

FIRST REGULAR SESSION

HOUSE BILL NO. 327

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOSLEY.

0290H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 105.711 and 650.058, RSMo, and to enact in lieu thereof three new sections relating to compensation for wrongful conviction.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 105.711 and 650.058, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 105.711, 506.400, and 506.403, to read as
3 follows:

105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist
2 of moneys appropriated to the fund by the general assembly and moneys otherwise credited to
3 such fund pursuant to section 105.716.

4 2. Moneys in the state legal expense fund shall be available for the payment of any
5 claim or any amount required by any final judgment rendered by a court of competent
6 jurisdiction against:

7 (1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or
8 536.087 or section 537.600;

9 (2) Any officer or employee of the state of Missouri or any agency of the state,
10 including, without limitation, elected officials, appointees, members of state boards or
11 commissions, and members of the Missouri National Guard upon conduct of such officer or
12 employee arising out of and performed in connection with his or her official duties on behalf
13 of the state, or any agency of the state, provided that moneys in this fund shall not be
14 available for payment of claims made under chapter 287;

15 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other
16 health care provider licensed to practice in Missouri under the provisions of chapter 330, 332,

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 334, 335, 336, 337 or 338 who is employed by the state of Missouri or any agency of the state
18 under formal contract to conduct disability reviews on behalf of the department of elementary
19 and secondary education or provide services to patients or inmates of state correctional
20 facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist,
21 nurse, or other health care provider licensed to practice in Missouri under the provisions of
22 chapter 330, 332, 334, 335, 336, 337, or 338 who is under formal contract to provide services
23 to patients or inmates at a county jail on a part-time basis;

24 (b) Any physician licensed to practice medicine in Missouri under the provisions of
25 chapter 334 and his professional corporation organized pursuant to chapter 356 who is
26 employed by or under contract with a city or county health department organized under
27 chapter 192 or chapter 205, or a city health department operating under a city charter, or a
28 combined city-county health department to provide services to patients for medical care
29 caused by pregnancy, delivery, and child care, if such medical services are provided by the
30 physician pursuant to the contract without compensation or the physician is paid from no
31 other source than a governmental agency except for patient co-payments required by federal
32 or state law or local ordinance;

33 (c) Any physician licensed to practice medicine in Missouri under the provisions of
34 chapter 334 who is employed by or under contract with a federally funded community health
35 center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42
36 U.S.C. Section 216, 254c) to provide services to patients for medical care caused by
37 pregnancy, delivery, and child care, if such medical services are provided by the physician
38 pursuant to the contract or employment agreement without compensation or the physician is
39 paid from no other source than a governmental agency or such a federally funded community
40 health center except for patient co-payments required by federal or state law or local
41 ordinance. In the case of any claim or judgment that arises under this paragraph, the
42 aggregate of payments from the state legal expense fund shall be limited to a maximum of one
43 million dollars for all claims arising out of and judgments based upon the same act or acts
44 alleged in a single cause against any such physician, and shall not exceed one million dollars
45 for any one claimant;

46 (d) Any physician licensed pursuant to chapter 334 who is affiliated with and receives
47 no compensation from a nonprofit entity qualified as exempt from federal taxation under
48 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free
49 health screening in any setting or any physician, nurse, physician assistant, dental hygienist,
50 dentist, or other health care professional licensed or registered under chapter 330, 331, 332,
51 334, 335, 336, 337, or 338 who provides health care services within the scope of his or her
52 license or registration at a city or county health department organized under chapter 192 or
53 chapter 205, a city health department operating under a city charter, or a combined city-

