

HOUSE AMENDMENT NO. \_\_\_\_\_  
TO  
HOUSE AMENDMENT NO. \_\_\_\_\_

Offered By

AMEND House Amendment No. \_\_\_\_\_ to Senate Bill No. 28, Page 1, Line 27, by deleting said line and inserting in lieu thereof the following:

"department.

506.400. 1. As used in this section, "claimant" means a person convicted and subsequently imprisoned for one or more offenses that such person did not commit.

2. (1) The claimant shall establish the following by a preponderance of evidence:

(a) The claimant was convicted of a felony offense and subsequently imprisoned;

(b) The claimant's judgment of conviction was reversed or vacated and either the charges were dismissed or on retrial the claimant was found to be not guilty;

(c) The claimant did not commit the offense or offenses for which the claimant was convicted and was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges, or finding of not guilty on retrial; and

(d) The claimant did not commit or suborn perjury, fabricate evidence, or by the claimant's own conduct cause or bring about the conviction. Neither a confession or admission later found to be false nor a guilty plea shall constitute committing or suborning perjury, fabricating evidence, or causing or bringing about the conviction under this subsection.

(2) The court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted under this section, may, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence, or other factors not caused by such persons or those acting on their behalf.

3. If the court finds that the claimant is wrongfully convicted, it shall enter a certificate of innocence finding that the claimant was innocent of all offenses for which the claimant was mistakenly convicted. The clerk of the court shall send a certified copy of the certificate of innocence and the judgment entry to the attorney general for payment under section 105.711.

4. Upon entry of a certificate of innocence, the claimant shall automatically be granted an

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

1 order of expungement from the court in which he or she pled guilty or was sentenced to expunge  
2 from all official records or recordations of his or her arrest, plea, trial, or conviction. Upon granting  
3 of the order of expungement, the records and files maintained in any administrative or court  
4 proceeding in an associate or circuit division of the court shall be confidential and only available to  
5 the parties or by order of the court for good cause shown. The effect of such order shall be to  
6 restore such person to the status he or she occupied prior to such arrest, plea, or conviction and as if  
7 such event had never taken place. No person as to whom such order has been entered shall be held  
8 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false  
9 statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction,  
10 or expungement in response to any inquiry made of him or her for any purpose whatsoever, and no  
11 such inquiry shall be made for information relating to an expungement under this subsection.

12 5. Upon entry of a certificate of innocence, the court shall order the expungement and  
13 destruction of the associated biological samples authorized by and given to the Missouri state  
14 highway patrol. The order shall state the information required to be stated in a petition to expunge  
15 and destroy the samples and profile record and shall direct the Missouri state highway patrol to  
16 expunge and destroy such samples and profile record. The clerk of the court shall send a certified  
17 copy of the order to the Missouri state highway patrol, which shall carry out the order and provide  
18 confirmation of such action to the court. Nothing in this subsection shall require the Missouri state  
19 highway patrol to expunge and destroy any sample or profile record associated with the claimant  
20 that must be retained by state statute.

21 6. The decision to grant or deny a certificate of innocence shall not have a res judicata effect  
22 on any other proceedings.

23 Section 1. 1. For purposes of this section, the term "exoneree" means a person who was  
24 convicted of an offense and later officially declared innocent of that offense or relieved of all legal  
25 consequences of the conviction because evidence of innocence that was not presented at trial  
26 required reconsideration of the case.

27 2. The department of corrections shall develop a policy and procedures outlining for  
28 exonerees how to obtain a birth certificate, Social Security card, and state identification prior to  
29 release from a correctional center. The policy shall be made available to all exonerees, regardless of  
30 the method by which an exoneree was exonerated. If an exoneree does not have access to his or her  
31 birth certificate, Social Security card, or state identification upon release, the department shall assist  
32 such exoneree in obtaining the documents prior to release.

33 3. The department shall be required to provide an exoneree, upon his or her release from a  
34 correctional facility, with the same services the department is required to provide an offender upon  
35 release from a correctional facility."; and"; and

36  
37 Further amend said bill by amending the title, enacting clause, and intersectional references  
38 accordingly.

39  
40 THIS AMENDMENT AMENDS 0495S01.25H.