

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for House Bill No. 301,
2 Page 2, Line 7, by inserting after said line the following:

3
4 "Further amend said bill, Page 11, Section 301.3175, Line 32, by inserting after all of said section
5 and line the following:

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

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

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

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19 was serving another concurrent sentence because his or her parole was revoked by a court or the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26 parole was revoked in connection with the offense for which the person has been exonerated; and

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

29
30 Any individual who receives restitution under this section shall not also receive restitution under
31 section 650.058. The department of corrections shall determine the aggregate amount of restitution
32 owed during a fiscal year. If insufficient moneys are appropriated each fiscal year to pay restitution
33 to such persons, the department shall pay each individual who has received an order awarding
34 restitution a pro rata share of the amount appropriated. Provided sufficient moneys are appropriated

Action Taken _____ Date _____

1 to the department, the amounts owed to such individual shall be paid on June thirtieth of each
 2 subsequent fiscal year, until such time as the restitution to the individual has been paid in full. No
 3 individual awarded restitution under this subsection shall receive more than thirty-six thousand five
 4 hundred dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the
 5 individual. No individual who has been determined by the court to be actually innocent shall be
 6 responsible for the costs of care under section 217.831.

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

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

27 4. If an individual receives restitution under this section and the individual has won a
 28 monetary award against the state or any political subdivision thereof in a civil action related to the
 29 same subject, or has entered into a settlement agreement with the state or any political subdivision
 30 thereof related to the same subject, the amount of the award in the action or the amount received in
 31 the settlement agreement, less any sums paid to attorneys or for costs in litigating the other civil
 32 action or obtaining the settlement agreement, shall be reduced by the sum of moneys to which the
 33 individual is entitled under subsection 1 of this section. The court shall include in the judgment
 34 entry an award to the state of any amount deducted under this subsection."; and"; and

35
 36 Further amend said amendment, Page 5, Line 5, by inserting after all of said line the following:

37
 38 "Further amend said bill, Page 24, Section 590.1075, Line 11, by inserting after said section and line
 39 the following:

40
 41 "650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was
 42 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such
 43 crime solely as a result of DNA profiling analysis may be paid restitution. The individual may
 44 receive an amount of one hundred dollars per day for each day of postconviction incarceration for
 45 the crime for which the individual is determined to be actually innocent. The petition for the
 46 payment of said restitution shall be filed with the sentencing court. For the purposes of this section,
 47 the term "actually innocent" shall mean:

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

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

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

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

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

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

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

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

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

44 4. An individual who is determined to be actually innocent of a crime under this chapter
45 shall automatically be granted an order of expungement from the court in which he or she pled
46 guilty or was sentenced to expunge from all official records all recordations of his or her arrest, plea,
47 trial or conviction. Upon the court's granting of the order of expungement, the records and files
48 maintained in any administrative or court proceeding in an associate or circuit division of the court
49 shall be confidential and ~~[only]~~ available only to the parties or by order of the court for good cause

1 shown. The effect of such order shall be to restore such person to the status he or she occupied prior
2 to such arrest, plea or conviction and as if such event had never taken place. No person as to whom
3 such order has been entered shall be held thereafter under any provision of any law to be guilty of
4 perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge
5 such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for
6 any purpose whatsoever, and no such inquiry shall be made for information relating to an
7 expungement under this section.

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

10
11 Further amend said bill by amending the title, enacting clause, and intersectional references
12 accordingly.

13
14 THIS AMENDS AMENDMENT 0695H02.33H