

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 826

An Act for the relief of Marvin Lamont Anderson.

[S 863]

Approved March 22, 2003

Whereas, in December 1982, Marvin Lamont Anderson (Anderson) was convicted in the Circuit Court of Hanover County of rape, abduction, sodomy and robbery, and sentenced to 210 years in prison; and

Whereas, the prosecution presented no physical evidence of Anderson's guilt at his trial; and

Whereas, the most significant evidence of Anderson's guilt presented at his trial was his identification by the victim as the perpetrator of the crimes against her; and

Whereas, the circumstances surrounding the victim's identification of Anderson as the perpetrator of the crimes against her were inconsistent with established procedures for such identifications; and

Whereas, testimony was given at Anderson's trial contradicting the victim's identification of Anderson; and

Whereas, although biological evidence was collected in a relevant and timely fashion as part of a rape kit, scientific procedures existing then were unable to exclude Anderson as the perpetrator; and

Whereas, Anderson had no prior criminal record and consistently maintained his innocence throughout the trial and thereafter; and

Whereas, at the time of his conviction Anderson was 19 years old, employed, and engaged to be married; and

Whereas, Anderson's appeal of the trial court's verdict was denied and he entered prison in 1983; and

Whereas, in 1988 another man, John Otis Lincoln (Lincoln), admitted under oath that he committed the crimes for which Anderson was convicted; however, this testimony was deemed unreliable by the reviewing judge; and

Whereas, Anderson was granted parole in 1997 after being imprisoned for 15 years, and was forced to register as a sex offender as a condition of his parole; and

Whereas, despite the increasing availability of DNA testing in the years following his conviction, Anderson was unable to pursue the use of DNA testing as a means of exonerating himself due to the misplacement of certain biological evidence by the Commonwealth and related claims by relevant state and local law-enforcement agencies that such biological evidence had been destroyed; and

Whereas, on May 2, 2001, the Commonwealth enacted a law allowing certain inmates and parolees access to the scientific analysis of previously untested evidence if such evidence could have a bearing on their guilt or innocence; and

Whereas, upon the discovery of certain physical evidence, Anderson's Motion for Scientific Analysis of Previously Untested Scientific Evidence was granted on November 1, 2001; and

Whereas, on December 6, 2001, the Virginia Division of Forensic Science completed the relevant DNA testing, testing that is far more accurate than the serological testing conducted prior to Anderson's initial trial, resulting in Anderson's exclusion as a perpetrator of the crimes for which he was convicted, thereby exonerating him; and

Whereas, this exoneration was the first under the Commonwealth's then-new law; and

Whereas, related testing conducted by the Virginia Division of Forensic Science led to the indictment of Lincoln for the December 1982 crimes for which Anderson was convicted; and

Whereas, although Anderson was exonerated, this had no effect on his convictions, or status as a parolee or registered sex offender; and

Whereas, on August 22, 2002, Governor Warner granted Anderson a full and absolute pardon for Anderson's December 1982 convictions for rape, abduction, sodomy and robbery, thereby eliminating his status as a parolee and registered sex offender; and

Whereas, Anderson has started a family and is employed; and

Whereas, Anderson's mother spent approximately \$66,000 in legal fees to clear her son's name; and

Whereas, Anderson lost income and a promising career during his 15 years of incarceration and four years as a parolee and registered sex offender; and

Whereas, Anderson has also suffered severe physical, emotional and psychological damage as a result of this wrongful 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 Marvin Lamont Anderson from the general fund of the state treasury, upon execution of a release of all claims he may have against the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision in connection with the*

aforesaid occurrence. The sum of \$200,000 to be paid to Marvin Lamont Anderson on or before August 1, 2003, by check issued by the State Treasurer on warrant of the Comptroller. In addition, the Commonwealth shall pay \$460,000 to purchase a non-assignable annuity for the benefit of Marvin Lamont Anderson providing for equal monthly payments to him for the remainder of his life commencing on or before September 1, 2003. The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company, including any A+ rated company from which the State Lottery Department may purchase an annuity.