

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill Nos. 775, 751 & 640, Page 1, Section 476.418, Line 11, by inserting after all of said  
3 section and line the following:  
4

5 "490.800. 1. Notwithstanding the sovereign immunity of the state, any individual who was  
6 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such  
7 offense as a result of any evidentiary method except DNA profiling analysis may be paid restitution.  
8 The individual may receive an amount of one hundred forty dollars per day for each day of  
9 postconviction incarceration for the offense for which the individual is determined to be actually  
10 innocent. The petition for the payment of such restitution shall be filed with the sentencing court.  
11 For the purposes of this section, the term "actually innocent" shall mean:

12 (1) The individual was convicted of a felony for which a final order of release was entered  
13 by the court;

14 (2) All appeals of the order of release have been exhausted;

15 (3) The individual was not serving any term of a sentence for any other offense concurrently  
16 with the sentence for which he or she is determined to be actually innocent, unless such individual  
17 was serving another concurrent sentence because his or her parole was revoked by a court or the  
18 parole board in connection with the offense for which the person has been exonerated. Regardless  
19 of whether any other basis may exist for the revocation of the person's probation or parole at the  
20 time of conviction for the offense for which the person is later determined to be actually innocent,  
21 when the court's or the parole board's sole stated reason for the revocation in its order is the  
22 conviction for the offense for which the person is later determined to be actually innocent, such  
23 order shall, for purposes of this section only, be conclusive evidence that the person's probation or  
24 parole was revoked in connection with the offense for which the person has been exonerated; and

25 (4) The evidentiary method demonstrates the person's innocence of the offense for which the  
26 person is in custody.

27  
28 Any individual who receives restitution under this section shall not also receive restitution under  
29 section 650.058 and shall be prohibited from seeking any civil redress from the state, its  
30 departments and agencies, or any employee thereof, or any political subdivision or its employees.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 This section shall not be construed as a waiver of sovereign immunity for any purposes other than  
2 the restitution provided for herein. The department of corrections shall determine the aggregate  
3 amount of restitution owed during a fiscal year. If insufficient moneys are appropriated each fiscal  
4 year to pay restitution to such persons, the department shall pay each individual who has received an  
5 order awarding restitution a pro rata share of the amount appropriated. Provided sufficient moneys  
6 are appropriated to the department, the amounts owed to such individual shall be paid on June  
7 thirtieth of each subsequent fiscal year, until such time as the restitution to the individual has been  
8 paid in full. No individual awarded restitution under this subsection shall receive more than fifty-  
9 one thousand one hundred dollars during each fiscal year. No interest on unpaid restitution shall be  
10 awarded to the individual. No individual who has been determined by the court to be actually  
11 innocent shall be responsible for the costs of care under section 217.831.

12 2. (1) In addition to restitution paid under subsection 1 of this section, an individual shall be  
13 entitled to receive tuition assistance under section 506.403.

14 (2) In addition to restitution paid under subsection 1 of this section, an individual may also  
15 be awarded other nonmonetary relief including, but not limited to, counseling, housing assistance,  
16 and personal financial literacy assistance, as appropriate.

17 3. A petition for payment of restitution under this section may be filed only by the  
18 individual determined to be actually innocent or the individual's legal guardian. No claim or  
19 petition for restitution under this section may be filed by the individual's heirs or assigns. An  
20 individual may designate an immediate relative as a beneficiary to continue to receive restitution  
21 under this section upon the individual's death.

22 4. (1) An individual who is determined to be actually innocent of an offense under this  
23 section shall automatically be granted an order of expungement from the court in which he or she  
24 pled guilty or was sentenced to expunge from all official records all recordations of his or her arrest,  
25 plea, trial, or conviction and all associated biological samples and biometric data. Upon the court's  
26 granting the order of expungement, the records and files maintained in any administrative or court  
27 proceeding in an associate or circuit division of the court shall be destroyed. The effect of such  
28 order shall be to restore such person to the status he or she occupied prior to such arrest, plea, or  
29 conviction and as if such event had never taken place. No person as to whom such order has been  
30 entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise  
31 giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea,  
32 trial, conviction, or expungement in response to any inquiry made of him or her for any purpose  
33 whatsoever, and no such inquiry shall be made for information relating to an expungement under  
34 this section.