54 county health department, or a nonprofit community health center qualified as exempt from
55 federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
56 excluding federally funded community health centers as specified in paragraph (c) of this
57 subdivision and rural health clinics under 42 U.S.C. Section 1396d(l)(1), if such services are
58 restricted to primary care and preventive health services, provided that such services shall not
59 include the performance of an abortion, and if such health services are provided by the health
60 care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or
61 338 without compensation. MO HealthNet or Medicare payments for primary care and
62 preventive health services provided by a health care professional licensed or registered under
63 chapter 330, 331, 332, 334, 335, 336, 337, or 338 who volunteers at a community health
64 clinic is not compensation for the purpose of this section if the total payment is assigned to
65 the community health clinic. For the purposes of the section, "community health clinic"
66 means a nonprofit community health center qualified as exempt from federal taxation under
67 Section 501(c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary
68 care and preventive health services to people without health insurance coverage. In the case
69 of any claim or judgment that arises under this paragraph, the aggregate of payments from the
70 state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for
71 all claims arising out of and judgments based upon the same act or acts alleged in a single
72 cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance
73 policies purchased pursuant to the provisions of section 105.721 shall be limited to five
74 hundred thousand dollars. Liability or malpractice insurance obtained and maintained in
75 force by or on behalf of any health care professional licensed or registered under chapter 330,
76 331, 332, 334, 335, 336, 337, or 338 shall not be considered available to pay that portion of a
77 judgment or claim for which the state legal expense fund is liable under this paragraph;

78 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or
79 registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental
80 hygienist in Missouri under the provisions of chapter 332, 334, or 335, or lawfully practicing,
81 who provides medical, nursing, or dental treatment within the scope of his license or
82 registration to students of a school whether a public, private, or parochial elementary or
83 secondary school or summer camp, if such physician's treatment is restricted to primary care
84 and preventive health services and if such medical, dental, or nursing services are provided by
85 the physician, dentist, physician assistant, dental hygienist, or nurse without compensation.
86 In the case of any claim or judgment that arises under this paragraph, the aggregate of
87 payments from the state legal expense fund shall be limited to a maximum of five hundred
88 thousand dollars, for all claims arising out of and judgments based upon the same act or acts
89 alleged in a single cause and shall not exceed five hundred thousand dollars for any one

90 claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall
91 be limited to five hundred thousand dollars; or

92 (f) Any physician licensed under chapter 334, or dentist licensed under chapter 332,
93 providing medical care without compensation to an individual referred to his or her care by a
94 city or county health department organized under chapter 192 or 205, a city health department
95 operating under a city charter, or a combined city-county health department, or nonprofit
96 health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal
97 Revenue Code of 1986, as amended, or a federally funded community health center organized
98 under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section
99 216, 254c; provided that such treatment shall not include the performance of an abortion. In
100 the case of any claim or judgment that arises under this paragraph, the aggregate of payments
101 from the state legal expense fund shall be limited to a maximum of one million dollars for all
102 claims arising out of and judgments based upon the same act or acts alleged in a single cause
103 and shall not exceed one million dollars for any one claimant, and insurance policies
104 purchased under the provisions of section 105.721 shall be limited to one million dollars.
105 Liability or malpractice insurance obtained and maintained in force by or on behalf of any
106 physician licensed under chapter 334, or any dentist licensed under chapter 332, shall not be
107 considered available to pay that portion of a judgment or claim for which the state legal
108 expense fund is liable under this paragraph;

109 (4) Staff employed by the juvenile division of any judicial circuit;

110 (5) Any attorney licensed to practice law in the state of Missouri who practices law at
111 or through a nonprofit community social services center qualified as exempt from federal
112 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
113 through any agency of any federal, state, or local government, if such legal practice is
114 provided by the attorney without compensation. In the case of any claim or judgment that
115 arises under this subdivision, the aggregate of payments from the state legal expense fund
116 shall be limited to a maximum of five hundred thousand dollars for all claims arising out of
117 and judgments based upon the same act or acts alleged in a single cause and shall not exceed
118 five hundred thousand dollars for any one claimant, and insurance policies purchased
119 pursuant to the provisions of section 105.721 shall be limited to five hundred thousand
120 dollars;

