BY: Judicial Proceedings Committee

<u>AMENDMENTS TO HOUSE BILL 985</u>
(Third Reading File Bill)

<u>AMENDMENT NO. 1</u>

On page 1, in line 5, strike "<u>a conviction was in error</u>" and substitute "<u>an individual did not commit an offense</u>"; and in line 6, after "<u>circumstances;</u>" insert "<u>repealing a provision of law authorizing a State's Attorney to certify that a conviction was in error under certain circumstances;</u>".

On page 2, strike in their entirety lines 18 through 27, inclusive, and substitute:

"<u>BY adding to</u>
  <u>Article - Criminal Procedure</u>
  <u>Section 8-110</u>
  <u>Annotated Code of Maryland</u>
  <u>(2018 Replacement Volume and 2019 Supplement)</u>

<u>BY repealing</u>
  <u>Article - Criminal Procedure</u>
  <u>Section 8-301(i)</u>
  <u>Annotated Code of Maryland</u>
  <u>(2018 Replacement Volume and 2019 Supplement)</u>".

<u>AMENDMENT NO. 2</u>

On pages 3 and 4, strike in their entirety the lines beginning with line 4 on page 3 through line 33 on page 4, inclusive, and substitute:

"**<u>8–110.</u>**

(Over)

ON WRITTEN REQUEST BY AN INDIVIDUAL WHOSE JUDGMENT OF CONVICTION WAS REVERSED OR VACATED, THE STATE'S ATTORNEY MAY CERTIFY THAT THE INDIVIDUAL DID NOT COMMIT THE OFFENSE OR OFFENSES FOR WHICH THE INDIVIDUAL WAS CONVICTED IF:

    (1)   THE CHARGE OR CHARGES WERE DISMISSED OR THE STATE'S ATTORNEY DECLINES TO PROSECUTE THE INDIVIDUAL BECAUSE THE STATE'S ATTORNEY DETERMINES THAT THE INDIVIDUAL IS INNOCENT; OR

    (2)   ON RETRIAL, THE INDIVIDUAL WAS ACQUITTED.

8–301.

    [(i)   On written request by the petitioner, the State's Attorney may certify that a conviction was in error, if:

        (1)   the court grants a petition for relief under this section;

        (2)   in ruling on a petition under this section, the court:

            (i)   sets aside the verdict or conviction; or

            (ii)   schedules the matter for trial or grants a new trial; and

        (3)   the State's Attorney declines to prosecute the petitioner because the State's Attorney determines that the petitioner is innocent.]".

    On page 7, strike beginning with the first "the" in line 5 down through "Article" in line 6 and substitute "THE ADMINISTRATIVE LAW JUDGE FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:

1.   THE STATE'S ATTORNEY HAS CERTIFIED UNDER §
8–110 OF THE CRIMINAL PROCEDURE ARTICLE THAT THE INDIVIDUAL DID NOT
COMMIT THE OFFENSE OR OFFENSES FOR WHICH THE INDIVIDUAL WAS
CONVICTED;

2.   THE INDIVIDUAL WAS CONVICTED, SENTENCED,
AND CONFINED FOR A CRIME OR CRIMES THAT THE INDIVIDUAL DID NOT
COMMIT; AND

3.   SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
THE INDIVIDUAL DID NOT COMMIT OR SUBORN PERJURY, FABRICATE EVIDENCE,
OR BY THE INDIVIDUAL'S OWN CONDUCT CAUSE OR BRING ABOUT THE
CONVICTION";

strike beginning with "CERTIFIES" in line 9 down through "THE" in line 12 and
substitute "FINDS BY CLEAR AND CONVINCING"; in line 12, after "EVIDENCE" insert
"THAT"; in line 13, after "1." insert "THE INDIVIDUAL WAS CONVICTED, SENTENCED,
AND CONFINED FOR A CRIME OR CRIMES THAT THE INDIVIDUAL DID NOT
COMMIT;

2.";

in line 18, strike "REVERSED OR VACATED" and substitute "REVERSED, VACATED,
OR SET ASIDE"; strike in their entirety lines 20 through 23, inclusive, and substitute:

"3.";

in line 24, strike "B."; in line 28, strike "C." and substitute "4."; in line 29, after
"CERTIFY" insert "UNDER § 8–110 OF THE CRIMINAL PROCEDURE ARTICLE";
strike beginning with "INDIVIDUAL'S" in line 29 down through "ERROR" in line 30 and

(Over)

substitute "**INDIVIDUAL DID NOT COMMIT THE OFFENSE**"; in line 31, strike "**D.**" and substitute "**5.**"; and strike beginning with "**INDIVIDUAL'S**" in line 32 down through "**ERROR**" in line 33 and substitute "**INDIVIDUAL DID NOT COMMIT THE OFFENSE**".

On page 8, in line 1, strike "**E.**" and substitute "**6.**"; in line 8, strike "**F.**" and substitute "**7.**"; in the same line, before "**THE**" insert "**SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**"; and in line 11, after "**PARAGRAPH**" insert "**(1)(II)3 AND**".

On page 12, in line 5, strike "July" and substitute "October".