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The Maryland House of Delegates

ANNAPOLIS, MARYLAND 21401

February 10, 2021

Testimony in Support of House Bill 742 – Compensation to Individual Erroneously Convicted, Sentenced, and Confined (The Walter Lomax Act)

Good afternoon Mr. Chairman and members of the Committee. Thank you for the opportunity to speak to you on behalf of **House Bill 742 – Compensation to Individual Erroneously Convicted, Sentenced, and Confined (The Walter Lomax Act)**.

A wrongfully convicted and incarcerated individual who has been judicially exonerated needs immediate education and training for employment and life skills. He or she needs housing and the resources for the pursuit of an education to made available. He or she may need medical and dental health services. An exonerated individual, especially one who is indigent, needs swift and comprehensive assistance. Our current law authorizes the Board of Public Works (BPW) to compensate individuals erroneously convicted, sentenced, and confined. House Bill 742 would require, rather than authorize, such compensation. The BPW must compensate an exoneree upon a finding of eligibility by an administrative law judge.

Specifically, the bill:

- Requires BPW to make an initial compensation payment within sixty days after receiving an order. The initial payment must be equal to the annual amount of the State's most recent median household income. Installment payments must be paid within six fiscal years.
- Establishes that the compensation shall be equal to the product of the total number of days of wrongful confinement multiplied by a daily rate based on the State's most recent median household income in the year the order of eligibility is issued, as published in the American Community Survey of the U.S. Census Bureau and divided by 365 days to the nearest whole cent.
- Allows the administrative law judge to direct appropriate state agencies or service providers to provide the individual certain free benefits and cover certain expenses.
- Stipulates that monetary awards to the individual from a civil suit or settlement agreement with the State or a political subdivision of the State based on the erroneous conviction, sentence, or confinement shall be reduced pursuant to the compensation

amount – or, in the case of the compensation that has been paid, reimbursed – less attorney’s fees and costs.

- Grants standing for compensation to the individual’s estate if the individual is deceased.
- Sets retroactive application parameters.
- Imposes annual reporting obligations of the BPW to the General Assembly.
- Requires the office of Administrative Hearings to adopt regulations for administering this policy.

This measure has an effective date of July 1, 2021. House Bill 742 is based on the recommendations of the Task Force to Study Erroneous Conviction and Imprisonment. In 2020 this committee favorably reported this initiative, and I respectfully request you do so this session.



HB0742/593025/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Delegate Dumais
(To be offered in the House Judiciary Committee)

AMENDMENTS TO HOUSE BILL 742
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “compensation” insert “in a certain manner”; in line 6, after “and” insert “subsequently”; and in line 15, after “events;” insert “authorizing a certain individual who has previously received compensation to request an order for supplemental compensation in certain circumstances.”.

AMENDMENT NO. 2

On page 2, in line 33, after “**CONFINED**” insert “**AFTER THE ERRONEOUS CONVICTION**”.

On page 4, in line 32, after “**AND**” insert “**SUBSEQUENTLY**”.

On page 5, in line 7, after “**FELONY**” insert “**FOR WHICH THEY WERE CONVICTED, SENTENCED, AND SUBSEQUENTLY CONFINED**”.

AMENDMENT NO. 3

On page 4, in line 23, after “**BENEFITS**” insert “**FROM THE STATE**”.

AMENDMENT NO. 4

On page 5, after line 23, insert:

“(3) A REQUEST FOR AN ORDER OF ELIGIBILITY UNDER THIS SECTION SHALL BE:

(Over)

(I) FILED WITH THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

(II) CAPTIONED “IN THE MATTER OF THE WRONGFUL CONVICTION OF (CLAIMANT)” OR “(CLAIMANT) V. BOARD OF PUBLIC WORKS”.;

and in line 24, strike “(3)” and substitute “(4)”.

AMENDMENT NO. 5

On page 6, in line 7, after “2021,” insert “WHO HAS NOT PREVIOUSLY RECEIVED COMPENSATION UNDER THIS SECTION,”; after line 8, insert:

“(3) AN INDIVIDUAL WHO WAS AWARDED COMPENSATION UNDER THIS SECTION ON OR BEFORE JULY 1, 2005, MAY REQUEST AN ORDER FOR SUPPLEMENTAL COMPENSATION IN THE AMOUNT AUTHORIZED BY THIS SECTION ON OR BEFORE JULY 12, 2023.”;

and in lines 9, 13, and 18, strike “(3)”, “(4)”, and “(5)”, respectively, and substitute “(4)”, “(5)”, and “(6)”, respectively.

AMENDMENT NO. 6

On page 6, in line 26, strike “AND”; and in line 28, after “SECTION” insert “; AND”

(IV) IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT IT IS IN THE INTERESTS OF THE INDIVIDUAL, A RECOMMENDATION FOR AN EXPEDITED PAYMENT SCHEDULE”.

On page 7, in line 11, after “(2)” insert “(I)”; and in line 12, after “YEARS” insert “; OR”

**(II) ACCORDANCE WITH AN EXPEDITED PAYMENT SCHEDULE
RECOMMENDED UNDER SUBSECTION (D)(1)(IV) OF THIS SECTION**

AMENDMENT NO. 7

On page 8, in line 29, after “retroactively” insert “, notwithstanding any prior compensation awarded,”; and strike beginning with “June” in line 30 down through “2021,” in line 31 and substitute “July 1, 2005,”.