

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act for the relief of Edward William Honaker.*

3 [H 222]

4 Approved

5 Whereas, Edward William Honaker was brought to trial in the Circuit Court of Nelson County on
 6 February 6, 1985, on seven different charges, including two counts of rape, forcible sodomy, aggravated
 7 sexual battery, abduction, use or display of a firearm in the commission of rape, and use or display of a
 8 firearm in the commission of abduction; and

9 Whereas, on February 7, 1985, Mr. Honaker, having pled not guilty to all charges, nevertheless was
 10 found guilty by a jury of his peers of all of the crimes charged; and

11 Whereas, on April 10, 1985, the presiding judge imposed the sentence recommended by the jury
 12 which totaled three life terms plus 34 years; and

13 Whereas, conclusive new forensic DNA testing conducted at the request of the Commonwealth's
 14 Attorney for Nelson County by the Commonwealth of Virginia's Division of Forensic Science and at the
 15 request of Mr. Honaker's counsel by an independent laboratory, produced consistent results proving
 16 Edward Honaker could not have been the person who committed this crime; and

17 Whereas, evidence that Mr. Honaker had an effective vasectomy provides additional strong proof of
 18 his innocence; and

19 Whereas, the prosecution's case consisted primarily of eyewitness testimony from the victim and her
 20 boyfriend who gave descriptions of the rapist and information to produce composite sketches; and

21 Whereas, four months later the Roanoke police provided the Nelson County police with a photograph
 22 of Mr. Honaker because it was thought he resembled one of the sketches; and

23 Whereas, Mr. Honaker's photograph was placed with five other photographs, which did not
 24 substantially resemble either each other or the descriptions given of the rapist; and

25 Whereas, new exculpatory evidence, unknown by the defense or the jury at the time of trial, shows
 26 that the victim and her boyfriend were secretly and improperly hypnotized four days after the incident,
 27 and that the victim initially said she was not allowed to clearly see her attacker during the entire
 28 incident and could only recall seeing her attacker's face after hypnosis; and

29 Whereas, testimony concerning hypnotically enhanced recollections has been considered inadmissible
 30 and unreliable evidence in Virginia since 1974; and

31 Whereas, on June 24, 1994, Mr. Honaker, through counsel, petitioned the Governor for a grant of
 32 Executive Clemency; and

33 Whereas, on October 21, 1994, after a thorough review of the contentions made in the clemency
 34 petition, Governor George Allen, granted Edward William Honaker an absolute pardon from all the
 35 offenses for which he was convicted; and

36 Whereas, Edward William Honaker has been wrongfully incarcerated for ten years at the Nottoway
 37 Correctional Center, a maximum security prison, and has suffered mental and emotional trauma, in
 38 addition to substantial lost wages, as a result of his incarceration; and

39 Whereas, Edward William Honaker has no other means to obtain reimbursement for his expenses
 40 except by the action of this body; now, therefore,

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

42 1. § 1. That there shall be paid for the relief of Edward William Honaker from the state insurance
 43 reserve trust fund administered by the Division of Risk Management of the Department of General
 44 Services, upon execution of a release of all claims he may have against the Commonwealth or any
 45 agency, instrumentality, officer, employee, or political subdivision in connection with the aforesaid
 46 occurrence, (i) the sum of \$150,000 to be paid to Edward William Honaker by check issued by the State
 47 Treasurer on warrant of the Comptroller and (ii) an annuity for the primary benefit of Edward William
 48 Honaker providing for equal monthly payments, for a period certain of ten years commencing on or
 49 about the effective date of this act, in the cumulative amount of \$350,000. The Division of Risk
 50 Management of the Department of General Services shall purchase the annuity at the lowest cost
 51 available from any A+ rated company, including any A+ rated company from which the Lottery
 52 Department may purchase an annuity.