

1997 SESSION

INTRODUCED

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SENATE BILL NO. 713

Offered January 8, 1997

A BILL for the relief of Delores Owens.

Patron—Houck

Referred to the Committee on Finance

Whereas, in 1994, Herbert W. Lux was convicted in Spotsylvania County Circuit Court of one count of grand larceny by false pretense and one count of grand larceny-mechanic's fraud in stealing approximately \$5,000 during the construction of a home for Delores Owens; and

Whereas, the court fined Mr. Lux \$5,000 and sentenced him to nine months in jail, of which seven months were suspended on the conditions of Mr. Lux's good behavior and his payment of restitution of \$2,500 to Delores Owens and \$2,820 to one of the subcontractors; and

Whereas, when Mr. Lux failed to pay the court-ordered restitution, the Spotsylvania County Commonwealth's Attorney, William F. Neely, instituted a show cause proceeding against Mr. Lux; and

Whereas, at the show cause hearing in January 1996, the Spotsylvania County Circuit Court found Mr. Lux to be in violation of the terms of his probation and the case was carried over for sentencing in June; and

Whereas, in February 1996, Mr. Lux filed a lawsuit against Mrs. Owens and Mr. Neely in United States District Court, alleging that Mrs. Owens conspired with Mr. Neely to prosecute him for fraud, in violation of 42 U.S.C. § 1983; and

Whereas, the federal court dismissed Mr. Lux's suit on June 6, 1996, finding that his complaint against Mrs. Owens failed to state a claim upon which relief can be granted; and

Whereas, Mr. Lux filed the suit in an attempt to fabricate a conflict of interests that might prevent Mr. Neely from prosecuting him at the sentencing hearing; and

Whereas, Mrs. Owens retained John Gibney, Esquire, to represent her in the suit filed by Mr. Lux, for which she has paid Mr. Gibney the sum of \$450; and

Whereas, Mr. Lux was sentenced to serve the seven-month balance of his jail sentence, has completed a bankruptcy proceeding, and is effectively judgment proof; and

Whereas, § 19.2-368.2 of the Code of Virginia limits compensation to victims of crime to personal physical injury or death or to emotional injury resulting from abduction or robbery, but the Code of Virginia does not provide a means for compensating a crime victim for her attorney's fees in defending a frivolous lawsuit brought by a person convicted of committing a crime against her; and

Whereas, Delores Owens 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 \$450 for the relief of Delores Owens to be paid by check issued by the State Treasurer on warrant of the Comptroller to Delores Owens, upon execution by her of a release of all claims she may have against the Commonwealth or any of its political subdivisions or their officers, employees, or agents in connection with the aforesaid occurrence.

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