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**HB1605 POSITION PAPER: FAVORABLE *WITH AMENDMENT***

I submit this testimony in strong support of House Bill 1605, which repeals the requirement that county governments pay 50% of compensation to individuals erroneously convicted of crimes. I write as a civil rights attorney with extensive experience in wrongful conviction cases and as counsel to Douglass Haynie, whose case exemplifies the harms created by the 2025 Budget Reconciliation and Financing Act (BRFA) county cost-sharing mandate. I urge this Committee to issue a favorable report on HB 1605, with an amendment making its provisions apply retroactively to all pending cases and claims filed under the Walter Lomax Act where final compensation has not yet been determined by the Board of Public Works.

Enacted in 2021 through Senate Bill 14 and codified at State Finance and Procurement Article § 10-501, the Walter Lomax Act represents Maryland's commitment to justice for the wrongfully convicted. It established mandatory compensation tied to Maryland's median household income, created an administrative hearing process before an administrative law judge, and expanded eligibility and benefits for exonerees. The system's original purpose was to provide predictable standards, avoid years-long civil litigation, and acknowledge the State's responsibility promptly once innocence is established.

For four years, this system functioned as intended. There were three parties, as defined by the statute: the exoneree, the State's Attorney from the jurisdiction of the wrongful conviction, and the Attorney General's office on behalf of the State. Exonerees proved their innocence by clear and convincing evidence before an impartial administrative law judge. State's Attorneys handled questions of innocence; the State handled compensation and benefits. Counties were not involved at all.

The 2025 BRFA fundamentally altered this framework by requiring counties to reimburse the State for 50% of all wrongful conviction compensation payments. This change, enacted in a budget bill, inserted counties—who were not actors in the underlying prosecutions—into a previously coherent state process. It fragmented responsibility, introduced new actors with different incentives, and complicated what had been a unified system focused on righting a grave wrong.

HB 1605 restores that integrity. It does not expand eligibility, change calculation formulas, or rewrite the standards for exoneration. It simply removes the destabilizing element: the partial transfer of financial responsibility from a unified state process to a patchwork of county budgets. My testimony takes no position on whether the State or counties should ultimately fund compensation. HB 1605 is about ensuring that the structure of the compensation system is compatible with its purpose.

By repealing county cost-sharing, HB 1605:

- Realigns incentives so the focus remains on correcting miscarriages of justice, not defending local budgets.
- Reduces the risk that exonerees will be dragged back into adversarial fights over their innocence after courts have already recognized the wrong.
- Brings coherence back to the framework so compensation decisions are not distorted by differing county fiscal capacities.
- Honors the spirit of the Walter Lomax system by keeping the process streamlined, humane, and centered on righting past errors.

The 2025 county cost-sharing mandate has had precisely the opposite effect. It gives counties a direct financial incentive to contest, delay, or narrow compensation awards; invites them—despite their lack of role in the original prosecution—to challenge findings of wrongful conviction; and, in practice, draws exonerees back into proceedings that look like the litigation the Walter Lomax Act was designed to avoid.

My client, Douglass Haynie, illustrates this dynamic. His wrongful conviction rested on a single piece of forensic evidence: ballistics testimony from Maryland State Police examiner Joseph Kopera, who falsely claimed multiple academic and professional credentials that he never possessed. The State learned of Kopera's fabricated credentials by 2007; an internal investigation concluded in 2020; yet Mr. Haynie was not notified until March 20, 2020. On May 29, 2025, a Worcester County Circuit Court judge granted his Petition for Writ of Actual Innocence and ordered his release, and the Worcester County State's Attorney concluded there was insufficient evidence to prosecute him for felony murder.

After Mr. Haynie's conviction was vacated and his innocence recognized in state court, the focus should have been on addressing the decades he lost. Instead, because the 2025 BRFA created a financial stake for counties, Worcester County's fiscal exposure has become intertwined with whether—and to what extent—he will be compensated. Worcester County, which played no role in prosecuting, convicting, or failing to correct this injustice, has hired outside counsel to intervene in the administrative hearing and dispute his innocence in the compensation process solely because it faces potential liability for half of any award.

As Worcester County's Chief Administrative Officer, Weston Young, put it: "If we're on the hook, we feel we have a right to participate and a right to seek due process." The result is that exonerees like Mr. Haynie must now defend their innocence not only to the State that wrongfully convicted them but also to county governments with no criminal justice expertise and a direct financial motive to oppose their claims regardless of the merits.

Proving a negative by clear and convincing evidence is extraordinarily difficult under any circumstances. Adding adversarial counties with financial interests in denying claims makes an already demanding process substantially more burdensome. Exonerees typically leave prison with nothing, after losing family, income, opportunity, and health. The Walter Lomax Act was meant to provide timely compensation to rebuild shattered lives, not to subject exonerees to another layer of litigation.

