

# HOUSE BILL 742

P1

1r1623  
CF SB 14

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By: **Delegate Dumais**

Introduced and read first time: January 29, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Compensation to Individual Erroneously Convicted, Sentenced, and Confined**  
3 **(The Walter Lomax Act)**

4 FOR the purpose of altering a provision of law to require, rather than authorize, the Board  
5 of Public Works to pay certain compensation to a certain individual who has been  
6 erroneously convicted, sentenced, and confined for a felony on receipt of a certain  
7 order; authorizing an administrative law judge to issue a certain order of eligibility  
8 under certain circumstances; requiring certain compensation made by the Board to  
9 be equal to a certain amount; authorizing the administrative law judge issuing a  
10 certain order to direct certain State agencies and service providers to provide certain  
11 benefits free of charge; requiring certain compensation to be reduced by certain  
12 amounts under certain circumstances; authorizing the State to obtain a certain lien  
13 under certain circumstances; prohibiting an individual from receiving certain  
14 compensation for certain periods of confinement; requiring an individual to file a  
15 petition for a certain order within a certain period of time after certain events;  
16 authorizing a certain person to request an order of eligibility on behalf of a certain  
17 deceased individual; requiring a certain petition to be served on a certain State's  
18 Attorney, or the State's Attorney's designee, and the Attorney General, or the  
19 Attorney General's designee; authorizing a certain decision to be appealed by certain  
20 parties; requiring a certain order to contain certain information; requiring a copy of  
21 a certain order to be delivered to the Board and certain State agencies or service  
22 providers; repealing a provision of law providing for eligibility for a certain grant in  
23 situations in which a State's Attorney has certified that a conviction was in error  
24 under a certain provision of law; repealing certain provisions of law prohibiting the  
25 payment of certain money to certain individuals; providing that certain provisions  
26 do not prohibit an individual from contracting for services to obtain certain  
27 compensation; establishing certain reporting requirements; requiring the Office of  
28 Administrative Hearings, in consultation with the Board, to adopt certain  
29 regulations; prohibiting a person who provides certain services to obtain certain  
30 compensation from charging, demanding, receiving, or collecting payment except  
31 under certain circumstances; providing that a certain obligation incurred is void

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 under certain circumstances; requiring the Chief Administrative Law Judge to  
 2 assign administrative law judges to conduct hearings on certain cases; authorizing  
 3 the Chief Administrative Law Judge to serve as an administrative law judge in a  
 4 certain case; making conforming changes; providing for the application of this Act;  
 5 and generally relating to compensation to individuals erroneously convicted,  
 6 sentenced, and confined.

7 BY repealing and reenacting, with amendments,  
 8 Article – State Finance and Procurement  
 9 Section 10–501  
 10 Annotated Code of Maryland  
 11 (2015 Replacement Volume and 2020 Supplement)

12 BY adding to  
 13 Article – State Finance and Procurement  
 14 Section 10–502  
 15 Annotated Code of Maryland  
 16 (2015 Replacement Volume and 2020 Supplement)

17 BY repealing and reenacting, with amendments,  
 18 Article – State Government  
 19 Section 9–1604(a)(4) and (b)(1)(i)  
 20 Annotated Code of Maryland  
 21 (2014 Replacement Volume and 2020 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 23 That the Laws of Maryland read as follows:

24 **Article – State Finance and Procurement**

25 10–501.

26 (a) (1) [Subject to] **ON RECEIPT OF AN ORDER BY AN ADMINISTRATIVE**  
 27 **LAW JUDGE GRANTING A PETITION UNDER** subsection (b) of this section, the Board of  
 28 Public Works [may grant to] **SHALL COMPENSATE** an individual erroneously convicted,  
 29 sentenced, and confined under State law for a crime the individual did not commit **IN** an  
 30 amount [commensurate with the actual damages sustained by the individual, and may  
 31 grant a reasonable amount for any financial or other appropriate counseling for the  
 32 individual, due to the confinement] **EQUAL TO THE PRODUCT OF THE TOTAL NUMBER**  
 33 **OF DAYS THAT THE INDIVIDUAL WAS WRONGFULLY CONFINED MULTIPLIED BY A**  
 34 **DAILY RATE OF THE STATE’S MOST RECENT ANNUAL MEDIAN HOUSEHOLD INCOME**  
 35 **AS PUBLISHED IN THE AMERICAN COMMUNITY SURVEY OF THE U.S. CENSUS**  
 36 **BUREAU IN THE YEAR THE ORDER OF ELIGIBILITY IS ISSUED UNDER SUBSECTION**  
 37 **(B) OF THIS SECTION AND DIVIDED BY 365 DAYS TO THE NEAREST WHOLE CENT.**

1           [(2) In making a grant under paragraph (1) of this subsection, the Board of  
2 Public Works shall use money in the General Emergency Fund or money that the Governor  
3 provides in the annual budget.]

