

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

House Bill 10  
Judiciary

(Delegate Burns)

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**Criminal Procedure - Compensation for Erroneous Conviction and  
Imprisonment - Eligibility Requirements**

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This bill alters the eligibility requirements for a grant for actual damages to an individual who has been erroneously convicted, sentenced, and confined for a crime the individual did not commit. Specifically, the bill requires the Board of Public Works (BPW) to make a finding that the conviction has been shown conclusively to be in error, and eliminates the existing requirement that the individual must have received a full pardon from the Governor stating the conviction to have been conclusively erroneous.

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**Fiscal Summary**

**State Effect:** Increasing eligibility for such payments means that requests for payments could increase and tax the limits of currently applied resources, specifically the Contingent Fund.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** An individual is eligible for a grant for “actual damages” only if the individual has received a full pardon from the Governor stating that the conviction has been shown conclusively to be in error. However, not every person whose conviction has been reversed is eligible. Procedural mistakes that lead to a reversal are not sufficient to

make a person eligible, and the determination of whether the eligibility standard has been met by the person requesting the pardon is wholly within the discretion of the Governor.

In any case, such grant payments are discretionary for BPW, but if paid, are required to be made from the "General Emergency Fund" (now named the Contingent Fund) or money provided in the budget by the Governor.

**Background:** In the last decade, there have been only three awards for economic damages paid by BPW. One was to Leslie Vass for \$250,000. Another was made to Kirk Bloodsworth for \$300,000. The most recent payment was approved by the board on January 8, 2003 for Bernard Webster in the amount of \$900,000, or \$45,000 per year for each of the 20 years he was wrongfully imprisoned. In actuality, Mr. Webster will receive two \$45,000 payments per year for the next ten years. All of these individuals had been released from incarceration and received a full pardon by the Governor stating that the conviction was conclusively shown to be in error.

HB 665 of 2001 was introduced to provide \$7.5 million in the budget of the Department of Public Safety and Correctional Services in order to compensate Anthony Gray, Jr. for his wrongful murder conviction and imprisonment. Mr. Gray was arrested and convicted in the 1991 murder of a Chesapeake Beach woman. Without a pardon, Mr. Gray is barred from seeking a grant from BPW. The Circuit Court of St. Mary's County had released Mr. Gray in 1999 after the Calvert County State's Attorney reopened the case and determined there to be no evidence linking him to the crime. HB 665 received an unfavorable report from the House Appropriations Committee.

In 2001 *The Baltimore Sun* chronicled the case of Michael Austin, who had been incarcerated for 26 years for the murder of a security guard shot during an April 1974 robbery of a Crown Food Market in East Baltimore. Various persons, including the former State's Attorney who prosecuted Austin, have said that his conviction was based on false testimony and flawed evidence. Austin's guilty verdict was reversed in Baltimore City Circuit Court in December 2001. Neither Mr. Gray nor Mr. Austin has formally sought a pardon from the Governor, to date.

The Governor's fiscal 2004 budget includes an allocation of \$750,000 for the Contingent Fund.

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### **Additional Information**

**Prior Introductions:** HB 1456 of 2001 and HB 1448 of 2002 each had a hearing before the House Judiciary Committee and had no further action taken on it.

**Cross File:** None.

**Information Source(s):** Board of Public Works, Governor's Office, Department of Public Safety and Correctional Services (Maryland Parole Commission), Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2003  
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