The county cost-sharing mandate undermines this purpose. It transforms what should be a relatively straightforward administrative process into protracted adversarial litigation, with

counties hiring outside counsel, conducting discovery, and aggressively challenging innocence claims even when State's Attorneys have declined to oppose them. This delay inflicts additional harm on individuals who have already suffered immeasurably from wrongful incarceration. HB 1605 must therefore include retroactive language applying to all pending claims where the Board of Public Works has not yet issued a final compensation order. Without retroactivity, exonerees currently in the process—including Mr. Haynie—will continue to face adversarial county challenges rooted in financial self-interest rather than factual disputes about innocence. I respectfully propose the following amendment to HB 1605:

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026, and shall apply to all claims for compensation under § 10-501 of the State Finance and Procurement Article pending before an administrative law judge or the Board of Public Works as of the effective date of this Act, regardless of when the petition was filed, provided that the Board of Public Works has not issued a final order of compensation before the effective date of this Act.**

This language ensures that:

1. All pending administrative proceedings are governed by the pre-2025 framework.
2. Counties are immediately removed from participation in ongoing cases.
3. Exonerees like Mr. Haynie can complete their claims without improper county interference.

HB 1605 corrects a serious structural error that has created perverse incentives, delayed compensation, and forced exonerees back into adversarial litigation. With a retroactivity amendment, it ensures that all exonerees, including Mr. Haynie, can pursue the compensation Maryland law promises them without facing opposition from local governments that had no role in their wrongful convictions but every financial incentive to fight their claims even when no good-faith basis exists on the merits.

I urge the Committee to issue a favorable report on HB 1605, amended to apply retroactively to all pending claims.

Very truly yours,  
HANSEL LAW, PC



Kristen M. Mack

16 10–501.

17 (a) (1) On receipt of an order by an administrative law judge granting a  
18 petition under subsection (b) of this section, [subject to paragraph (5) of this subsection,]  
19 the Board of Public Works shall compensate an individual erroneously convicted,  
20 sentenced, and confined under State law for a crime the individual did not commit in an  
21 amount equal to the product of the total number of days that the individual was wrongfully  
22 confined after the erroneous conviction multiplied by a daily rate of the State’s most recent  
23 annual median household income as published in the American Community Survey of the  
24 U.S. Census Bureau in the year the order of eligibility is issued under subsection (b) of this  
25 section and divided by 365 days to the nearest whole cent.

1 (2) In addition to the compensation awarded under paragraph (1) of this  
2 subsection, the administrative law judge issuing an order under subsection (b) of this  
3 section may direct the appropriate State agency or service provider to provide to the  
4 individual free of charge any of the following benefits:

5 (i) a State identification card and any other document necessary for  
6 the individual’s health or welfare on the individual’s release from confinement;

7 (ii) housing accommodations for a period not exceeding 5 years after  
8 the date the order of eligibility is issued under subsection (b) of this section;

9 (iii) education and training relevant to life skills, job and vocational  
10 training, or financial literacy for a period of time until the individual elects to no longer  
11 receive the education and training;

12 (iv) health care and dental care for at least 5 years after the date the  
13 order of eligibility is issued under subsection (b) of this section;

14 (v) access to enrollment at and payment of tuition and fees for  
15 attending a public senior higher education institution, a regional higher education center,  
16 or the Baltimore City Community College for a period of enrollment not exceeding 8 years;  
17 and

18 (vi) reimbursement for court fines, fees, and restitution paid by the  
19 individual for the crime for which the individual was erroneously convicted, sentenced, and  
20 confined.

21 (3) (i) If an individual previously received a monetary award from a  
22 civil suit or entered into a settlement agreement with the State or a political subdivision of  
23 the State for an erroneous conviction, sentence, or confinement, the amount owed to the  
24 individual under this subsection shall be reduced by the amount of the monetary award or  
25 settlement that was paid to the individual less any amount paid for attorney’s fees and  
26 costs for litigating the award or settlement.

27 (ii) 1. If, after receiving compensation under this subsection, an  
28 individual receives a monetary award from a civil suit or enters into a settlement  
29 agreement with the State or a political subdivision of the State for an erroneous conviction,  
30 sentence, or confinement, the individual shall reimburse the State the amount of money  
31 paid under this section less any amount paid for attorney’s fees and costs for litigating the  
32 award or settlement.

33 2. Reimbursement required under subparagraph 1 of this  
34 subparagraph may not exceed the amount of the monetary award the individual received  
35 in the civil suit or settlement agreement.

1 3. The State may obtain a lien against the monetary award  
2 from a civil suit or settlement agreement to satisfy an obligation under subparagraph 1  
3 of this subparagraph.

4 (4) If an individual eligible for compensation and benefits under this  
5 subsection is deceased, the individual's estate has standing to be compensated under this  
6 subsection.

7 [(5) (i) Beginning in fiscal year 2026, the county government in the  
8 county in which the conviction of an individual occurred shall pay to the State 50% of the  
9 amount of compensation awarded to the individual under paragraph (1) of this subsection.

10 (ii) The payment shall be remitted annually to the Comptroller by  
11 June 30 equal to 100% of the county's share of costs for that fiscal year.

12 (iii) On October 1, December 1, March 1, and June 1 of each fiscal  
13 year, the Board of Public Works shall notify the Comptroller and each county of the county's  
14 share of each erroneous conviction award during the fiscal year.

15 (iv) The Comptroller may withhold a portion of a local income tax  
16 distribution of a county that fails to make timely payment in accordance with this section.]

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

18 ~~October~~July 1, 2026: and shall apply to all claims for compensation under § 10-501 of

19 the

20 State Finance and Procurement Article pending before an administrative law judge or

21 the Board of Public Works as of the effective date of this Act, regardless of when the

22 petition was filed, provided that the Board of Public Works has not issued a final order  
of compensation before the effective date of this Act.