121 (6) Any social welfare board created under section 205.770 and the members and
122 officers thereof upon conduct of such officer or employee while acting in his or her capacity
123 as a board member or officer, and any physician, nurse, physician assistant, dental hygienist,
124 dentist, or other health care professional licensed or registered under chapter 330, 331, 332,
125 334, 335, 336, 337, or 338 who is referred to provide medical care without compensation by

126 the board and who provides health care services within the scope of his or her license or
127 registration as prescribed by the board; or

128 (7) Any person who is selected or appointed by the state director of revenue under
129 subsection 2 of section 136.055 to act as an agent of the department of revenue, to the extent
130 that such agent's actions or inactions upon which such claim or judgment is based were
131 performed in the course of the person's official duties as an agent of the department of
132 revenue and in the manner required by state law or department of revenue rules.

133 **3. Moneys in the state legal expense fund shall be available for the payment of**
134 **any claim or any amount required by any final judgment rendered by a court of**
135 **competent jurisdiction for the purposes of paying judgments arising from claims under**
136 **section 506.400.**

137 **4.** The department of health and senior services shall promulgate rules regarding
138 contract procedures and the documentation of care provided under paragraphs (b), (c), (d),
139 (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments
140 from the state legal expense fund or any policy of insurance procured pursuant to the
141 provisions of section 105.721, provided in subsection ~~[7]~~ **8** of this section, shall not apply to
142 any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of
143 subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d),
144 (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal
145 expense fund or any policy of insurance procured pursuant to section 105.721, to the extent
146 damages are allowed under sections 538.205 to 538.235. Liability or malpractice insurance
147 obtained and maintained in force by any health care professional licensed or registered under
148 chapter 330, 331, 332, 334, 335, 336, 337, or 338 for coverage concerning his or her private
149 practice and assets shall not be considered available under subsection ~~[7]~~ **8** of this section to
150 pay that portion of a judgment or claim for which the state legal expense fund is liable under
151 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section.
152 However, a health care professional licensed or registered under chapter 330, 331, 332, 334,
153 335, 336, 337, or 338 may purchase liability or malpractice insurance for coverage of liability
154 claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of
155 subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage
156 provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b),
157 (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or modified, the
158 state legal expense fund shall be available for damages which occur while the pertinent
159 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is in
160 effect.

161 ~~[4-]~~ **5.** The attorney general shall promulgate rules regarding contract procedures and
162 the documentation of legal practice provided under subdivision (5) of subsection 2 of this

163 section. The limitation on payments from the state legal expense fund or any policy of
164 insurance procured pursuant to section 105.721 as provided in subsection [7] 8 of this section
165 shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this
166 section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section
167 shall be paid by the state legal expense fund or any policy of insurance procured pursuant to
168 section 105.721 to the extent damages are allowed under sections 538.205 to 538.235.
169 Liability or malpractice insurance otherwise obtained and maintained in force shall not be
170 considered available under subsection [7] 8 of this section to pay that portion of a judgment or
171 claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of
172 this section. However, an attorney may obtain liability or malpractice insurance for coverage
173 of liability claims or judgments based upon legal practice rendered under subdivision (5) of
174 subsection 2 of this section that exceed the amount of liability coverage provided by the state
175 legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision
176 (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be
177 available for damages that occur while the pertinent subdivision (5) of subsection 2 of this
178 section is in effect.

179 ~~[5-]~~ 6. All payments shall be made from the state legal expense fund by the
180 commissioner of administration with the approval of the attorney general. Payment from the
181 state legal expense fund of a claim or final judgment award against a health care professional
182 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, described in
183 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or
184 against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for
185 services rendered in accordance with the conditions of such paragraphs. In the case of any
186 claim or judgment against an officer or employee of the state or any agency of the state based
187 upon conduct of such officer or employee arising out of and performed in connection with his
188 or her official duties on behalf of the state or any agency of the state that would give rise to a
189 cause of action under section 537.600, the state legal expense fund shall be liable, excluding
190 punitive damages, for:

- 191 (1) Economic damages to any one claimant; and
- 192 (2) Up to three hundred fifty thousand dollars for noneconomic damages.

