

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 775, 751 & 640, Page 1, Line 2, after the number "640," by inserting in lieu thereof the following:

"Page 1, Section 476.418, Line 11, by inserting after all of said section and line the following:

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

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

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

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to be actually innocent, unless such individual was serving another concurrent sentence because his or her parole was revoked by a court or the parole board in connection with the offense for which the person has been exonerated.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such order shall, for purposes of this section only, be conclusive evidence that the person's probation or parole was revoked in connection with the offense for which the person has been exonerated; and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

Action Taken _____ Date _____

1 Any individual who receives restitution under this section shall not also receive restitution under
 2 section 650.058 and shall be prohibited from seeking any civil redress from the state, its
 3 departments and agencies, or any employee thereof, or any political subdivision or its employees.
 4 This section shall not be construed as a waiver of sovereign immunity for any purposes other than
 5 the restitution provided for herein. The department of corrections shall determine the aggregate
 6 amount of restitution owed during a fiscal year. If insufficient moneys are appropriated each fiscal
 7 year to pay restitution to such persons, the department shall pay each individual who has received an
 8 order awarding restitution a pro rata share of the amount appropriated. Provided sufficient moneys
 9 are appropriated to the department, the amounts owed to such individual shall be paid on June
 10 thirtieth of each subsequent fiscal year, until such time as the restitution to the individual has been
 11 paid in full. No individual awarded restitution under this subsection shall receive more than thirty-
 12 six thousand five hundred dollars during each fiscal year. No interest on unpaid restitution shall be
 13 awarded to the individual. No individual who has been determined by the court to be actually
 14 innocent shall be responsible for the costs of care under section 217.831.

15 2. A petition for payment of restitution under this section may be filed only by the
 16 individual determined to be actually innocent or the individual's legal guardian. No claim or
 17 petition for restitution under this section may be filed by the individual's heirs or assigns. An
 18 individual's right to receive restitution under this section is not assignable or otherwise transferrable.
 19 The state's obligation to pay restitution under this section shall cease upon the individual's death.
 20 Any beneficiary designation that purports to bequeath, assign, or otherwise convey the right to
 21 receive such restitution shall be void and unenforceable.

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

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 36 Further amend said bill,"; and

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 38 Further amend said amendment and page, Line 23, by inserting after all of said line the following:

1 "Further amend said bill, Page 12, Section 595.226, Line 28, by inserting after all of said section and
2 line the following:

3
4 "650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was
5 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such
6 crime solely as a result of DNA profiling analysis may be paid restitution. The individual may
7 receive an amount of one hundred dollars per day for each day of postconviction incarceration for
8 the crime for which the individual is determined to be actually innocent. The petition for the
9 payment of said restitution shall be filed with the sentencing court. For the purposes of this section,
10 the term "actually innocent" shall mean:

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

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

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

24 (4) Testing ordered under section 547.035, or testing by the order of any state or federal
25 court, if such person was exonerated on or before August 28, 2004, or testing ordered under section
26 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's
27 innocence of the crime for which the person is in custody.

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29 Any individual who receives restitution under this section shall be prohibited from seeking any civil
30 redress from the state, its departments and agencies, or any employee thereof, or any political
31 subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity
32 for any purposes other than the restitution provided for herein. The department of corrections shall
33 determine the aggregate amount of restitution owed during a fiscal year. If insufficient moneys are
34 appropriated each fiscal year to pay restitution to such persons, the department shall pay each
35 individual who has received an order awarding restitution a pro rata share of the amount
36 appropriated. Provided sufficient moneys are appropriated to the department, the amounts owed to
37 such individual shall be paid on June thirtieth of each subsequent fiscal year, until such time as the
38 restitution to the individual has been paid in full. However, no individual awarded restitution under
39 this subsection shall receive more than thirty-six thousand five hundred dollars during each fiscal

1 year. No interest on unpaid restitution shall be awarded to the individual. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831.

2 2. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA testing under section 547.035, shall:

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

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

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

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

7 5. Any individual who receives restitution under section 490.800 shall not also receive restitution under this section."; and"; and

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

9 THIS AMENDMENT AMENDS 3386H08.17H