

TESTIMONY OF SENATOR DELORES G. KELLEY

**REGARDING SENATE BILL 797– COMPENSATION TO INDIVIDUAL
ERRONEOUSLY CONVICTED, SENTENCED, AND CONFINED OR
WHOSE CONVICTION OR ADJUDICATION IS REVERSED**

**BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE
ON
FEBRUARY 26, 2020**

Mr. Chairman and Members:

Senate Bill 797 is here as follow up on issues remaining after this committee's strong support in 2017 of Senate Bill 348, which was enacted into law as Chapter 799, and which eliminated the unfair and debilitating requirement in the State Finance Article that an individual wrongfully convicted, sentenced, confined, and subsequently exonerated was then mandated to obtain a pardon from the Governor before the exoneree would be eligible to apply to the Board of Public Works for compensation for his/her damages.

Current Maryland law does not require a Governor to pardon an already exonerated person, and current law includes no specific compensation requirements, nor standards for the same. Current law prohibits an exonerated person from contracting with legal counsel for help in getting compensation, and prohibits anyone from inheriting any part of any state compensation which the Board of Public Works might grant to an exonerated person. Senate Bill 797 is here to remedy these problems.

Senate Bill 797 requires compensation of \$78,916 per year for each year of wrongful incarceration (the same formula which the Governor used in October 2019), when he compensated 5 exonerees, while leaving 30 others waiting and hoping. Since there are many health, education, and social service needs of persons who were wrongly convicted and confined for years or decades, Maryland is morally obligated to address the needs of our exonerees for education, job training, health care, reimbursement for court fines and fees. Current Maryland law lacks specific provisions in this regard, a problem addressed by SB 797.

Whereas current law addresses accommodations that the Board of Public Works may grant, Senate Bill 797 directs that an Administrative Law Judge shall order that the following be provided:

- 1) state identification
- 2) education and job training
- 3) health and dental care
- 4) public college/university tuition
- 5) reimbursement of court fines, fees and restitution for the wrongful conviction.

This Bill designates Administrative Law Judges as the agents to determine who meets the eligibility criteria for compensation as an exonerated person; including:

- 1) certain persons pardoned by the Governor;
- 2) a persons who is certified by a States Attorney as having been convicted of a crime the person did not commit under “writ of actual innocence,” ;
- 3) a person who the Administrative Law Judge determines by a preponderance of evidence did not commit the crime or act as an accessory or accomplice’
- 4) a person whose conviction was reversed or vacated, with the charges dismissed; or
- 5) a person who was retried and acquitted.

When an Administrative Law Judge makes a finding of a person’s eligibility for compensation, the Board of Public Works is so notified, and must issue payments within 60 days. Payments can be made as either a lump sum or by installments.

If an exonoree who receives State compensation should later receive a civil award or settlement, the exonoree must reimburse the State for any excess compensation and therefore the exonoree would not be able to “double dip.”

With the passage of SB 797 into law, Maryland can join 38 other states that have definite standards and predictability regarding compensation for exonorees, who have already suffered great harm by the State, even if not intended.

I therefore urge your favorable report of Senate Bill 797