in the Charleses' house; and

Whereas, the investigators interrogating Robert Davis did not have any independent, physical, or forensic evidence linking Robert Davis to the deaths of Nola Annette Charles and William Thomas Charles, only statements made by Rocky Fugett and Jessica Fugett implicating Robert Davis; and

Whereas, through improper and questionable interrogating procedures and techniques, the investigators fed Robert Davis facts relevant to the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, through these improper and questionable interrogating procedures and techniques, coupled with other salient factors, the investigators eventually wore Robert Davis down and overbore his will, and Robert Davis eventually confessed to the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, Robert Davis's confession was never corroborated by any independent evidence linking Robert Davis to the deaths of Nola Annette Charles and William Thomas Charles and the confession given by Robert Davis did not fit the facts of the crime scene; and

Whereas, upon the conclusion of the interrogation by investigators of the Albemarle County Police Department, Robert Davis once again insisted that he was not involved in the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, on October 6, 2003, Robert Davis was indicted on two counts of first-degree murder, two counts of attempted murder, and arson, robbery, and burglary; and

Whereas, a Motion to Suppress the Confession was heard by the Albemarle Circuit Court on December 2, 2003, and said motion was denied as a matter of constitutional law, leaving the reliability of the confession to the judgment of the jury; and

Whereas, prosecutors notified the attorneys for Robert Davis that Rocky Fugett would testify against Robert Davis; and

Whereas, Robert Davis, if convicted at trial, could have been sentenced to life imprisonment in the Virginia Department of Corrections; and

Whereas, the prosecutors offered Robert Davis the opportunity to plead guilty to the first-degree murder of Nola Annette Charles and the second-degree murder of William Thomas Charles and indicated that they would recommend a sentence of 23 years in the Virginia Department of Corrections; and

Whereas, Robert Davis continued to insist that he was innocent and was not involved in the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, the attorneys for Robert Davis were concerned that if Robert Davis went to trial on these charges and were found guilty, he likely would receive at least one life sentence; and

Whereas, upon consultation with his attorneys, who recommended that he accept the plea agreement, Robert Davis reluctantly agreed; and

Whereas, Robert Davis entered an "Alford Plea," which would allow him to maintain his innocence while acknowledging that the prosecutors could prove the charges; and

Whereas, on April 19, 2004, after entering his Alford Plea, Robert Davis, while still maintaining his innocence, was sentenced to 23 years in the Virginia Department of Corrections; and

Whereas, in 2006, Rocky Fugett, who was sentenced to 75 years in the Virginia Department of Corrections for his role in the deaths of Nola Annette Charles and William Thomas Charles, contacted the attorney for Robert Davis and recanted his statement, under oath, that Robert Davis was involved in the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, in 2012, Jessica Fugett, who was sentenced to 100 years in the Virginia Department of Corrections for her role in the deaths of Nola Annette Charles and William Thomas Charles, contacted the attorney for Robert Davis and recanted her statement, under oath, that Robert Davis was involved in the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, a Petition for Clemency on behalf of Robert Davis was filed in 2012 with the Office of the Governor of Virginia; and

Whereas, nationally recognized experts in the field of interrogation practices and procedures, along with mental health experts who evaluated Robert Davis, examined the interrogation processes and procedures used against Robert Davis and evidence related to the deaths of Nola Annette Charles and William Thomas Charles and opined that the interrogation of Robert Davis that led to his confession was improper and unreliable; and

Whereas, on December 21, 2015, Governor Terry McAuliffe granted the Petition for Clemency and issued a Conditional Pardon releasing Robert Davis from prison and placing him on parole; and

Whereas, in 2016, the Chief of Albemarle County Police Department and a senior detective stated that Robert Davis's confession was improperly obtained and thus unreliable, and this was presented to Governor Terry McAuliffe as a basis to request an absolute pardon for Robert Davis and a declaration of innocence; and

Whereas, on December 15, 2016, Governor Terry McAuliffe granted the Petition for Clemency, issued an Absolute Pardon, and declared Robert Davis innocent in the deaths of Nola Annette Charles and William Thomas Charles; and

Whereas, Robert Davis, as a result of this wrongful incarceration, has lost almost 13 years of his freedom and countless life experiences and opportunities, including the loss of family relations, the opportunity to further his education, and the opportunity to earn potential income from gainful employment during his years of incarceration; and

Whereas, Robert Davis, as a result of this wrongful incarceration, has suffered severe physical, emotional, and psychological damage; and

Whereas, Robert Davis 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 there is hereby appropriated from the general fund of the state treasury the sum of $582,313 for the relief of Robert Davis, to be paid by check issued by the State Treasurer on warrant of*

the Comptroller upon execution of a release of any present or future claims Robert Davis may have against (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 in connection with the aforesaid occurrence.

The compensation, subject to the execution of the release described herein, shall be paid as follows: (a) an initial lump sum of $116,463 to be paid to Robert Davis by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (b) the sum of $465,850 to purchase an annuity no later than September 30, 2018, for the primary benefit of Robert Davis, the terms of such annuity structured in Robert Davis's best interests based on consultation with Robert Davis or his representatives, the State Treasurer, and other necessary parties.

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 Robert Davis's death.

§ 2. That Robert Davis 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 provided. The tuition benefit provided by this section shall expire on January 1, 2023.

2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.