4           **(2) IN ADDITION TO THE COMPENSATION AWARDED UNDER  
5 PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATIVE LAW JUDGE ISSUING  
6 AN ORDER UNDER SUBSECTION (B) OF THIS SECTION MAY DIRECT THE  
7 APPROPRIATE STATE AGENCY OR SERVICE PROVIDER TO PROVIDE TO THE  
8 INDIVIDUAL FREE OF CHARGE ANY OF THE FOLLOWING BENEFITS:**

9           **(I) A STATE IDENTIFICATION CARD AND ANY OTHER  
10 DOCUMENT NECESSARY FOR THE INDIVIDUAL'S HEALTH OR WELFARE ON THE  
11 INDIVIDUAL'S RELEASE FROM CONFINEMENT;**

12           **(II) HOUSING ACCOMMODATIONS AVAILABLE ON THE  
13 INDIVIDUAL'S RELEASE FROM CONFINEMENT FOR A PERIOD NOT EXCEEDING 5  
14 YEARS;**

15           **(III) EDUCATION AND TRAINING RELEVANT TO LIFE SKILLS, JOB  
16 AND VOCATIONAL TRAINING, OR FINANCIAL LITERACY FOR A PERIOD OF TIME UNTIL  
17 THE INDIVIDUAL ELECTS TO NO LONGER RECEIVE THE EDUCATION AND TRAINING;**

18           **(IV) HEALTH CARE AND DENTAL CARE FOR AT LEAST 5 YEARS  
19 AFTER THE INDIVIDUAL'S RELEASE FROM CONFINEMENT;**

20           **(V) ACCESS TO ENROLLMENT AT AND PAYMENT OF TUITION AND  
21 FEES FOR ATTENDING A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, A  
22 REGIONAL HIGHER EDUCATION CENTER, OR THE BALTIMORE CITY COMMUNITY  
23 COLLEGE FOR A PERIOD OF ENROLLMENT NOT EXCEEDING 5 YEARS; AND**

24           **(VI) REIMBURSEMENT FOR COURT FINES, FEES, AND  
25 RESTITUTION PAID BY THE INDIVIDUAL FOR THE CRIME FOR WHICH THE  
26 INDIVIDUAL WAS ERRONEOUSLY CONVICTED, SENTENCED, AND CONFINED.**

27           **(3) (I) IF AN INDIVIDUAL PREVIOUSLY RECEIVED A MONETARY  
28 AWARD FROM A CIVIL SUIT OR ENTERED INTO A SETTLEMENT AGREEMENT WITH THE  
29 STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR AN ERRONEOUS  
30 CONVICTION, SENTENCE, OR CONFINEMENT, THE AMOUNT OWED TO THE  
31 INDIVIDUAL UNDER THIS SUBSECTION SHALL BE REDUCED BY THE AMOUNT OF THE  
32 MONETARY AWARD OR SETTLEMENT THAT WAS PAID TO THE INDIVIDUAL LESS ANY  
33 AMOUNT PAID FOR ATTORNEY'S FEES AND COSTS FOR LITIGATING THE AWARD OR  
34 SETTLEMENT.**

1                   **(II) 1. IF, AFTER RECEIVING COMPENSATION UNDER THIS**  
2 **SUBSECTION, AN INDIVIDUAL RECEIVES A MONETARY AWARD FROM A CIVIL SUIT OR**  
3 **ENTERS INTO A SETTLEMENT AGREEMENT WITH THE STATE OR A POLITICAL**  
4 **SUBDIVISION OF THE STATE FOR AN ERRONEOUS CONVICTION, SENTENCE, OR**  
5 **CONFINEMENT, THE INDIVIDUAL SHALL REIMBURSE THE STATE THE AMOUNT OF**  
6 **MONEY PAID UNDER THIS SECTION LESS ANY AMOUNT PAID FOR ATTORNEY'S FEES**  
7 **AND COSTS FOR LITIGATING THE AWARD OR SETTLEMENT.**

