

House Resolution 26

By: Representatives Mallow of the 163rd and Stephens of the 164th

A RESOLUTION

- 1 Compensating Kenneth Eric Gardiner; and for other purposes.
- 2 WHEREAS, in the late evening hours of January 31, 1992, a man was gunned down on a
3 street corner in Savannah, Georgia; and
- 4 WHEREAS, despite his continued proclamations of innocence, Kenneth Eric Gardiner was
5 arrested and charged with this crime; and
- 6 WHEREAS, on November 19, 1992, Kenneth Eric Gardiner was convicted of malice murder
7 and possession of a firearm during the commission of a crime and was sentenced to life plus
8 five years in prison; and
- 9 WHEREAS, this conviction was primarily based upon the testimony of a reluctant partial
10 eyewitness who was unduly pressured to provide false testimony and identify Kenneth Eric
11 Gardiner as one of the perpetrators and who subsequently recanted his trial testimony in full;
12 and
- 13 WHEREAS, prior to trial, the criminal defense attorneys for Mr. Gardiner were never
14 furnished with exculpatory evidence that established his innocence; and

15 WHEREAS, on November 2, 2017, the Georgia Supreme Court, in a unanimous decision,
16 overturned the conviction of Kenneth Eric Gardiner after determining that the outcome of
17 his trial would likely have been different if the exculpatory evidence had not been withheld
18 from his defense team; and

19 WHEREAS, following the Supreme Court's decision, Kenneth Gardiner was released on
20 bond in December, 2017, after spending over 25 years in prison; and

21 WHEREAS, in July, 2018, a nolle prosequi was entered with respect to the indictment
22 against Kenneth Gardiner; and

23 WHEREAS, as a result of his wrongful arrest and conviction, Kenneth Gardiner received an
24 other than honorable discharge from the United States Army, was denied the honor of
25 serving his country in the military, and was deprived of many benefits to which he would
26 otherwise be entitled from the Department of Veterans Affairs; and

27 WHEREAS, Kenneth Gardiner has suffered loss of liberty, personal injury, lost wages, injury
28 to reputation, emotional distress, and other damages as a result of his more than 25 years of
29 incarceration; and

30 WHEREAS, the conviction, incarceration, and subsequent loss of liberty and other damages
31 suffered by Kenneth Gardiner occurred through no fault or negligence on his part, and it is
32 only fitting and proper that he be compensated for his losses.

33 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
34 GEORGIA that the Department of Administrative Services is authorized and directed to pay
35 the sum of \$1,000,000.00 to Kenneth Eric Gardiner as compensation as provided above.

36 Said sum shall be paid from funds appropriated to or available to the Department of
37 Administrative Services and shall be in full and complete satisfaction of all claims against
38 the state arising out of said occurrence and shall be paid subject to the provisions of this
39 resolution. Said sum shall be paid in the form of an annuity in equal monthly installments
40 over a 20 year period of time beginning one year after an initial lump sum payment of
41 \$50,000.00. Upon the death of Kenneth Eric Gardiner, all payments and all obligations of
42 the state with respect to any and all future payments with respect to the annuity shall continue
43 to be made to his estate or heirs.