

063981800

SENATE BILL NO. 609

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 7, 2006)

(Patron Prior to Substitute— Senator Lambert)

A BILL for the relief of Troy D. Hopkins.

Whereas, on December 21, 1990, Troy D. Hopkins (Mr. Hopkins) was convicted by a jury in the Circuit Court of the City of Richmond, Virginia, for the murder of Curtis Kearney and for attempted robbery, use of a firearm in the commission of murder, and use of a firearm in the commission of attempted robbery; and

Whereas, on March 20, 1991, Mr. Hopkins was sentenced to 28 years in the penitentiary; and

Whereas, on March 13, 2001, Mr. Hopkins was released on parole after serving 10 years, two and one-half months; and

Whereas, after the trial, numerous witnesses came forward and testified during hearings that Mr. Hopkins did not kill Curtis Kearney, but that Mr. Kearney was killed by Adrian Epps; and

Whereas, Adrian Epps subsequently admitted killing Mr. Kearney and signed an affidavit in 1992 confessing to the murder; and

Whereas, Joseph Morrissey, the Richmond attorney for the Commonwealth at the time of Mr. Hopkins' trial in 1990, concurred in a request by defense attorneys representing Mr. Hopkins for a new trial based on newly discovered evidence, but the court denied the request; and

Whereas, David Hicks, the Richmond Commonwealth's Attorney who succeeded Mr. Morrissey in that office, stated the following in a 2003 affidavit: "In light of the wealth of exculpatory evidence, it is my position that Hopkins was convicted for a crime which he did not commit and that he is innocent for the crime in question. The continued existence and possible dissemination of information relating to Hopkins' unjust conviction represents a manifest injustice given the fact that Hopkins is wholly innocent of all crimes for which he was convicted. Hopkins should not be subject to the negative consequences that flow from his erroneous conviction. Therefore, in the interest of justice, Hopkins' conviction should be invalidated, the record should be corrected in order to reflect Hopkins' innocence regarding the crimes for which he was convicted, and all of Hopkins' rights should be restored to that of every citizen recognized in the Commonwealth of Virginia"; and

Whereas, Mr. Hopkins is currently employed and is married and has led a law-abiding life since his release from prison; and

Whereas, on July 21, 2004, Mr. Hopkins petitioned Governor Mark Warner for a grant of executive clemency based on the existence of substantial evidence that Mr. Hopkins was unjustly convicted and is innocent; and

Whereas, on August 3, 2005, Governor Warner issued an absolute pardon from all offenses for which Mr. Hopkins was convicted on December 21, 1990; and

Whereas, Mr. Hopkins has also suffered severe physical, emotional, and psychological damage as a result of this 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 Troy D. Hopkins from the general fund of the state treasury, upon execution of a release and waiver forever releasing (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 from any present or future claims he may have against such enumerated parties in connection with the aforesaid occurrence: (a) the sum of \$84,649.50 to be paid to Troy D. Hopkins on or before August 1, 2006, by check issued by the State Treasurer on warrant of the Comptroller and (b) an annuity for the primary benefit of Troy D. Hopkins providing for equal monthly payments, for a period certain of 25 years commencing on or before September 1, 2006, in the cumulative amount of \$338,598. 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 the death of Troy D. Hopkins to his spouse upon his death.

§ 2. That Troy D. Hopkins 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

60 *provided. The tuition benefit provided by this section shall expire on July 1, 2011.*