193

194 The state legal expense fund shall be the exclusive remedy and shall preclude any other civil
195 actions or proceedings for money damages arising out of or relating to the same subject
196 matter against the state officer or employee, or the officer's or employee's estate. No officer
197 or employee of the state or any agency of the state shall be individually liable in his or her
198 personal capacity for conduct of such officer or employee arising out of and performed in
199 connection with his or her official duties on behalf of the state or any agency of the state. The

200 provisions of this subsection shall not apply to any defendant who is not an officer or
201 employee of the state or any agency of the state in any proceeding against an officer or
202 employee of the state or any agency of the state. Nothing in this subsection shall limit the
203 rights and remedies otherwise available to a claimant under state law or common law in
204 proceedings where one or more defendants is not an officer or employee of the state or any
205 agency of the state.

206 ~~[6-]~~ 7. The limitation on awards for noneconomic damages provided for in this
207 subsection shall be increased or decreased on an annual basis effective January first of each
208 year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as
209 published by the Bureau of Economic Analysis of the United States Department of
210 Commerce. The current value of the limitation shall be calculated by the director of the
211 department of commerce and insurance, who shall furnish that value to the secretary of state,
212 who shall publish such value in the Missouri Register as soon after each January first as
213 practicable, but it shall otherwise be exempt from the provisions of section 536.021.

214 ~~[7-]~~ 8. Except as provided in subsection ~~[3]~~ 4 of this section, in the case of any claim
215 or judgment that arises under sections 537.600 and 537.610 against the state of Missouri, or
216 an agency of the state, the aggregate of payments from the state legal expense fund and from
217 any policy of insurance procured pursuant to the provisions of section 105.721 shall not
218 exceed the limits of liability as provided in sections 537.600 to 537.610. No payment shall be
219 made from the state legal expense fund or any policy of insurance procured with state funds
220 pursuant to section 105.721 unless and until the benefits provided to pay the claim by any
221 other policy of liability insurance have been exhausted.

222 ~~[8-]~~ 9. The provisions of section 33.080 notwithstanding, any moneys remaining to
223 the credit of the state legal expense fund at the end of an appropriation period shall not be
224 transferred to general revenue.

225 ~~[9-]~~ 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is
226 promulgated under the authority delegated in sections 105.711 to 105.726 shall become
227 effective only if it has been promulgated pursuant to the provisions of chapter 536. Nothing
228 in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted
229 prior to August 28, 1999, if it fully complied with the provisions of chapter 536. This section
230 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
231 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a
232 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
233 rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

3 **2. Notwithstanding any other provision of law, a claimant may bring an action in**
4 **the circuit court seeking damages from the state under this section.**

5 **3. (1) The claimant shall establish the following by a preponderance of evidence:**

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

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

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

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

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

23 **4. (1) The suit, accompanied by a statement of the facts concerning the claim for**
24 **damages, verified in the manner provided for the verification of complaints in the rules**
25 **of civil procedure, shall be brought by the claimant within a period of two years after**
26 **the:**

27 **(a) Dismissal of the criminal charges against the claimant or finding of not guilty**
28 **on retrial; or**

29 **(b) Grant of a pardon to the claimant.**

30 **(2) A claimant convicted, imprisoned, and released from custody before August**
31 **28, 2023, shall commence an action under this section no later than August 28, 2025.**

32 **(3) All pleadings shall be captioned "In the matter of the wrongful conviction**
33 **of".**

34 **(4) Any claim filed under this section shall be served on the attorney general.**

35 **(5) The suit for a claim filed under this section shall be tried by the court, and no**
36 **request for a jury trial shall be made.**

37 **5. (1) Damages awarded under this section shall be:**

38 **(a) Except as provided in subdivision (2) of this subsection, one hundred seventy-**
39 **nine dollars per day for each day of imprisonment but no more than sixty-five thousand**
40 **dollars per fiscal year; and**