8                   **2. REIMBURSEMENT REQUIRED UNDER**  
9 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH MAY NOT EXCEED THE AMOUNT OF**  
10 **THE MONETARY AWARD THE INDIVIDUAL RECEIVED IN THE CIVIL SUIT OR**  
11 **SETTLEMENT AGREEMENT.**

12                   **3. THE STATE MAY OBTAIN A LIEN AGAINST THE**  
13 **MONETARY AWARD FROM A CIVIL SUIT OR SETTLEMENT AGREEMENT TO SATISFY AN**  
14 **OBLIGATION UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.**

15                   **(4) AN INDIVIDUAL MAY NOT RECEIVE COMPENSATION UNDER THIS**  
16 **SUBSECTION FOR ANY PERIOD OF CONFINEMENT DURING WHICH THE INDIVIDUAL**  
17 **WAS CONCURRENTLY SERVING A SENTENCE FOR A CONVICTION OF ANOTHER**  
18 **OFFENSE FOR WHICH THE INDIVIDUAL WAS LAWFULLY CONVICTED AND CONFINED.**

19                   **(5) IF AN INDIVIDUAL ELIGIBLE FOR COMPENSATION AND BENEFITS**  
20 **UNDER THIS SUBSECTION IS DECEASED, THE INDIVIDUAL'S ESTATE HAS STANDING**  
21 **TO BE COMPENSATED UNDER THIS SUBSECTION.**

22                   **(b) (1) An ADMINISTRATIVE LAW JUDGE SHALL ISSUE AN ORDER THAT AN**  
23 **individual is eligible for [a grant] COMPENSATION AND BENEFITS under subsection (a)**  
24 **of this section if:**

25                   **[(1) (I) the individual has received from the Governor a full pardon**  
26 **stating that the individual's conviction has been shown conclusively to be in error; or**

27                   **[(2) the State's Attorney certifies that the individual's conviction was in**  
28 **error under § 8-301 of the Criminal Procedure Article]**

29                   **(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
30 **ADMINISTRATIVE LAW JUDGE FINDS THAT THE INDIVIDUAL HAS PROVEN BY CLEAR**  
31 **AND CONVINCING EVIDENCE THAT:**

32                   **1. THE INDIVIDUAL WAS CONVICTED, SENTENCED, AND**  
33 **CONFINED FOR A FELONY;**

1                   **2. THE JUDGMENT OF CONVICTION FOR THE FELONY**  
2 **WAS REVERSED OR VACATED AND:**

3                   **A. THE CHARGES AGAINST THE INDIVIDUAL WERE**  
4 **DISMISSED; OR**

5                   **B. ON RETRIAL, THE INDIVIDUAL WAS FOUND NOT**  
6 **GUILTY;**

7                   **3. THE INDIVIDUAL DID NOT COMMIT THE FELONY AND**  
8 **WAS NOT AN ACCESSORY OR ACCOMPLICE TO THE FELONY; AND**

9                   **4. SUBJECT TO PARAGRAPH (2)(II) OF THIS**  
10 **SUBSECTION, THE INDIVIDUAL DID NOT COMMIT OR SUBORN PERJURY, FABRICATE**  
11 **EVIDENCE, OR BY THE INDIVIDUAL'S OWN CONDUCT CAUSE OR BRING ABOUT THE**  
12 **CONVICTION.**

13                   **(2) (I) IN DETERMINING THE WEIGHT AND ADMISSIBILITY OF**  
14 **EVIDENCE PRESENTED BY THE PARTIES, THE ADMINISTRATIVE LAW JUDGE MAY, IN**  
15 **THE INTEREST OF JUSTICE, GIVE DUE CONSIDERATION TO THE PASSAGE OF TIME,**  
16 **DEATH OR UNAVAILABILITY OF WITNESSES, THE DESTRUCTION OF EVIDENCE, OR**  
17 **ANY OTHER FACTOR.**

