

# HOUSE BILL 249

P1, E2

2lr0323

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By: **Delegates Moon, Crutchfield, and Davis**  
Introduced and read first time: January 13, 2022  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Attorney General – Wrongful Convictions – Investigations**

3 FOR the purpose of requiring copies of certain orders related to wrongful convictions to be  
4 sent to the Attorney General; requiring the Attorney General to conduct  
5 investigations into the circumstances giving rise to the issuance of certain orders  
6 related to wrongful convictions; requiring the Attorney General to send  
7 recommendations regarding the discipline of law enforcement officers, attorneys, or  
8 judges involved in wrongful convictions to the appropriate entities under certain  
9 circumstances; and generally relating to investigations of wrongful convictions by  
10 the Attorney General.

11 BY repealing and reenacting, without amendments,  
12 Article – Criminal Procedure  
13 Section 8–301(a)  
14 Annotated Code of Maryland  
15 (2018 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Procedure  
18 Section 8–301(f)  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – State Finance and Procurement  
23 Section 10–501(a)  
24 Annotated Code of Maryland  
25 (2021 Replacement Volume)

26 BY repealing and reenacting, without amendments,  
27 Article – State Finance and Procurement

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Section 10–501(b)  
2 Annotated Code of Maryland  
3 (2021 Replacement Volume)

4 BY adding to  
5 Article – State Government  
6 Section 6–111  
7 Annotated Code of Maryland  
8 (2021 Replacement Volume)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
10 That the Laws of Maryland read as follows:

11 **Article – Criminal Procedure**

12 8–301.

13 (a) A person charged by indictment or criminal information with a crime triable  
14 in circuit court and convicted of that crime may, at any time, file a petition for writ of actual  
15 innocence in the circuit court for the county in which the conviction was imposed if the  
16 person claims that there is newly discovered evidence that:

17 (1) (i) if the conviction resulted from a trial, creates a substantial or  
18 significant possibility that the result may have been different, as that standard has been  
19 judicially determined; or

20 (ii) if the conviction resulted from a guilty plea, an Alford plea, or a  
21 plea of nolo contendere, establishes by clear and convincing evidence the petitioner’s actual  
22 innocence of the offense or offenses that are the subject of the petitioner’s motion; and

23 (2) could not have been discovered in time to move for a new trial under  
24 Maryland Rule 4–331.

25 (f) (1) If the conviction resulted from a trial, in ruling on a petition filed under  
26 this section, the court may set aside the verdict, resentence, grant a new trial, or correct  
27 the sentence, as the court considers appropriate.

28 (2) (i) If the conviction resulted from a guilty plea, an Alford plea, or a  
29 plea of nolo contendere, when assessing the impact of the newly discovered evidence on the  
30 strength of the State’s case against the petitioner at the time of the plea, the court may  
31 consider admissible evidence submitted by either party, in addition to the evidence  
32 presented as part of the factual support of the plea, that was contained in law enforcement  
33 files in existence at the time the plea was entered.

34 (ii) If the court determines that, when considered with admissible  
35 evidence, in addition to the evidence presented as part of the factual support of the plea,  
36 that was contained in law enforcement files in existence at the time the plea was entered,

1 the newly discovered evidence establishes by clear and convincing evidence the petitioner's  
2 actual innocence of the offense or offenses that are the subject of the petitioner's motion,  
3 the court may:

4 1. allow the petitioner to withdraw the guilty plea, Alford  
5 plea, or plea of nolo contendere; and

6 2. set aside the conviction, resentence, schedule the matter  
7 for trial, or correct the sentence, as the court considers appropriate.

8 (iii) When determining the appropriate remedy, the court may allow  
9 both parties to present any admissible evidence that came into existence after the plea was  
10 entered and is relevant to the petitioner's claim of actual innocence.

11 (3) The court shall state the reasons for its ruling on the record.

12 **(4) IF THE COURT GRANTS A PETITION UNDER THIS SECTION, THE**  
13 **COURT SHALL SEND A COPY OF ITS ORDER TO THE ATTORNEY GENERAL.**

#### 14 **Article – State Finance and Procurement**

15 10–501.

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

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

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

31 (ii) housing accommodations available on the individual's release  
32 from confinement for a period not exceeding 5 years;

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

1 (iv) health care and dental care for at least 5 years after the  
2 individual's release from confinement;

3 (v) access to enrollment at and payment of tuition and fees for  
4 attending a public senior higher education institution, a regional higher education center,  
5 or the Baltimore City Community College for a period of enrollment not exceeding 5 years;  
6 and

7 (vi) reimbursement for court fines, fees, and restitution paid by the  
8 individual for the crime for which the individual was erroneously convicted, sentenced, and  
9 confined.

10 (3) (i) If an individual previously received a monetary award from a  
11 civil suit or entered into a settlement agreement with the State or a political subdivision of  
12 the State for an erroneous conviction, sentence, or confinement, the amount owed to the  
13 individual under this subsection shall be reduced by the amount of the monetary award or  
14 settlement that was paid to the individual less any amount paid for attorney's fees and  
15 costs for litigating the award or settlement.

16 (ii) 1. If, after receiving compensation under this subsection, an  
17 individual receives a monetary award from a civil suit or enters into a settlement  
18 agreement with the State or a political subdivision of the State for an erroneous conviction,  
19 sentence, or confinement, the individual shall reimburse the State the amount of money  
20 paid under this section less any amount paid for attorney's fees and costs for litigating the  
21 award or settlement.

