

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

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1108 & 1181, Page 19, Section 492.304,  
2 Line 42, by inserting after said section and line the following:

3  
4 "506.400. 1. As used in this section, "claimant" means a person convicted and subsequently  
5 imprisoned for one or more offenses that such person did not commit.

6 2. (1) The claimant shall establish the following by a preponderance of evidence:

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

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

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

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

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

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

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

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

9       5. Upon entry of a certificate of innocence, the court shall order the expungement and  
10 destruction of any associated biological samples authorized by and given to the Missouri state  
11 highway patrol associated with the case or offense listed in the certificate of innocence and the court  
12 order. The order shall state the information required to be stated in a petition to expunge and  
13 destroy the samples and profile record and shall direct the highway patrol to expunge and destroy  
14 such samples and profile record. The clerk of the court shall send a certified copy of the order to the  
15 highway patrol, which shall carry out the order and expunge and destroy all DNA records and  
16 identifiable information in the state DNA database pertaining to the claimant, unless the highway  
17 patrol determines that the claimant is or has been obligated to submit such information for reasons  
18 unrelated to the case or offense listed in the certificate of innocence. Nothing in this subsection  
19 shall require the highway patrol to expunge and destroy any sample or profile record associated with  
20 the claimant that must be retained under 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       7. A decision under this section may be appealed to the supreme court."; and  
24

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