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HOUSE BILL NO. 1582

House Amendments in [] - February 2, 2023

A *BILL for the relief of David Wayne Kingrea, relating to claims; compensation for wrongful incarceration.*

Patron Prior to Engrossment—Delegate Sullivan

Referred to Committee on Appropriations

Whereas, David Wayne Kingrea (Mr. Kingrea) was convicted in 2014 in the Montgomery County Circuit Court of the felony offense of taking indecent liberties with Mr. Smith, the minor son of his then-girlfriend, a crime that he did not commit; and

Whereas, Mr. Kingrea was sentenced to 12 months in jail for such conviction and was required to register as a sex offender; and

Whereas, Mr. Kingrea served 12 months in the custody of the Virginia Department of Corrections; and

Whereas, Mr. Smith testified at Mr. Kingrea's trial that Mr. Kingrea sexually abused him on multiple occasions; and

Whereas, Mr. Smith recanted his testimony in October 2020; and

Whereas, Mr. Kingrea began pursuing exoneration at that time; and

Whereas, Mr. Kingrea pursued a writ of actual innocence in the Virginia Court of Appeals on August 19, 2021; and

Whereas, the Virginia Court of Appeals granted Mr. Kingrea's petition and issued a writ of actual innocence, vacating his convictions on June 6, 2022, pursuant to Chapter 19.3 (§ 19.2-327.10 et seq.) of Title 19.2 of the Code of Virginia; and

Whereas, Mr. Kingrea, as a result of his wrongful incarceration, lost 12 months 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 the year of his incarceration; and

Whereas, Mr. Kingrea 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 [~~an amount to be provided in the appropriation act~~ \$58,942] for the relief of David Wayne Kingrea, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Kingrea 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 in (i) an initial lump sum of [~~25 percent of the amount provided in the appropriation act~~ \$30,353] 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 [~~75 percent of the amount provided in the appropriation act~~ \$28,589] to purchase an annuity no later than one year after the effective date of the appropriation for compensation, for the primary benefit of Mr. Kingrea, the terms of such annuity structured in Mr. Kingrea's best interests based on consultation among Mr. Kingrea or his representatives, the State Treasurer, and other necessary parties.

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 Mr. Kingrea's death.

§ 2. That Mr. Kingrea shall receive a transition assistance grant of \$15,000 within 30 days of receipt of the written request for the disbursement of such transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Any amount paid to Mr. Kingrea as a transition assistance grant pursuant to subsection D of § 8.01-195.11 of the Code of Virginia shall be deducted from [the initial lump sum amount of] any award received pursuant to § 1 of this act.

§ 3. That Mr. Kingrea 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 tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition

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HB1582E

59 *benefit provided by this section shall expire on January 1, 2027.*

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