

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act for the relief of Marvin Leon Grimm, Jr., relating to compensation for wrongful incarceration; murder, sodomy by force, and abduction with the intent to defile; sex offender registry.

[H 1776]

Approved

Whereas, Marvin Leon Grimm, Jr. (Mr. Grimm) spent nearly five decades in prison for crimes he did not commit, and an additional four years after release from prison under highly restrictive parole and sex offender registry conditions that imposed onerous barriers to his reentry to society; and

Whereas, on November 22, 1975, three-year old CH was last seen by his mother at 1:30 p.m. headed into a wooded area behind their family's apartment complex, which was the same complex where Mr. Grimm resided; and

Whereas, CH's mother reported him missing to the Richmond Police Department at 2:40 p.m.; and

Whereas, Richmond police officers knocked on Mr. Grimm's apartment door at 2:45 p.m. and asked Mr. Grimm where CH's family resided; and

Whereas, the Richmond community instantly mobilized to help officers find CH with 250 to 300 individuals searching the woods and small ponds in the area; and

Whereas, CH was not found until four days later on November 26, 1975, when a gardener found his body in the James River, nearly a nine-mile drive from his home; and

Whereas, newspaper and media reporting of the discovery of the body included several photographs of the location where the body was found as well as a detailed map of the location; and

Whereas, the medical examiner conducted an autopsy of CH and reported observing "tenacious mucoid secretions" in the back of CH's throat that contained "spermatozoa" and concluded that CH died from forced oral sodomy after choking to death on ejaculate; and

Whereas, the medical examiner also performed a postmortem toxicology test that revealed high amounts of alcohol, acetaminophen, and the prescription muscle relaxant chlorzoxazone in CH's blood, liver, and stomach; and

Whereas, Richmond police officers went weeks without any leads or suspects; and

Whereas, although no evidence linked Mr. Grimm to the crime, Richmond police officers picked up Mr. Grimm on December 16, 1975, at 4:40 p.m. after a nine-hour work shift and brought him in for questioning; and

Whereas, Richmond police officers were aware of the medical examiner's theory of asphyxiation by oral sodomy and of the toxicology findings of the presence of high amounts of alcohol, acetaminophen, and the prescription muscle relaxant chlorzoxazone in CH's blood and organs; and

Whereas, Richmond police officers aggressively interrogated Mr. Grimm for an unrecorded 10 hours using coercive tactics; and

Whereas, although the death penalty was not available for the crimes with which Mr. Grimm was ultimately charged, Richmond police officers threatened Mr. Grimm with the death penalty; and

Whereas, Mr. Grimm was 20 years old and especially vulnerable to coercive interrogation techniques due to his youth and susceptible personality traits, including lasting anxiety and depression after witnessing the death of his crewmates during his service in the U.S. Navy; and

Whereas, at 2:20 a.m., after Mr. Grimm had been awake for over 24 hours, Richmond police officers turned on a tape recorder and Mr. Grimm, only through suggestive prompting by the police officers, provided a narrative that fit the officers' theory of the case, specifically that Mr. Grimm abducted CH and forced CH to perform oral sex, CH began choking and passed out, and Mr. Grimm drove to the edge of the James River and threw CH's body into the water; and

Whereas, Mr. Grimm's false confession was missing key details of the crime, including any reference to the alcohol and drugs found in CH's system, and provided no material new information that would be known only to the perpetrator; and

Whereas, following the confession, Richmond police officers executed a search warrant and recovered several hairs from Mr. Grimm's car and from a coat in his apartment, a towel from Mr. Grimm's car, and a torn shoe from his apartment; and

Whereas, the forensic scientist performed hair microscopy on the hairs and concluded that eight of the hairs were consistent with CH; and

Whereas, the forensic scientist concluded that the towel retrieved from Mr. Grimm's car contained seminal fluid; and

Whereas, the Commonwealth tested Mr. Grimm's torn shoe for soil and debris to support Mr. Grimm's

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57 presence at the James River riverbank; and

