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TO THE SENATE JUDICIARY COMMITTEE RE S.B. 291

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I thank the Committee for this opportunity to testify on S.B. 291. I am the director of the Michigan Innocence Clinic at the University of Michigan Law School, which began operations in January 2009. So far, the Clinic has helped free nine wrongfully convicted men and two women by finding and presenting new evidence of actual innocence. You will hear from one of those exonerees, Julie Baumer, in a few minutes. I also would like to introduce Marla Mitchell-Cichon, the director of the Cooley Innocence Project, and Valerie Newman from the State Appellate Defender Office, which is also a member of the Innocence Network. Both of them have exonerees here today.

According to the National Registry of Exonerations, there have been 56 people wrongfully convicted and exonerated in Michigan since 1990. The most recent came this summer when Kent County Prosecutor Bill Forsyth moved to vacate the conviction of Quentin Carter, who was convicted in 1992 as a 17-year-old teenager of raping a 10-year-old girl. Twenty-three years later, the girl told authorities the identity of the man who actually committed the rape. Quentin Carter is now 40 years old.

Thirty states, the federal government, and the District of Columbia have recognized the moral obligation to compensate wrongfully convicted people for the years stolen from their lives by failures of the criminal justice system. SB 291 would bring Michigan into line with those other states. In Michigan today, we have many worthwhile programs to help parolees reintegrate into society, but a person released because he or she has been proven to be innocent gets absolutely no help of any kind.

The bill does not guarantee compensation to anyone. To even be eligible to file a claim in the Court of Claims, an exoneree would have to show that he or she served time in state prison for a conviction that was overturned because of new evidence of actual innocence and that the charge was then dismissed or he or she was acquitted. But that's not enough to win compensation. Once the claim is filed, the exoneree still must prove that he or she is, in fact, completely innocent of the crime. And if the exoneree happens to be one of the lucky few who can win a civil lawsuit against someone to blame for their wrongful conviction, then the compensation award must be offset by the amount of the lawsuit proceeds. Unlike a lawsuit, a claim under SB 291 does not require a judge to find anyone to blame for the wrongful conviction.

If an exoneree can meet the rigorous requirements of SB 291, I can think of no just reason why the people of Michigan, in whose name the exoneree was imprisoned, should not compensate the person. Whether the person was exonerated by DNA evidence, as Ken Wyniemko was, advances in medical or other sciences, such as Julie Baumer, David Gavitt, or Victor Caminata, by evidence pointing to a different perpetrator that had been withheld by the police, as in the case of Dwayne Provience, or by the discovery that a witness who testified at trial gave false testimony, as in the recent case of Quentin Carter, the fact remains that we sent someone to prison for a crime they didn't commit. That person needs to be made whole.

I thank the Committee for its attention.