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TO: Members of the Senate Judicial Proceedings Committee

FROM: Erica J. Suter, Assistant Public Defender and Director of the UB Innocence Project Clinic

RE: SB890: Compensation for Individuals Erroneously Convicted - Alterations

DATE: February 27, 2024

I am an assistant public defender, faculty member of the University of Baltimore School of Law and Director of the UB Innocence Project Clinic, and Immediate Past President of the Maryland Criminal Defense Attorney's Association. I write in support of SB890.

According to the Innocence Project's latest numbers, Innocence Project Clients across the nation have spent a collective 3,874 years wrongfully incarcerated.¹ On average, Innocence Project Clients were 27 years old when convicted and 44 when exonerated.² There have been 51 exonerations in Maryland since 1989 when the National Registry of Exonerations began tracking exonerations.³ Exonerees on average serve approximately 16 years of wrongful incarceration.⁴ Maryland made great strides when it passed the Walter Lomax act and significantly improved the compensation process for exonerees. SB890 corrects the Lomax act in important ways. For example, SB890 revises the window in which an exoneree may apply for compensation to change the beginning of the window from the time of release to the time of exoneration. This is a critical fix.

Developing the evidence to exonerate a convicted person is a time and labor-intensive process that typically takes several years. Prison is a notoriously dangerous and unpredictable environment. I have had clients who have been attacked and killed in prison and clients who have died of disease and illness while incarcerated. Clients often experience the death of parents, siblings, and other loved ones while incarcerated. If a client has the opportunity to pursue release through parole, a sentence modification, or some other means, they should be able to avail themselves of that opportunity without sacrificing their ability to receive compensation if and when

¹ Explore the Numbers: Innocence Project's Impact. Last visited February 19, 2024, <https://innocenceproject.org/exonerations-data/>

² *Id.*

³ National Registry of Exonerations. Last visited February 19, 2024, <https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=MD>

⁴ Explore the Numbers: Innocence Project's Impact. Last visited February 19, 2024, <https://innocenceproject.org/exonerations-data/>

⁴ *Id.*

they are exonerated. Wrongful convictions steal decades from the wrongfully convicted, their families, and our community. Exonerees are often released with the years in which they would have started a family and established themselves professionally, behind them. It is a moral imperative that we take steps toward undoing some of the devastating harms caused by wrongful convictions. It is sensible, in keeping with the intent of the Lomax Act, and fair that these revisions be made.

For these reasons, I urge a favorable report.