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HOUSE BILL NO. 460

Offered January 8, 2020

Prefiled January 3, 2020

*A BILL for the relief of Winston Lamont Scott.*_____
Patron—Sullivan_____
Referred to Committee on Appropriations

Whereas, Winston Lamont Scott (Mr. Scott) spent more than five years in prison within the Virginia Department of Corrections for crimes he did not commit; and

Whereas, on July 24, 1975, the Fairfax County Police Department responded to a rape that occurred at an apartment in Reston, Virginia; and

Whereas, the victim erroneously identified Mr. Scott as her assailant based upon a composite sketch and photo lineup conducted more than two months after the incident took place; and

Whereas, Mr. Scott denied committing the rape and testified at trial that he was at other locations at the time the incident took place; and

Whereas, Mr. Scott testified that he did not own a car and that he spent the night of July 24, 1975, at a friend's house, that of Bobby Reid, which was nearly five miles away from the victim's apartment; and

Whereas, both Bobby Reid and Beverly Reid, Mr. Reid's mother, testified that Mr. Scott spent the night at their house and saw Mr. Scott the next morning; and

Whereas, forensic examination of bodily secretions found on the victim's jeans did not match Mr. Scott's blood type; and

Whereas, on January 26, 1976, Mr. Scott was convicted of rape, carnal knowledge, and burglary and was sentenced to a combined 14 years' incarceration for the crimes; and

Whereas, on May 26, 1981, Mr. Scott was granted parole, and on February 18, 1986, Mr. Scott was discharged from parole; and

Whereas, in 2005, Governor Mark Warner ordered the Department of Forensic Science (DFS) to test biological evidence collected and retained by DFS relating to criminal cases tried between 1973 and 1988, using DNA testing that was not available when those cases were tried; and

Whereas, in 2010, pursuant to this order, DFS conducted tests on biological evidence samples it retained from Mr. Scott's case, specifically DNA testing of the victim's vaginal swabs and a semen stain on her jeans; and

Whereas, in 2017, DFS performed DNA testing on a buccal swab from Mr. Scott, which concluded that "Scott is eliminated as a contributor of the DNA profile" of the stain found on the victim's jeans; and

Whereas, Mr. Scott filed a petition for a writ of actual innocence, pursuant to § 19.2-327.2, on September 28, 2017, based on previously unavailable DNA evidence; and

Whereas, the Supreme Court of Virginia found that Mr. Scott had proven his actual innocence claim by clear and convincing evidence as required by subsection A of § 19.2-327.3; and

Whereas, on March 7, 2019, the Supreme Court of Virginia granted Mr. Scott's petition, vacated his convictions, and issued a writ of actual innocence; and

Whereas, Mr. Scott, as a result of his wrongful incarceration, lost more than five years of his freedom and countless life experiences and opportunities, including 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, Mr. Scott 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 \$159,535 for the relief of Winston Lamont Scott, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Scott may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

The compensation, subject to the execution of the release described herein, shall be paid as follows:

(i) an initial lump sum of \$31,907 to be paid to Mr. Scott by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (ii) the sum of \$127,628 to purchase an annuity no later than September 30, 2020, for the primary benefit

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59 of Mr. Scott, the terms of such annuity structured in Mr. Scott's best interests based on consultation
60 among Mr. Scott or his representatives, the State Treasurer, and other necessary parties.

61 The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated
62 company authorized to sell annuities in the Commonwealth, including any A+ rated company from
63 which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not
64 be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however,
65 contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr.
66 Scott's death. Notwithstanding the provisions of subsection B of § 8.01-195.11, the State Treasurer may
67 purchase for Mr. Scott an annuity with a period certain of less than 25 years, but not less than 10
68 years.

69 § 2. That Mr. Scott shall be entitled to receive career and technical training within the Virginia
70 Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition
71 benefit shall be paid by the community college at which the career or technical training is provided.
72 The tuition benefit provided by this section shall expire on January 1, 2025.

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