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## HOUSE BILL NO. 1586

Offered January 11, 2023

Prefiled January 6, 2023

A BILL to amend and reenact § 8.01-195.11 of the Code of Virginia, relating to wrongful incarceration; compensation.

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Patron—Sullivan

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Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-195.11 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-195.11. Compensation for wrongful incarceration.**

A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony may be awarded compensation for each year of incarceration, or portion thereof. The amount of compensation per year shall be \$55,000, adjusted annually by the percentage increase in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any predecessor or successor index, compared with the prior calendar year. Calculations made pursuant to this section shall be made by the State Treasurer.

*The wrongfully incarcerated person shall also receive not less than \$25,000 for each year (i) of imprisonment after being sentenced to death; (ii) served on parole or postrelease supervision; or (iii) such person was required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.*

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum equal to 25 percent of the compensation award with the remaining 75 percent of the principal of the compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated company from which the Virginia Lottery may purchase an annuity, to provide equal monthly payments to such person for a period certain of 10 years commencing no later than one year after the effective date of the appropriation; however, if such person's life expectancy, as calculated pursuant to the provisions of § 8.01-419 based on his age on the effective date of the appropriation, is less than 10 years, then, upon his election, the annuity period shall be equal to his life expectancy. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the person awarded compensation. All payments or costs of annuities under this section shall be made by check issued by the State Treasurer on warrant of the Comptroller.

Notwithstanding the foregoing, in the event that the person wrongfully incarcerated is 60 years of age or older or is terminally ill, the General Assembly may (i) pay 100 percent of the compensation computed pursuant to subsection A as a lump sum to the person wrongfully incarcerated or (ii) purchase an annuity for a period certain that is less than 10 years. For the purposes of this section, "terminally ill" means that the individual has a medical prognosis, as certified by a licensed physician, that his life expectancy is five years or less if the illness runs its normal course.

C. In addition to the compensation awarded pursuant to subsection A, the General Assembly may pay to the person wrongfully incarcerated the amount of any unreimbursed fine, fee, court cost, or restitution imposed and paid and reasonable attorney fees and costs incurred to receive an award pursuant to this section.

D. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B, within 30 days of receipt of the written request for the disbursement of the transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the comprehensive

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**59** community college at which the career or technical training was completed.