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

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

28 (4) An individual may not receive compensation under this subsection for  
29 any period of confinement during which the individual was concurrently serving a sentence  
30 for a conviction of another offense for which the individual was lawfully convicted and  
31 confined.

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

35 **(6) ON RECEIPT OF AN ORDER BY AN ADMINISTRATIVE LAW JUDGE**  
36 **GRANTING A PETITION UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD OF**  
37 **PUBLIC WORKS SHALL SEND A COPY OF THE ORDER TO THE ATTORNEY GENERAL.**

1 (b) (1) An administrative law judge shall issue an order that an individual is  
2 eligible for compensation and benefits from the State under subsection (a) of this section if:

3 (i) the individual has received from the Governor a full pardon stating that  
4 the individual's conviction has been shown conclusively to be in error; or

5 (ii) subject to paragraph (2) of this subsection, the administrative  
6 law judge finds that the individual has proven by clear and convincing evidence that:

7 1. the individual was convicted, sentenced, and subsequently  
8 confined for a felony;

9 2. the judgment of conviction for the felony was reversed or  
10 vacated and:

11 A. the charges against the individual were dismissed; or

12 B. on retrial, the individual was found not guilty;

13 3. the individual did not commit the felony for which they  
14 were convicted, sentenced, and subsequently confined and was not an accessory or  
15 accomplice to the felony; and

16 4. subject to paragraph (2)(ii) of this subsection, the  
17 individual did not commit or suborn perjury, fabricate evidence, or by the individual's own  
18 conduct cause or bring about the conviction.

19 (2) (i) In determining the weight and admissibility of evidence  
20 presented by the parties, the administrative law judge may, in the interest of justice, give  
21 due consideration to the passage of time, death or unavailability of witnesses, the  
22 destruction of evidence, or any other factor.

23 (ii) For the purposes of paragraph (1)(ii)4 of this subsection,  
24 suborning perjury, fabricating evidence, or causing or bringing about a conviction does not  
25 include:

26 1. a confession or admission later determined to be false; or

27 2. a guilty plea.

28 (3) A request for an order of eligibility under this section shall be:

29 (i) filed with the Office of Administrative Hearings; and

30 (ii) captioned "In the Matter of the Wrongful Conviction of  
31 (Claimant)" or "(Claimant) v. Board of Public Works".

1 (4) The following shall be parties to a proceeding under this subsection:

2 (i) the State's Attorney of the county where the crime was  
3 committed, or the State's Attorney's designee; and

4 (ii) the State, represented by the Attorney General, or the Attorney  
5 General's designee.

6 **Article – State Government**

7 **6–111.**

8 (A) UPON RECEIPT OF AN ORDER UNDER § 3–801 OF THE CRIMINAL  
9 PROCEDURE ARTICLE OR § 10–501 OF THE STATE FINANCE AND PROCUREMENT  
10 ARTICLE, THE ATTORNEY GENERAL SHALL INITIATE AN INVESTIGATION INTO THE  
11 CIRCUMSTANCES LEADING TO THE ISSUANCE OF THE ORDER.

12 (B) THE INVESTIGATION REQUIRED BY THIS SECTION SHALL INCLUDE  
13 EXAMINATION OF THE CONDUCT OF:

14 (1) ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE  
15 INVESTIGATION THAT RESULTED IN THE CONVICTION OR CONVICTIONS COVERED  
16 BY THE ORDER;

17 (2) ANY STATE'S ATTORNEY, DEPUTY STATE'S ATTORNEY, OR  
18 ASSISTANT STATE'S ATTORNEY INVOLVED IN THE PROSECUTION COVERED BY THE  
19 ORDER;

20 (3) ANY ATTORNEY WHO REPRESENTED THE DEFENDANT IN THE  
21 CRIMINAL PROCEEDING THAT RESULTED IN THE CONVICTION OR CONVICTIONS  
22 COVERED BY THE ORDER; AND

23 (4) ANY JUDGE WHO PRESIDED OVER THE CRIMINAL PROCEEDING  
24 THAT RESULTED IN THE CONVICTION OR CONVICTIONS COVERED BY THE ORDER.

25 (C) (1) IF, AFTER THE INVESTIGATION REQUIRED BY THIS SECTION, THE  
26 ATTORNEY GENERAL DETERMINES THAT ANY LAW ENFORCEMENT OFFICER  
27 COMMITTED MISCONDUCT AND THAT DISCIPLINE WOULD BE APPROPRIATE, THE  
28 ATTORNEY GENERAL SHALL SEND A RECOMMENDATION TO THE ENTITY WITH THE  
29 AUTHORITY TO INITIATE DISCIPLINARY PROCEEDINGS AGAINST THE OFFICER IN  
30 ACCORDANCE WITH TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

1           **(2) IF, AFTER THE INVESTIGATION REQUIRED BY THIS SECTION, THE**  
2 **ATTORNEY GENERAL DETERMINES THAT ANY STATE’S ATTORNEY, DEPUTY STATE’S**  
3 **ATTORNEY, ASSISTANT STATE’S ATTORNEY, ATTORNEY, OR JUDGE COMMITTED**  
4 **MISCONDUCT AND THAT DISCIPLINE WOULD BE APPROPRIATE, THE ATTORNEY**  
5 **GENERAL SHALL SEND A RECOMMENDATION TO THE COURT OF APPEALS.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2022.