



**Testimony of the Pennsylvania District Attorneys Association  
HB 2794  
October 12, 2022  
House Judiciary Committee**

We appreciate the opportunity to submit comments on legislation, HB 2794, designed to provide compensation and services for the wrongfully convicted. The PDAA agrees that legislation implementing compensation and services for the wrongfully convicted who can demonstrate factual innocence is appropriate, and we look forward to collaborating with legislators and advocates who are working diligently on such legislation.

Convicting an innocent person for a crime he or she did not commit is simply a tragedy. It is an injustice to the person convicted, leaves the actual perpetrator unpunished, and does nothing to help the victim(s) realize justice. Pennsylvania's prosecutors take conviction integrity incredibly seriously and have worked diligently to implement procedures and operations to help ensure that those convicted are those who actually committed the crime(s) at issue. The PDAA's Best Practices Committee has provided guidance to assist law enforcement when they are conducting eyewitness lineups (including the blind administration of photos, neutral presentation of the lineup, and using a simultaneous photo array), and to ensure the proper use of body cameras. PDAA has worked with the Attorney General's Office as it established a conviction integrity section and worked with the Innocence Project on legislation that was enacted in 2018 that 1) gave people more time to file a petition in court when evidence of innocence was uncovered; 2) allowed those who pled guilty or were no longer under state supervision to request DNA testing to help give more time to file a petition in court when new evidence of innocence is uncovered; and 3) permitted testing when newer technology is available. PDAA has also advocated for more and better use of technology, including through the expansion of the crimes for which convicted individuals must have DNA samples taken, permitting the use of body cameras by law enforcement officers, and through advocacy for more use of forensics in investigations.

Indeed, a recent report by the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School found that just 2.8 percent of total cases of prosecutorial error that were sent to the courts from 2000 to 2016 were warranted. While this report demonstrates that prosecutorial error is rare and any conclusions to the contrary are premised on unsound extrapolations, its conclusions do not change the fact that providing compensation and services to those innocent individuals wrongfully convicted is entirely appropriate and warranted.

Compensation for the wrongfully convicted is appropriate, and HB 2794 rightly introduces the concept of actual innocence. This concept is important because compensation should be reserved for the truly innocent. We would recommend that legislation create an explicit process by which a petitioner must file a claim with an appropriate and identified judicial body and have the burden of demonstrating his or her exoneration and actual innocence to members of that judicial body under a process set forth in law. Consideration should be considered to giving the local district attorney, the Office of Attorney General, and the appropriate entity representing the local municipality standing to participate in the adjudicatory process.

In addition to any limits in HB 2794, a petitioner should not be compensated for those years when he or she was concurrently serving a sentence for an unrelated offense. Petitioners who meaningfully contributed to the commission of the crime should similarly not be eligible for compensation. And those who commit or suborn perjury or fabricate evidence should not be eligible as well. There are many state models that provide useful guidance on applicable statutes of limitations and appropriate compensation awards.

Finally, HB 2794 includes provisions providing for reentry services for the wrongfully convicted. This, too, is an important component of the legislation and we believe it necessary to help those individuals reenter society and have the guidance, training and whatever else they may need to be successful.

Thank you for holding the hearing and consideration our thoughts and recommendations.