18                   **(II) FOR THE PURPOSES OF PARAGRAPH (1)(II)4 OF THIS**  
19 **SUBSECTION, SUBORNING PERJURY, FABRICATING EVIDENCE, OR CAUSING OR**  
20 **BRINGING ABOUT A CONVICTION DOES NOT INCLUDE:**

21                   **1. A CONFESSION OR ADMISSION LATER DETERMINED**  
22 **TO BE FALSE; OR**

23                   **2. A GUILTY PLEA.**

24                   **(3) THE FOLLOWING SHALL BE PARTIES TO A PROCEEDING UNDER**  
25 **THIS SUBSECTION:**

26                   **(I) THE STATE'S ATTORNEY OF THE COUNTY WHERE THE**  
27 **CRIME WAS COMMITTED, OR THE STATE'S ATTORNEY'S DESIGNEE; AND**

28                   **(II) THE STATE, REPRESENTED BY THE ATTORNEY GENERAL,**  
29 **OR THE ATTORNEY GENERAL'S DESIGNEE.**

30                   **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
31 **AN INDIVIDUAL MAY FILE A PETITION FOR AN ORDER UNDER SUBSECTION (B) OF**  
32 **THIS SECTION NOT LATER THAN 2 YEARS AFTER THE DATE ON WHICH:**

1           **(I) THE GOVERNOR ISSUED A PARDON DESCRIBED UNDER**  
2 **SUBSECTION (B)(1)(I) OF THIS SECTION; OR**

3           **(II) THE CRIMINAL CHARGES AGAINST THE INDIVIDUAL WERE**  
4 **DISMISSED OR THE INDIVIDUAL WAS FOUND NOT GUILTY ON RETRIAL AS DESCRIBED**  
5 **UNDER SUBSECTION (B)(1)(II) OF THIS SECTION.**

6           **(2) AN INDIVIDUAL CONVICTED, CONFINED, AND RELEASED FROM**  
7 **CONFINEMENT BEFORE JULY 1, 2021, MAY PETITION FOR AN ORDER UNDER**  
8 **SUBSECTION (B) OF THIS SECTION NOT LATER THAN JUNE 30, 2023.**

9           **(3) IF AN INDIVIDUAL OTHERWISE ELIGIBLE FOR RELIEF UNDER THIS**  
10 **SECTION IS DECEASED, A PERSONAL REPRESENTATIVE OR AN EXECUTOR OF THE**  
11 **INDIVIDUAL'S ESTATE MAY FILE A PETITION FOR AN ORDER UNDER SUBSECTION (B)**  
12 **OF THIS SECTION ON THE INDIVIDUAL'S BEHALF.**

13           **(4) A PETITION FILED UNDER THIS SECTION SHALL BE SERVED ON:**

14           **(I) THE STATE'S ATTORNEY IN THE COUNTY IN WHICH THE**  
15 **CONVICTION OCCURRED, OR THE STATE'S ATTORNEY'S DESIGNEE; AND**

16           **(II) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S**  
17 **DESIGNEE.**

18           **(5) THE DECISION TO GRANT OR DENY A PETITION UNDER THIS**  
19 **SECTION MAY BE APPEALED BY ANY PARTY TO THE PROCEEDING.**

20           **(D) (1) IF AN ADMINISTRATIVE LAW JUDGE ORDERS THAT AN INDIVIDUAL**  
21 **IS ELIGIBLE FOR COMPENSATION AND BENEFITS UNDER THIS SECTION, THE ORDER**  
22 **SHALL INCLUDE:**

23           **(I) THE MONETARY AWARD OWED TO THE INDIVIDUAL UNDER**  
24 **SUBSECTION (A)(1) OF THIS SECTION;**

25           **(II) REASONABLE ATTORNEY'S FEES AND EXPENSES**  
26 **ASSOCIATED WITH THE ACTION BROUGHT UNDER THIS SECTION; AND**

27           **(III) BENEFITS TO BE AWARDED UNDER SUBSECTION (A)(2) OF**  
28 **THIS SECTION.**

29           **(2) A COPY OF THE ORDER SHALL BE DELIVERED TO:**

1                   **(I) THE BOARD OF PUBLIC WORKS TO MAKE THE PAYMENTS**  
2 **ORDERED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION; AND**

3                   **(II) ANY STATE AGENCY OR SERVICE PROVIDER ORDERED TO**  
4 **PROVIDE BENEFITS UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.**

