

March 18, 2026

Re: House Bill 1605
Favorable

To the Honorable Members of the House Judiciary Committee:

My name is Patrick Gilbert. I'm an attorney, a resident of District 38C, and, in 2020, with the vision and support of State's Attorney Jamie Dykes, I established and operated the Prosecution Integrity Unit of the Wicomico County State's Attorney's Office. Among other things, the Prosecution Integrity Unit was responsible for the reinvestigation of credible claims of wrongful conviction, whether a function of actual innocence or substantial procedural injustice. At the time, Wicomico County was the first jurisdiction its size in the state, and only the third in the nation, to host a prosecutor-led conviction review function. From its inception in July of 2020 to my departure in December of 2025, we exonerated three wrongfully convicted persons – of the one hundred eight prosecutor-led conviction review programs in the nation, less than a quarter have exonerated more wrongfully convicted persons than the Prosecution Integrity Unit.

Last session, the General Assembly amended Md. Code Ann., State Fin. & Proc. § 10-501 to require counties to share in the cost of compensating exonerees. Tavon Tull, exonerated by the Prosecution Integrity Unit six years into a twenty-year sentence, was the first exoneree to pursue compensation after these amendments came into effect.

I write today to urge a favorable report on House Bill 1605, which would repeal last session's amendments. You will hear, I am sure, from other advocates the myriad other reasons to support this bill, so my letter focuses on the unintended consequences the cost-shifting provision has on prosecutor-led conviction review, and the consequent cost to Maryland's wrongfully convicted.

I understand, and can appreciate, the principles that animated last session's amendments – in theory, imputing more directly the costs of wrongful conviction could prevent them from occurring – but, in practice, the amendments create a different, and far more corrupting, type of moral hazard.

Measures that introduce friction into a system designed to uncover the truth, and that risk distorting the impartiality with which prosecutors are obligated to pursue justice, work against our collective interest in identifying and remedying wrongful convictions. The anticipated benefit of these measures is illusory: in my experience, the wrongful convictions investigated by the Prosecution Integrity Unit would not have been prevented had the cost-shifting measures been in place at the time of the original conviction, nor would these measures have changed the solemnity with which we undertook the process of vacating those convictions.

What last session's amendments do change, however, is a jurisdiction's willingness to create a prosecutor-led conviction review program, and the effectiveness and integrity of those programs that currently exist. The cost of this will be, and is currently being, borne directly by the wrongfully convicted, who must spend more time and resources fighting to establish their innocence, and risk being denied the compensation they need and deserve.

As I see it, a prosecutor's duty to vacate a wrongful conviction is simply an outgrowth of a prosecutor's more general duty to seek justice – as observed by Justice Sutherland, writing for the Supreme Court in *Berger v. United States*, 295 U.S. 78 (1953), the prosecutor is “the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.” *Id.* at 88. Marylanders deserve sincere and robust prosecutor-led conviction review across the state – additional layers of review only serve to increase trust and confidence in the criminal legal system's processes and outcomes. The cost-shifting measures added last session greatly complicate the work of conviction review and all but ensure the political unfeasibility of conviction review programs, especially in Maryland's smaller jurisdictions.

House Bill 1605 facilitates the important work of impartial, prosecutor-led conviction review, and I urge you to issue a favorable report.

Regards,



Patrick M. Gilbert