

## House Resolution 1038

By: Representatives Gordon of the 163<sup>rd</sup>, Gilliard of the 162<sup>nd</sup>, Stephens of the 164<sup>th</sup>, Williams of the 168<sup>th</sup>, Petrea of the 166<sup>th</sup>, and others

## 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 AND ENACTED BY THE GENERAL  
34 ASSEMBLY OF GEORGIA that the Department of Corrections is authorized and directed  
35 to pay the sum of \$3,250,000.00 to Kenneth Eric Gardiner as compensation as provided  
36 above. Said sum shall be paid from funds appropriated to or available to the Department of  
37 Corrections and shall be in full and complete satisfaction of all claims against the state  
38 arising out of said occurrence and shall be paid subject to the provisions of this resolution.  
39 Said sum shall be paid in the form of an annuity in equal monthly installments over a 20 year  
40 period of time beginning one year after an initial lump sum payment of \$250,000.00. Upon  
41 the death of Kenneth Eric Gardiner, all payments and all obligations of the state with respect  
42 to any and all future payments with respect to the annuity shall continue to be made to his  
43 estate or heirs. None of the annuities shall be assignable under any circumstances.