58 Whereas, on January 28, 1976, exculpatory shoe and soil testing evidence became available to the
59 Commonwealth that revealed no soil deposits or leaves from the riverbank on Mr. Grimm's shoe; and

60 Whereas, the Commonwealth withheld this exculpatory evidence from Mr. Grimm and the court until it
61 was uncovered by the Attorney General's Office during its investigation in 2023; and

62 Whereas, on March 10, 1976, Mr. Grimm was persuaded to plead guilty to murder, sodomy by force, and
63 abduction with the intent to defile in exchange for the Commonwealth purporting to agree not to seek the
64 death penalty in this case even though Virginia did not permit the death penalty for those crimes; and

65 Whereas, three days before Mr. Grimm's guilty plea hearing, significant exculpatory serology evidence
66 became available to the Commonwealth that should have resulted in all of the charges being dropped that the
67 Commonwealth intentionally ignored; and

68 Whereas, on March 12, 1976, the forensic scientist's serology analysis of the oral swabs from CH's
69 autopsy confirmed that the secretions on the swabs were Type O; and

70 Whereas, the Commonwealth was aware that Mr. Grimm was Type A and could not have been the
71 secretor of Type O secretions; and

72 Whereas, on March 15, 1976, the circuit court heard the Commonwealth's evidence against Mr. Grimm,
73 including the confession, forensic evidence of the hairs, swabs, and towel indicating the presence of seminal
74 fluid; and

75 Whereas, the Commonwealth intentionally ignored and buried the exculpatory serology evidence at the
76 evidentiary hearing and instead solicited testimony from the medical examiner that the report that contained
77 the new serology was of no significance; and

78 Whereas, the Commonwealth also introduced Mr. Grimm's torn shoe to corroborate the false confession
79 but intentionally excluded the exculpatory shoe and soil testing; and

80 Whereas, the Commonwealth never presented testimony to the Court at the hearing about the high levels
81 of alcohol and drugs in CH's stomach or whether that played any part in CH's death; and

82 Whereas, after hearing the forensic evidence and testimony, the circuit court accepted Mr. Grimm's guilty
83 plea on all three counts and sentenced him to life in prison on the murder and abduction charges, plus 10
84 years on the sodomy charge; and

85 Whereas, Mr. Grimm began his term of imprisonment where he spent his first five years in solitary
86 confinement because the crime made him a prison pariah; and

87 Whereas, Mr. Grimm immediately began pursuing his exoneration; and

88 Whereas, when the sexual offender registry was first created in 2001, the Commonwealth forced Mr.
89 Grimm to register at that time even while he was confined as a prisoner of the Commonwealth; and

90 Whereas, Mr. Grimm secured the assistance of the Innocence Project beginning in 2007 and secured the
91 assistance of Arnold & Porter Kaye Scholer LLP in 2017 to investigate his case; and

92 Whereas, DNA testing in 2012 and 2023 determined that the eight hairs found in Mr. Grimm's car and on
93 his coat did not belong to CH and, in fact, belonged to six different people; and

94 Whereas, DNA testing and modern microscopy in 2002, 2012, and 2013 determined there was no sperm
95 present on the oral swabs or on the towel and the DNA testing excluded Mr. Grimm as the source from all
96 DNA recovered on the oral swabs, and all DNA profiles recovered matched CH's own DNA; and

97 Whereas, a new toxicology analysis concluded it would have taken 90 to 150 minutes for CH's blood
98 alcohol content to reach the 0.12% level found at autopsy, making it impossible for Mr. Grimm to commit the
99 crime within the 75-minute window of time available from when CH was reported missing at 1:30 p.m. and
100 when Mr. Grimm answered the officers' knock at his door at 2:45 p.m.; and

101 Whereas, Mr. Grimm was denied parole 26 times; and

102 Whereas, Mr. Grimm was released from prison on April 3, 2020, placed on parole, and was required to
103 continue to be registered a sexual offender and required to wear an ankle bracelet and to have his phone and
104 computer monitored on a 24/7 basis at his own expense; and

