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Legislative District 10
Baltimore County

—
Chair
Finance Committee

—
Executive Nominations Committee
Rules Committee
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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR DELORES G. KELLEY
IN SUPPORT OF SENATE BILL 14-COMPENSATION TO
INDIVIDUAL ERRONEOUSLY CONVICTED, SENTENCED,
AND CONFINED (The Walter Lomax Act)
BEFORE THE JUDICIAL PROCEEDINGS COMMITTEE
ON FEBRUARY 04, 2021

Mr. Chairman and Members:

Senate Bill 14 is here as a follow up on issues remaining after this Committee's strong support in 2017 of Senate Bill 348, which was enacted into law as Chapter 799, and which eliminated the unfair and debilitating requirement in the State Finance Article that an individual wrongfully convicted, sentenced, confined, and subsequently exonerated was then mandated to obtain a pardon from the Governor before the

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exonoree would be eligible to apply to the Board of Public Works for compensation for his/her damages. Current Maryland law does not require a Governor to pardon an already exonerated person, and current law includes no specific compensation requirements, nor standards for the same. Current law prohibits an exonerated person from contracting with legal counsel for help in getting compensation and prohibits anyone from inheriting any part of any state compensation which the Board of Public Works might grant to an exonerated person. Senate Bill 14 is here to remedy these problems. Senate Bill 14 removes total discretion of politicians, including governors to make non-standardized awards, unfettered by legal timelines, or budgetary line items. A wrongfully convicted and incarcerated person, who has been exonerated has many urgent needs, all of which cost money, including a REAL ID card, housing, health care, life skills, education, and employment training.

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Thirty-five states, the federal government, and the District of Columbia have laws which recognize the moral imperative to expeditiously and systematically provide compensation that is standardized and reasonable for wrongfully convicted, and incarcerated persons who are later exonerated. Maryland should do no less for these fellow human beings who have wrongfully suffered the loss of their freedom, their family relations, standard health care, secondary and higher education opportunities and credentials, social security benefits, any other substantial pension benefits, their personal autonomy, and even their right to vote. The time is now for Maryland to do what is systematic, humane, and just.

It is well past time for Maryland to join the majority of states which specify, in law, a given amount of compensation at a rate which at the low end is at least \$50,000 per year of wrongful conviction. In some jurisdictions, compensation is as much as \$200,000, with the average

compensation per year set at \$68,000 for each year of wrongful conviction in Senate Bill 14.

Other parts of the compensation package recommended in Senate Bill 14 include something as basic as a State ID Card, housing available for at least five years post-release, education, job training, financial literacy as long as elected by the exonoree, tuition and fees for matriculation for up to 5 years at either a regional higher education center, at the Baltimore City Community College, or at a Maryland public senior higher education institution.

The Maryland compensation package should also include 5 years of post-confinement health care, and reimbursement for court fines, fees, and any restitution paid by the individual for the crime for which the individual was erroneously convicted, sentenced, and confined.

In cases where the exonerated person previously received any monetary award from a civil suit or from a settlement agreement with the State of Maryland or with one of its political subdivisions, any such prior award or settlement shall be deducted from the amount otherwise due to the exonerated person, as delineated in Senate Bill 14, less any amount paid by the exonoree for attorney's fees and for the costs of litigating the prior award or settlement.

Likewise, if after receiving compensation, under the terms of this legislation, if the exonoree were to receive any later monetary award from a civil suit or subdivision of the State for the same erroneous conviction, sentence, or confinement, the exonoree shall reimburse the State in the amount of the subsequent award, less any amount paid by the exonoree for relevant attorney's fees and/or other litigation costs.

Further, an exonoree may not receive compensation under terms of this Bill for any period of confinement served concurrently with a sentence for some other crime for which there is no exoneration. Michelle Feldman of the Innocence Project will focus her testimony on the mechanics and the legal operations involved in implementation of Maryland's process for certifying and compensating exonorees as per the terms of Senate Bill 14, and we really need your wholehearted support of Senate Bill 14.