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HOUSE BILL NO. 1255

Offered January 20, 2022

A BILL for the relief of Lamar Barnes, relating to claims; compensation for wrongful incarceration.

Patron—Sullivan

Committee Referral Pending

Whereas, Lamar Barnes (Mr. Barnes) was convicted in the Circuit Court of the City of Portsmouth on August 1, 2003, of first degree murder, malicious wounding, and two counts of use of a firearm in the commission of a felony, crimes that he did not commit; and

Whereas, Mr. Barnes was sentenced to life in prison plus 28 years; and

Whereas, Mr. Barnes served almost 20 years in the custody of the Virginia Department of Corrections; and

Whereas, Mr. Barnes, through the Innocence Project at the University of Virginia School of Law, submitted a petition for clemency seeking an absolute pardon based on the circumstances surrounding his innocence; and

Whereas, on January 4, 2022, Governor Ralph Northam granted Mr. Barnes an absolute pardon, noting that the pardon "reflects Lamar Barnes's innocence"; and

Whereas, Mr. Barnes was convicted largely based on his identification by three eyewitnesses at trial, all of whom have subsequently recanted their testimony and stated that they identified Mr. Barnes as a result of pressure from law enforcement and prosecutors; and

Whereas, Mr. Barnes's conviction was also the result of numerous constitutional violations, including due process violations, the suppression of exculpatory evidence, and the presentation of false evidence; and

Whereas, Mr. Barnes had a corroborated alibi for the time of the crime, which was not presented at trial; and

Whereas, multiple witnesses have identified an alternate suspect as the person who committed the crimes for which Mr. Barnes was convicted; and

Whereas, there was no physical evidence linking Mr. Barnes to the crime; and

Whereas, the Conviction Integrity Unit of the Office of the Attorney General conducted its own, independent investigation into Mr. Barnes's case and agreed that he is innocent of the crimes for which he was convicted; and

Whereas, during the course of Mr. Barnes's wrongful incarceration, he missed close to two decades in the lives of his children, who were infants at the time of his conviction; and

Whereas, Mr. Barnes, as a result of his wrongful incarceration, lost almost 20 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. Barnes 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 \$1,097,980.02 for the relief of Lamar Barnes, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Barnes 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 \$219,596.00 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 \$878,384.02 to purchase an annuity no later than one year after the effective date of the appropriation for compensation, for the primary benefit of Mr. Barnes, the terms of such annuity structured in Mr. Barnes's best interests based on consultation among Mr. Barnes 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.

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59 *Barnes's death.*

60 § 2. *That Mr. Barnes shall be entitled to receive career and technical training within the Virginia*
61 *Community College System free of tuition charges, up to a maximum of \$15,000. The cost for the tuition*
62 *benefit shall be paid by the community college at which the career or technical training is provided.*
63 *The tuition benefit provided by this section shall expire on January 1, 2026.*

64 § 3. *That any amount already paid to Mr. Barnes as a transition assistance grant pursuant to*
65 *subsection C of § 8.01-195.11 of the Code of Virginia shall be deducted from any award received*
66 *pursuant to § 1 of this act.*

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