

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

A BILL for the relief of Arthur Lee Whitfield.

Date Introduced: \_\_\_\_\_

Committee Reference: \_\_\_\_\_

Chief Patron: \_\_\_\_\_

(Signature)

**Summary**

**Claims; Arthur Lee Whitfield.** Provides relief in the amount of \$750,000 to Arthur Lee Whitfield, who was incarcerated from between 1982 and 2004 after being convicted of rape, sodomy and robbery. Forensic testing conducted in 2004 exonerated Mr. Whitfield and led to his release on parole by the Virginia Parole Board on August 23, 2004. The payment of the award will be in an initial lump sum equal to 20 percent of the total compensation award to be paid within seven business days of the date the bill becomes law and the remaining 80 percent to purchase an annuity to be paid out in monthly payments over 25 years commencing August 1, 2010. In addition, the bill entitles Mr. Whitfield to receive up to \$10,000 for tuition for career and technical training within the Virginia Community College System. The bill has an emergency clause.

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SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL for the relief of Arthur Lee Whitfield.

2       Whereas, on January 19 1982, Arthur Lee Whitfield (Mr. Whitfield) was convicted of rape,  
3 sodomy and robbery in the Circuit Court for the City of Norfolk and sentenced to serve 45 years;

4       Whereas, on June 18, 1982, Mr. Whitfield pled guilty to a second rape indictment because of the  
5 recent rape conviction and on the advice of legal counsel; and

6       Whereas, pursuant to the plea agreement, Mr. Whitfield was sentenced to serve 18 years for the  
7 second conviction; and

8       Whereas, Mr. Whitfield filed a Petition for Appeal with the Virginia Supreme Court for the first  
9 conviction and on August 8, 1983, the Virginia Supreme Court entered an Order refusing the Petition;  
10 and

11       Whereas, Mr. Whitfield did not subsequently file any state or federal habeas corpus petitions in  
12 either case; and

13       Whereas, on October 31, 2003, Mr. Whitfield filed a motion requesting post-trial DNA testing;  
14 and

15       Whereas, on June 28, 2004, the Circuit Court for the City of Norfolk ordered that DNA testing  
16 be conducted of certain items included in the two files that were still in the custody of the Virginia  
17 Division of Forensic Science; and

18       Whereas, The Virginia Division of Forensic Science submitted seven Certificates of Analysis  
19 exonerating Mr. Whitfield of the crimes for which he was convicted and sentenced; and

20       Whereas, based on the results of these tests, on August 23, 2004, the Commonwealth's Attorney  
21 for the City of Norfolk sent a letter by fax to the Virginia Parole Board requesting Mr. Whitfield's  
22 immediate release stating, in pertinent part "My careful analysis of these [DNA] results and the evidence  
23 from the trial of this matter convinces me beyond any question that these results exonerate Mr. Whitfield  
24 from involvement in these offenses"; and

25 Whereas, on the same day of the request the Virginia Parole Board granted Mr. Whitfield  
26 discretionary parole and he was released; and

27 Whereas, Mr. Whitfield subsequently filed Petitions for Writs of Actual Innocence in both cases  
28 with the Virginia Supreme Court; and

29 Whereas, on October 21, 2005, the Virginia Supreme Court dismissed the Petitions for Writs of  
30 Actual Innocence citing that the Court did not have the statutory authority to consider the petitions due  
31 to Mr. Whitfield no longer being incarcerated and having been placed on parole status; and

32 Whereas, Mr. Whitfield petitioned the Governor for a grant of Executive Clemency on the  
33 principal ground that the DNA testing demonstrated that Mr. Whitfield could not have committed the  
34 crimes for which he was convicted on January 19, 1982 and June 18, 1982; and

35 Whereas, on April 3, 2009, the Governor granted Mr. Whitfield an Absolute Pardon; and

36 Whereas, Mr. Whitfield has always maintained his innocence and entered a plea of guilty in the  
37 second case only after having been convicted by a jury of the first set of charges and on advice of  
38 counsel; and

39 Whereas, Arthur Lee Whitfield has suffered severe physical, emotional, and psychological  
40 damage as a result of this wrongful incarceration and has no other means to obtain adequate relief except  
41 by action of this body; now, therefore,

42 Be it enacted by the General Assembly of Virginia:

43 1. § 1. That there is hereby appropriated from the general fund of the state treasury a compensation  
44 award in the amount of \$750,000 for the relief of Arthur Lee Whitfield (Mr. Whitfield) upon execution  
45 of a release by Mr. Whitfield from any present or future claims he may have against the Commonwealth  
46 or any agency, instrumentality, officer, employee, or political subdivision thereof and any legal counsel  
47 appointed pursuant to § 19.2-159 of the Code of Virginia.

48 The award shall be paid as follows: (i) an initial lump sum of \$150,000 to Arthur Lee Whitfield  
49 to be paid by check issued by the State Treasurer on warrant of the Comptroller within seven business  
50 days after this act becomes law and (ii) the sum of \$600,000 to purchase an annuity for the primary  
51 benefit of Arthur Lee Whitfield providing for equal monthly payments, for a period certain of 25 years  
52 commencing on or before August 1, 2010. The State Treasurer shall purchase the annuity at the lowest

53 cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including  
54 any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity  
55 shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The  
56 annuity shall, however, contain beneficiary provisions providing for the annuity's continued  
57 disbursement in the event of Mr. Whitfield's death.

58 § 2. That Arthur Lee Whitfield shall be entitled to receive career and technical training within the  
59 Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for  
60 the tuition benefit shall be paid by the community college at which the career or technical training is  
61 provided. The tuition benefit provided by this section shall expire on December 15, 2014.

62 § 3. That Arthur Lee Whitfield shall immediately be ineligible to receive any unpaid amounts  
63 from the compensation award and his beneficiaries shall be ineligible to receive any payments under the  
64 annuity purchased pursuant to § 1 of this act upon any subsequent conviction on or after August 15,  
65 2009, by Mr. Whitfield of any felony. Any unpaid amounts remaining under any annuity shall become  
66 the property of the Commonwealth and shall be deposited into the general fund of the state treasury. In  
67 addition, Arthur Lee Whitfield shall be ineligible to receive any unused portion of the tuition for career  
68 and technical training provided pursuant to § 2 of this act within the Virginia Community College  
69 System.

70 **2. That an emergency exists and this act is in force from its passage.**

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