35 (2) The court shall direct the Missouri state highway patrol to destroy such records, samples,  
36 and data. The Missouri state highway patrol shall carry out such order and shall notify the Federal  
37 Bureau of Investigation, the department of corrections, and any other criminal justice agency that  
38 may have a record of the conviction and arrest."; and  
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1 Further amend said bill, Page 2, Section 491.015, Line 31, by inserting after all of said section and  
2 line the following:  
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4 "506.403. 1. Any individual awarded tuition assistance under section 490.800 or 650.058  
5 shall receive a waiver of tuition and required fees for attendance at a public institution of higher  
6 education for up to one hundred twenty credit hours. Such individual may attend a public institution  
7 of higher education either full-time or part-time.

8 2. (1) Subject to appropriations, the department of higher education may make expenditures  
9 to reimburse each individual awarded tuition assistance under section 490.800 or 650.058 who is  
10 enrolled in a public institution of higher education for additional fees including, but not limited to,  
11 fees for room and board, technical equipment, and course-required books.

12 (2) No public institution of higher education shall delay enrollment of an individual who is  
13 awarded tuition assistance under section 490.800 or 650.058 because appropriations are not  
14 available for any additional fees provided to such individual.

15 3. To remain eligible for the tuition and fees waiver under this section, an individual shall  
16 remain in good standing at the public institution of higher education where the individual is  
17 enrolled.

18 4. Individuals shall provide a written or electronic copy of the court order awarding relief in  
19 the form of tuition assistance to the public institution of higher education or the department of  
20 higher education.

21 5. The department of higher education shall adopt rules and regulations to administer the  
22 provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010,  
23 that is created under the authority delegated in this section shall become effective only if it complies  
24 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This  
25 section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly  
26 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
28 adopted after August 28, 2022, shall be invalid and void."; and  
29

30 Further amend said bill, Page 12, Section 595.226, Line 28, by inserting after all of said section and  
31 line the following:  
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33 "650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was  
34 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such  
35 crime solely as a result of DNA profiling analysis may be paid restitution. The individual may  
36 receive an amount of one hundred forty dollars per day for each day of postconviction incarceration  
37 for the crime for which the individual is determined to be actually innocent. The petition for the  
38 payment of said restitution shall be filed with the sentencing court. For the purposes of this section,  
39 the term "actually innocent" shall mean:

40 (1) The individual was convicted of a felony for which a final order of release was entered  
41 by the court;

42 (2) All appeals of the order of release have been exhausted;

1 (3) The individual was not serving any term of a sentence for any other crime concurrently  
2 with the sentence for which he or she is determined to be actually innocent, unless such individual  
3 was serving another concurrent sentence because his or her parole was revoked by a court or the  
4 parole board in connection with the crime for which the person has been exonerated. Regardless of  
5 whether any other basis may exist for the revocation of the person's probation or parole at the time  
6 of conviction for the crime for which the person is later determined to be actually innocent, when  
7 the court's or the parole board's sole stated reason for the revocation in its order is the conviction for  
8 the crime for which the person is later determined to be actually innocent, such order shall, for  
9 purposes of this section only, be conclusive evidence that ~~[their]~~ the person's probation or parole was  
10 revoked in connection with the crime for which the person has been exonerated; and

11 (4) Testing ordered under section 547.035, or testing by the order of any state or federal  
12 court, if such person was exonerated on or before August 28, 2004, or testing ordered under section  
13 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's  
14 innocence of the crime for which the person is in custody.

