

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 72, Page 58, Section 494.455, Line 45, by inserting after said section and line the
3 following:
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5 "506.400. 1. As used in this section, "claimant" means a person convicted and subsequently
6 imprisoned for one or more offenses that such person did not commit.

7 2. (1) The claimant shall establish the following by a preponderance of evidence:

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

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

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

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

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

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

28 4. Upon entry of a certificate of innocence, the claimant shall automatically be granted an
29 order of expungement from the court in which he or she pled guilty or was sentenced to expunge
30 from all official records or recordations of his or her arrest, plea, trial, or conviction. Upon granting

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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 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 subsection.

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

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

Further amend said bill, Page 109, Section 650.340, Line 30, by inserting after said section and line the following:

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

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

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

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