5           **[(c)] (E)** The Board of Public Works [may] **SHALL** pay the [grant determined]  
6 **COMPENSATION ORDERED** under subsection **[(a)] (D)** of this section [in a lump sum or in  
7 installments] **IN:**

8                   **(1) ONE INITIAL PAYMENT EQUAL TO THE ANNUAL AMOUNT OF THE**  
9 **STATE'S MOST RECENT MEDIAN HOUSEHOLD INCOME TO BE PAID WITHIN 60 DAYS**  
10 **AFTER RECEIVING THE ORDER; AND**

11                   **(2) AFTER THE INITIAL PAYMENT UNDER ITEM (1) OF THIS**  
12 **SUBSECTION, INSTALLMENTS PAID OVER A PERIOD NOT TO EXCEED 6 FISCAL YEARS.**

13           **[(d) (1)]** The Board of Public Works may not pay any part of a grant made under  
14 this section to any individual other than the erroneously convicted individual.

15                   **(2) (i)** An individual may not pay any part of a grant received under  
16 this section to another person for services rendered in connection with the collection of the  
17 grant.

18                           **(ii)** An obligation incurred in violation of this paragraph is void.

19                           **(iii)** A payment made in violation of this paragraph shall be forfeited  
20 to the State.]

21           **[(e)] (F) (1)** This section does not prohibit an individual from contracting for  
22 services to:

23                           **[(1)] (I)** determine the individual's innocence;

24                           **[(2)] (II)** obtain a pardon; [or]

25                           **[(3)] (III)** obtain the individual's release from confinement; **OR**

26                           **(IV) OBTAIN COMPENSATION UNDER THIS SECTION.**

27                   **(2) (I) A PERSON PROVIDING SERVICES UNDER PARAGRAPH**  
28 **(1)(IV) OF THIS SUBSECTION MAY NOT CHARGE, DEMAND, RECEIVE, OR COLLECT**  
29 **PAYMENT OTHER THAN THAT ALLOWED UNDER SUBSECTION (D)(1)(II) OF THIS**  
30 **SECTION.**

1                   **(II) AN OBLIGATION INCURRED IN VIOLATION OF THIS**  
 2 **PARAGRAPH IS VOID.**

3           **(G) ON OR BEFORE DECEMBER 31, 2022, AND ANNUALLY THEREAFTER, THE**  
 4 **BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN**  
 5 **ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON ANY**  
 6 **COMPENSATION AND SERVICES AWARDED UNDER THIS SECTION.**

7           **(H) THE OFFICE OF ADMINISTRATIVE HEARINGS, IN CONSULTATION WITH**  
 8 **THE BOARD OF PUBLIC WORKS, SHALL ADOPT REGULATIONS TO GOVERN THE**  
 9 **PROCEDURES AND PRACTICES IN ALL CASES REQUESTING COMPENSATION AND**  
 10 **BENEFITS UNDER THIS SUBTITLE.**

11 **10-502.**

12           **IN AWARDING COMPENSATION UNDER THIS SUBTITLE, THE BOARD OF PUBLIC**  
 13 **WORKS SHALL USE MONEY IN THE GENERAL EMERGENCY FUND OR MONEY THAT**  
 14 **THE GOVERNOR PROVIDES IN THE ANNUAL BUDGET FOR THAT PURPOSE.**

15                                   **Article – State Government**

16 9-1604.

17           (a) The Chief Administrative Law Judge shall:

18                   (4) assign administrative law judges to conduct hearings in contested cases  
 19 **OR CASES TO DETERMINE ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER**  
 20 **§ 10-501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

21           (b) (1) The Chief Administrative Law Judge may:

22                   (i) serve as an administrative law judge in a contested case **OR A**  
 23 **CASE TO DETERMINE ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER §**  
 24 **10-501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

25           **SECTION 2. AND BE IT FURTHER ENACTED,** That Section 1 of this Act shall be  
 26 construed to apply retroactively to any application for compensation or benefits pending on  
 27 or after the effective date of this Act.

28           **SECTION 3. AND BE IT FURTHER ENACTED,** That Section 1 of this Act shall be  
 29 construed to apply retroactively to allow a person to apply for modification of any  
 30 compensation awarded by the Board of Public Works between January 1, 1984, and June  
 31 30, 2021, inclusive.



1           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2   1, 2021.