105 Whereas, Mr. Grimm pursued a writ of actual innocence in the Virginia Court of Appeals on April 28,
106 2023; and

107 Whereas, current Attorney General Jason Miyares investigated Mr. Grimm's case and determined that Mr.
108 Grimm is innocent of the crimes for which he was convicted, had been wrongfully convicted, and should be
109 entitled to a writ of actual innocence; and

110 Whereas, the Virginia Court of Appeals granted Mr. Grimm's petition and issued a writ of actual
111 innocence based on nonbiological and biological evidence, vacating his convictions on June 18, 2024,
112 pursuant to § 19.2-327.13 of the Code of Virginia; and

113 Whereas, Mr. Grimm, as a result of his wrongful incarceration, lost more than 49 years of his freedom and
114 countless life experiences and opportunities, including family relations, the opportunity to further his
115 education, and the opportunity to earn potential income from gainful employment during his years of
116 incarceration; and

117 Whereas, because Mr. Grimm was incarcerated at such an early age for nearly all of his adult life, he was

not able to generate a sufficient work record to qualify for any Social Security or Medicare benefits; and

Whereas, Mr. Grimm was required to register as a sex offender for a period of more than 23 years from June 6, 2001, through June 18, 2024; and

Whereas, Mr. Grimm has struggled to rebuild his life due to the strong stigma of his wrongful conviction for violent crimes against a child and due further to the stringent conditions of parole and sex offender registry requirements; and

Whereas, many job training programs and promising employment opportunities have not been available due to these limitations; and

Whereas, Mr. Grimm has been restricted from living in certain areas, subject to strict curfews, subject to travel limitations, including the ability to visit family members who resided outside the Commonwealth, and was prohibited from being in the vicinity of certain public facilities; and

Whereas, many of Mr. Grimm's family relations were shattered, including with his own son who was born 10 days before Mr. Grimm's arrest and whom Mr. Grimm only met once; and

Whereas, Mr. Grimm's family members were vilified by the Richmond community, including their neighbors and friends; and

Whereas, Mr. Grimm's sisters were forced to relocate to different schools due to the stigma of Mr. Grimm's conviction; and

Whereas, the trauma of Mr. Grimm's wrongful conviction led one of Mr. Grimm's sisters into a fatal drug addiction and another into a lifelong need for psychiatric therapy; and

Whereas, Mr. Grimm's conviction resulting in 49 years of imprisonment and sexual offender registration is the longest wrongful conviction in Virginia history, and the second longest wrongful conviction in the country; and

Whereas, Mr. Grimm is a Vietnam-era veteran with no prior criminal record until he was wrongfully convicted at the age of 20; and

Whereas, 96 percent of Mr. Grimm's expected adult life was spent wrongfully incarcerated; and

Whereas, the court record clearly demonstrates that the Commonwealth (i) intentionally and wrongfully fabricated evidence that was used to obtain the wrongful conviction by withholding, ignoring, and misrepresenting exculpatory evidence demonstrating that Mr. Grimm was innocent and (ii) then intentionally, willfully, and continuously suppressed or withheld evidence establishing the innocence of Mr. Grimm; and

Whereas, had Richmond and Commonwealth officials not intentionally withheld exonerating evidence, intentionally mischaracterized evidence, and intentionally and falsely threatened the death penalty which was in fact unavailable, Mr. Grimm would not have been charged with or convicted of these horrific crimes and would not have suffered for nearly five decades with shame, humiliation, and loss of liberty as a convicted child rapist and murderer; and

Whereas, Mr. Grimm has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby appropriated from the general fund of the state treasury the sum of an amount to be provided in the appropriation act for the relief of Marvin Leon Grimm, Jr., to be paid by check issued by the State Treasurer on warrant of the Comptroller in accordance with the provisions of Article 18.2 (§ 8.01-195.10 et. seq.) of Chapter 3 of Title 8.01.

2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.