15  
16 Any individual who receives restitution under this section shall be prohibited from seeking any civil  
17 redress from the state, its departments and agencies, or any employee thereof, or any political  
18 subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity  
19 for any purposes other than the restitution provided for herein. The department of corrections shall  
20 determine the aggregate amount of restitution owed during a fiscal year. If insufficient moneys are  
21 appropriated each fiscal year to pay restitution to such persons, the department shall pay each  
22 individual who has received an order awarding restitution a pro rata share of the amount  
23 appropriated. Provided sufficient moneys are appropriated to the department, the amounts owed to  
24 such individual shall be paid on June thirtieth of each subsequent fiscal year, until such time as the  
25 restitution to the individual has been paid in full. However, no individual awarded restitution under  
26 this subsection shall receive more than ~~[thirty-six thousand five]~~ fifty-one thousand one hundred  
27 dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the individual.  
28 No individual who has been determined by the court to be actually innocent shall be responsible for  
29 the costs of care under section 217.831.

30 2. (1) In addition to restitution paid under subsection 1 of this section, an individual shall be  
31 entitled to receive tuition assistance under section 506.403.

32 (2) In addition to restitution paid under subsection 1 of this section, an individual may also  
33 be awarded other nonmonetary relief including, but not limited to, counseling, housing assistance,  
34 and personal financial literacy assistance, as appropriate.

35 ~~[2-]~~ 3. If the results of the DNA testing ~~[2-]~~ confirm the person's guilt, then the person filing for  
36 DNA testing under section 547.035, shall:

37 (1) Be liable for any reasonable costs incurred when conducting the DNA test, including but  
38 not limited to the cost of the test. Such costs shall be determined by the court and shall be included  
39 in the findings of fact and conclusions of law made by the court; and

1 (2) Be sanctioned under the provisions of section 217.262.

2 [~~3.~~] 4. A petition for payment of restitution under this section may [~~only~~] be filed only by  
 3 the individual determined to be actually innocent or the individual's legal guardian. No claim or  
 4 petition for restitution under this section may be filed by the individual's heirs or assigns. [~~An~~  
 5 ~~individual's right to receive restitution under this section is not assignable or otherwise transferrable.~~  
 6 ~~The state's obligation to pay restitution under this section shall cease upon the individual's death.~~  
 7 ~~Any beneficiary designation that purports to bequeath, assign, or otherwise convey the right to~~  
 8 ~~receive such restitution shall be void and unenforceable.] An individual may designate an immediate  
 9 relative as a beneficiary to continue to receive restitution under this section upon the individual's  
 10 death.~~

11 [~~4.~~] 5. (1) An individual who is determined to be actually innocent of a crime under this  
 12 chapter shall automatically be granted an order of expungement from the court in which he or she  
 13 pled guilty or was sentenced to expunge from all official records all recordations of his or her arrest,  
 14 plea, trial or conviction and all associated biological samples and biometric data. Upon the court's  
 15 granting of the order of expungement, the records and files maintained in any administrative or  
 16 court proceeding in an associate or circuit division of the court shall be [~~confidential and only~~  
 17 available to the parties or by order of the court for good cause shown] destroyed. The effect of such  
 18 order shall be to restore such person to the status he or she occupied prior to such arrest, plea or  
 19 conviction and as if such event had never taken place. No person as to whom such order has been  
 20 entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise  
 21 giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea,  
 22 trial, conviction or expungement in response to any inquiry made of him or her for any purpose  
 23 whatsoever, and no such inquiry shall be made for information relating to an expungement under  
 24 this section.

25 (2) The court shall direct the Missouri state highway patrol to destroy such records, samples,  
 26 and data. The Missouri state highway patrol shall carry out such order and shall notify the Federal  
 27 Bureau of Investigation, the department of corrections, and any other criminal justice agency that  
 28 may have a record of the conviction and arrest.

29 6. Any individual who receives restitution under section 490.800 shall not also receive  
 30 restitution under this section."; and

31 Further amend said bill by amending the title, enacting clause, and intersectional references  
 32 accordingly.  
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