

House Resolution 626 (AS PASSED HOUSE AND SENATE)

By: Representatives Holcomb of the 81<sup>st</sup>, Werkheiser of the 157<sup>th</sup>, and Watson of the 172<sup>nd</sup>

### A RESOLUTION

1 Compensating Kerry Robinson; and for other purposes.

2 WHEREAS, Kerry Robinson was solely and maliciously implicated by an admitted  
3 perpetrator in a February 15, 1993, incident where three men entered into a home in  
4 Moultrie, Georgia, and raped a woman living within; and

5 WHEREAS, despite his proclamations of innocence and lack of implication by the victim  
6 or any other witness, Mr. Robinson was arrested and charged with this crime; and

7 WHEREAS, on February 26, 2002, Mr. Robinson was convicted of rape and sentenced to  
8 20 years in prison; and

9 WHEREAS, the basis for Mr. Robinson's conviction was the testimony of the undisputed  
10 perpetrator, which was incentivized and self-serving and would have been inadmissible  
11 without additional corroboration; and

12 WHEREAS, that additional corroboration was the inaccurate testimony of a Georgia Bureau  
13 of Investigation (GBI) analyst based on his own interpretation of a complex mixture of DNA

14 from multiple potential contributors, collected from swabs in the victim's sexual assault kit;  
15 and

16 WHEREAS, the DNA test kit used by the GBI at the time looked for partial genetic markers  
17 (called alleles) present at 13 different locations on a chromosome, and each of the three  
18 assailants and the victim could have contributed 26 alleles to the DNA mixture, for a  
19 possibility of up to 104 different alleles present in the complex mixture; and

20 WHEREAS, the GBI analyst interpreted the complex mixture as containing two partial  
21 genetic markers (alleles) that could have come from Mr. Robinson, and opined that though  
22 they also could have come from "lots" of other people in the community, and though he  
23 "could not do the math," there was a "very, very low probability" that the alleles came from  
24 a random African American in the community as opposed to Mr. Robinson; and

25 WHEREAS, since 2018, the GBI has employed an advanced computer software program that  
26 uses probabilistic genotyping to conduct the necessary mathematical and statistical DNA  
27 interpretations in complex mixture cases like in Mr. Robinson's case; and

28 WHEREAS, when the complex DNA mixture from Mr. Robinson's case was analyzed using  
29 the computer program now used by the GBI, it confirmed that the GBI analyst's trial  
30 testimony was inaccurate and that it is actually 1,800 times more likely that a random African  
31 American's DNA is in the complex mixture than Mr. Robinson's; and

32 WHEREAS, without the corroborating testimony of the GBI analyst, the participant's  
33 bargained-for incriminatory testimony would have been the sole evidence against Mr.  
34 Robinson and insufficient to sustain Mr. Robinson's conviction under Georgia law; and

35 WHEREAS, Mr. Robinson, who has maintained his innocence since before his conviction,  
36 in 2005 also sought DNA testing on the remaining untested sexual assault kit evidence in his  
37 case, which could have excluded him definitively, but the state had illegally destroyed that  
38 biological evidence in 2004, less than one year after the General Assembly passed a law  
39 requiring such evidence be preserved for exactly that purpose; and

40 WHEREAS, on September 17, 2019, Mr. Robinson filed an amended Extraordinary Motion  
41 for a New Trial with the Superior Court of Colquitt County reasserting his innocence, setting  
42 forth the new exculpatory evidence that Mr. Robinson likely did not commit the crime, and  
43 asserting that there is no corroboration whatsoever for the incentivized participant's  
44 testimony against Mr. Robinson; and

45 WHEREAS, on January 8, 2020, a Colquitt County Superior Court Judge, with agreement  
46 from the Southern Judicial Circuit's District Attorney, determined that justice required the  
47 court to grant the motion; and

48 WHEREAS, that same day, Mr. Robinson's conviction was vacated, the court granted the  
49 state's motion to dismiss the indictment against him, and he was ordered released by the  
50 Georgia Department of Corrections; and

51 WHEREAS, as a result of his wrongful arrest and conviction, Mr. Robinson has suffered loss  
52 of liberty, personal injury, lost wages, injury to reputation, emotional distress, and other  
53 damages as a result of his more than 17 years of incarceration for a rape he did not commit;  
54 and

55 WHEREAS, the conviction, incarceration, and subsequent loss of liberty and other damages  
56 suffered by Mr. Robinson occurred through no fault or negligence on his part, and it is only  
57 fitting and proper that he be compensated for his losses.

58 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
59 GEORGIA that the Department of Administrative Services is authorized and directed to pay  
60 the sum of \$480,000.00 to Kerry Robinson as compensation as provided above. Said sum  
61 shall be paid from funds appropriated to or available to the Department of Administrative  
62 Services and shall be in full and complete satisfaction of all claims against the state arising  
63 out of said occurrence and shall be paid subject to the provisions of this resolution. After an  
64 initial payment of \$120,000.00, the remainder of said sum shall be paid in the form of an  
65 annuity in equal monthly installments over a 20 year period of time beginning in 2022. Upon  
66 the death of Kerry Robinson, all payments and all obligations of the state with respect to any  
67 and all future payments with respect to the annuity shall continue to be made to his estate or  
68 heirs.

69 BE IT FURTHER RESOLVED that any amount received by Kerry Robinson pursuant to this  
70 resolution shall be excluded from his taxable net income for state income tax purposes.