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HOUSE BILL NO. 1254

Offered January 20, 2022

A BILL for the relief of Eric Weakley, relating to claims; compensation for wrongful incarceration.

Patron—Sullivan

Referred to Committee on Appropriations

Whereas, Eric Weakley (Mr. Weakley) was convicted in the Culpeper Circuit Court on June 13, 2001, of second degree murder for a 1996 crime of which he is innocent; and

Whereas, Mr. Weakley was sentenced to 20 years of incarceration with 13 years and four months suspended; and

Whereas, Mr. Weakley served almost six years and eight months in the custody of the Virginia Department of Corrections before being released on probation; and

Whereas, after the 1996 murder of Thelma Scroggins went unsolved for several years, law enforcement zeroed in on Mr. Weakley, to the exclusion of other far more viable suspects; and

Whereas, law enforcement followed Mr. Weakley, repeatedly showing up at his home and workplaces, harassing him and interviewing him multiple times over the course of months; and

Whereas, Mr. Weakley repeatedly denied involvement in or knowledge of the murder, maintaining his innocence; and

Whereas, law enforcement coached Mr. Weakley, providing Mr. Weakley details and information about the crime and photos of the crime scene, and eventually pressured him into accepting responsibility for a crime he did not commit and implicating others; and

Whereas, law enforcement repeatedly disregarded details provided by Mr. Weakley that were inconsistent with the crime scene and physical evidence, such as the type of gun used, the number of shots fired, the location and type of wounds on the victim, and the clothing worn by the victim; and

Whereas, no physical evidence connected Mr. Weakley, who was 16 years old at the time of the crime, to the murder; and

Whereas, the physical evidence in fact supported the theory that the crime was committed by a single assailant, not three teenage boys; and

Whereas, Mr. Weakley's false confession was the product of extensive psychological coercion, including harassment and threats; and

Whereas, false confessions are a known cause of wrongful convictions; and

Whereas, Mr. Weakley had a newborn baby girl at the time he was being harassed by police, placing him under more pressure and making him even more susceptible to police coercion; and

Whereas, Mr. Weakley eventually pled guilty to second degree murder, all the while telling the judge at his plea hearing, "I am not guilty of the crime"; and

Whereas, Mr. Weakley ultimately testified against his two co-defendants, admitting on cross-examination at one trial that he had trouble distinguishing what was true from what was not; and

Whereas, one of Mr. Weakley's co-defendants, Jason Kloby, was acquitted at trial; and

Whereas, Mr. Weakley's second co-defendant, Michael Hash, was convicted, but was exonerated and had his conviction vacated on a petition for writ of habeas corpus by the United States District Court for the Western District of Virginia; and

Whereas, after his release, Mr. Weakley eventually fully recanted his confession, explaining that he had come to believe his false confession, that he had believed his testimony at Mr. Kloby's trial to be true at the time he provided it, and that by the time of Mr. Hash's trial, he testified to what he thought was the truth, but that he often could not tell truth from fiction at that point; and

Whereas, in providing a sworn recantation after having completed his own sentence, Mr. Weakley exposed himself to the possibility of perjury charges in order to do the right thing and help exonerate Mr. Hash; and

Whereas, in granting Mr. Hash habeas relief, a federal judge sitting in the United States District Court for the Western District of Virginia found Mr. Weakley's recantation to be reliable and corroborated; and

Whereas, Mr. Weakley, through the Innocence Project at the University of Virginia School of Law, submitted a petition for clemency seeking an absolute pardon based on the circumstances surrounding his innocence; and

Whereas, on January 3, 2022, Governor Ralph Northam granted Mr. Weakley an absolute pardon, and in so doing, noted that "Mr. Weakley was pressured by law enforcement to accept responsibility for a crime he did not commit" and that the pardon "reflects Mr. Weakley's innocence"; and

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59 Whereas, Mr. Weakley spent seven years on probation after his incarceration; and

60 Whereas, since Mr. Weakley's release, he has had no new arrests; and

61 Whereas, during the course of Mr. Weakley's wrongful incarceration, he missed the early childhood
62 of his young daughter, who was only one-and-a-half years old when he began his incarceration; and

63 Whereas, Mr. Weakley, as a result of his wrongful incarceration, lost nearly seven years of his
64 freedom and countless life experiences and opportunities, including family relations, the opportunity to
65 further his education, and the opportunity to earn potential income from gainful employment during his
66 years of incarceration; and

67 Whereas, Mr. Weakley has no other means to obtain adequate relief except by action of this body;
68 now, therefore,

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

70 **1.** *§ 1. That there is hereby appropriated from the general fund of the state treasury the sum of*
71 *\$371,933.87 for the relief of Eric Weakley, to be paid by check issued by the State Treasurer on*
72 *warrant of the Comptroller upon execution of a release of all claims Mr. Weakley may have against the*
73 *Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection*
74 *with the aforesaid occurrence.*

75 *The compensation, subject to the execution of the release described herein, shall be paid in (i) an*
76 *initial lump sum of \$74,386.77 by check issued by the State Treasurer on warrant of the Comptroller*
77 *within 60 days immediately following the execution of such release and (ii) the sum of \$297,547.10 to*
78 *purchase an annuity no later than one year after the effective date of the appropriation for*
79 *compensation, for the primary benefit of Mr. Weakley, the terms of such annuity structured in Mr.*
80 *Weakley's best interests based on consultation among Mr. Weakley or his representatives, the State*
81 *Treasurer, and other necessary parties.*

82 *The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated*
83 *company authorized to sell annuities in the Commonwealth, including any A+ rated company from*
84 *which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not*
85 *be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however,*
86 *contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr.*
87 *Weakley's death.*

88 *§ 2. That Mr. Weakley shall be entitled to receive career and technical training within the Virginia*
89 *Community College System free of tuition charges, up to a maximum of \$15,000. The cost for the tuition*
90 *benefit shall be paid by the community college at which the career or technical training is provided.*
91 *The tuition benefit provided by this section shall expire on January 1, 2026.*

92 *§ 3. That any amount already paid to Mr. Weakley as a transition assistance grant pursuant to*
93 *subsection C of § 8.01-195.11 of the Code of Virginia shall be deducted from any award received*
94 *pursuant to § 1 of this act.*

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