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HOUSE BILL NO. 848**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations)

(Patron Prior to Substitute—Delegate Jones, S.C.)

House Amendments in [] — February 16, 2004

A BILL for the relief of Julius Earl Ruffin.

Whereas, Julius Earl Ruffin (Ruffin) is a resident of Suffolk, Virginia; and
Whereas, in 1982, Ruffin was employed by the Eastern Virginia Medical School as a maintenance worker; and

Whereas, in January 1982, the victim of a brutal rape identified Ruffin as her attacker after she saw him while riding in an elevator at the school; and

Whereas, on January 20, 1982, Ruffin was arrested by the Norfolk Police Department and charged with rape, statutory burglary and three counts of sodomy; and

Whereas, Ruffin was immediately incarcerated on January 20, 1982, pending trial on the charges; and

Whereas, the arrest and the charges were based on the victim's identification of Ruffin and blood tests that linked semen found at the crime scene with a gene pool including eight percent of all African-American men; and

Whereas, Ruffin's first trial on the charges occurred on May 3 and 4, 1982, and ended with a hung jury; and

Whereas, a second trial occurred on July 8 and 9, 1982, also ending with a hung jury; and

Whereas, in the case of the first and second trial, there was indication that the juries had serious questions about the description that the victim gave at the scene in contrast with Ruffin's physical appearance and gave weight to Ruffin's corroborated testimony that he was in Suffolk with his brother and two other friends on the night of the attack; and

Whereas, a third trial was held on September 30, 1982, and on October 1, 1982; and Ruffin was convicted of rape, statutory burglary and three counts of forcible sodomy; and

Whereas, on December 19, 1982, Ruffin was sentenced to five life terms in the Virginia State Penitentiary; and

Whereas, Ruffin maintained his innocence and proceeded to pursue all allowable appeals in the state and federal system, all of which were denied; and

Whereas, though ultimately eligible for parole, Ruffin continued to assert his innocence, which adversely affected the outcome of each hearing, denying him the opportunity for parole; and

Whereas, over the course of his incarceration, Deoxyribonucleic acid (DNA) testing became a forensically accepted and more definitive method for identifying individuals accused of committing crimes; and

Whereas, Ruffin sought to have the forensic evidence in his case reanalyzed using the more sophisticated DNA testing as a means of proving his innocence; and

Whereas, Ruffin was initially informed by the Virginia Division of Forensic Science (Division) that they were unable to comply with his request because it was standard operating procedure to send all forensic evidence back to the agency providing it after all the appeals of the person convicted were exhausted; and

Whereas, Ruffin continued to pursue the evidence by making a formal request with the Commonwealth Attorney's office of the City of Norfolk to search for remaining evidence for the DNA testing; and

Whereas, a search by state scientists at the Division yielded a small portion of biological evidence that was suitable for the testing; and

Whereas, on December 31, 2002, the Circuit Court of the City of Norfolk ordered the Division to perform appropriate DNA testing on the biological evidence; and

Whereas, pursuant to that order, the Division completed that testing and on February 11, 2003, issued a Certificate of Analysis excluding Ruffin as a possible contributor of the DNA found in the samples collected from the crime scene; and

Whereas, the Certificate of Analysis further stated that the DNA did match that of an individual who was already incarcerated; and

Whereas, on February 12, 2003, the Commonwealth's Attorney for the City of Norfolk arranged to have Ruffin released on parole; and

Whereas, on February 19, 2003, the Commonwealth's Attorney of the City of Norfolk and Ruffin through legal counsel made a written request to Governor Mark Warner for executive clemency; and

Whereas, on March 19, 2003, Governor Warner granted Ruffin an Absolute Pardon; and

Whereas, Ruffin, from the time of his incarceration in 1982 to his release in 2003, was incarcerated

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60 for more than 21 years in the Virginia prison system; and

61 Whereas, Ruffin lost income and the ability to pursue a career as an electrician as a result of his
62 incarceration; and

63 Whereas, Ruffin has also suffered severe physical, emotional and psychological damage as a result of
64 this incarceration and has no other means to obtain adequate relief except by action of this body; now,
65 therefore,

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

67 **1. § 1.** *That the following shall be paid for the relief of Julius Earl Ruffin from the general fund of the*
68 *state treasury, upon execution of a release and waiver forever releasing (i) the Commonwealth or any*
69 *agency, instrumentality, officer, employee, or political subdivision thereof, (ii) any legal counsel*
70 *appointed pursuant to § 19.2-159 of the Code of Virginia, and (iii) all other parties of interest from any*
71 *present or future claims he may have against such enumerated parties in connection with the aforesaid*
72 *occurrence: (a) the sum of \$250,000 to be paid to Julius Earl Ruffin on or before August 1, 2004, by*
73 *check issued by the State Treasurer on warrant of the Comptroller and (b) \$500,000 for the purchase of*
74 *an annuity for the primary benefit of Julius Earl Ruffin providing for equal monthly payments, for a*
75 *period certain of 20 years commencing on or before September 1, 2004. The State Treasurer shall*
76 *purchase the annuity at the lowest cost available from any A+ rated company authorized to sell*
77 *annuities in the Commonwealth, including any A+ rated company from which the State Lottery*
78 *Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or*
79 *used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary*
80 *provisions providing for the annuity's continued disbursement in the event of the death of Julius Earl*
81 *Ruffin to his children and his spouse upon his death.*

82 **§ 2.** *That Julius Earl Ruffin shall be entitled to receive career and technical training within the*
83 *Virginia community college system free of tuition charges, up to a maximum of \$10,000. The cost for*
84 *the tuition benefit shall be paid by the community college at which the career or technical training is*
85 *provided. The tuition benefit provided by this section shall expire on July 1, 2009.*

86 ~~**[§ 3.** *The City of Norfolk shall reimburse to the general fund of the state treasury the amount of*~~
87 ~~*\$100,000. Such reimbursement shall be made from the distribution of House Bill 599 funds appropriated*~~
88 ~~*to the City of Norfolk pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 of the Code of*~~
89 ~~*Virginia.]*~~