41 **(b) Not less than twenty-five thousand dollars for each additional year served on**
42 **parole or postrelease supervision or each additional year the claimant was required to**
43 **register as a sexual offender under sections 589.400 to 589.425, whichever is greater.**

44 **(2) A claimant shall not receive compensation for any period of incarceration**
45 **during which the claimant was concurrently serving a sentence for a conviction of**
46 **another crime for which such claimant was lawfully incarcerated.**

47 **(3) (a) Except as provided in paragraph (b) of this subdivision, the court shall**
48 **order that the award be paid as a combination of an initial payment not to exceed one**
49 **hundred thousand dollars or twenty-five percent of the award, whichever is greater, and**
50 **the remainder as an annuity not to exceed eighty thousand dollars per year. The**
51 **claimant shall designate a beneficiary or beneficiaries for the annuity by filing such**
52 **designation with the court.**

53 **(b) The court may order that the award be paid in one lump sum if the court**
54 **finds that it is in the best interests of the claimant.**

55 **(4) In addition to the damages awarded under subdivision (1) of this subsection,**
56 **the claimant:**

57 **(a) Shall be entitled to receive reasonable attorney's fees and costs incurred in**
58 **the action brought under this section not to exceed a total of twenty-five thousand**
59 **dollars, unless a greater reasonable total is authorized by the court upon a finding of**
60 **good cause shown;**

61 **(b) May also be awarded other nonmonetary relief as sought in the complaint**
62 **including, but not limited to, counseling, housing assistance, and personal financial**
63 **literacy assistance, as appropriate; and**

64 **(c) Shall be entitled to receive tuition assistance under section 506.403.**

65 **6. (1) If, at the time of the judgment entry referred to in subsection 5 of this**
66 **section, the claimant has won a monetary award against the state or any political**
67 **subdivision thereof in a civil action related to the same subject, or has entered into a**
68 **settlement agreement with the state or any political subdivision thereof related to the**
69 **same subject, the amount of the award in the action or the amount received in the**
70 **settlement agreement, less any sums paid to attorneys or for costs in litigating the other**
71 **civil action or obtaining the settlement agreement, shall be deducted from the sum of**
72 **moneys to which the claimant is entitled under this section. The court shall include in**
73 **the judgment entry an award to the state of any amount deducted under this subsection.**

74 **(2) If subdivision (1) of this subsection does not apply and if, after the time of the**
75 **judgment entry referred to in subsection 5 of this section, the claimant wins a monetary**
76 **award against the state or any political subdivision thereof in a civil action related to the**
77 **same subject, or enters into a settlement agreement with the state or any political**
78 **subdivision thereof related to the same subject, the claimant shall reimburse the state**
79 **for the sum of moneys paid under the judgment entry referred to in subsection 5 of this**
80 **section, less any sums paid to attorneys or for costs in litigating the other civil action or**
81 **obtaining the settlement agreement. A reimbursement required under this subsection**
82 **shall not exceed the amount of the monetary award the claimant wins for damages in the**
83 **other civil action or the amount received in the settlement agreement.**

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

89 **8. Upon entry of a certificate of innocence, the claimant shall automatically be**
90 **granted an order of expungement from the court in which he or she pled guilty or was**
91 **sentenced to expunge from all official records or recordations of his or her arrest, plea,**
92 **trial, or conviction. Upon granting of the order of expungement, the records and files**
93 **maintained in any administrative or court proceeding in an associate or circuit division**
94 **of the court shall be confidential and only available to the parties or by order of the**
95 **court for good cause shown. The effect of such order shall be to restore such person to**
96 **the status he or she occupied prior to such arrest, plea, or conviction and as if such event**
97 **had never taken place. No person as to whom such order has been entered shall be held**
98 **thereafter under any provision of any law to be guilty of perjury or otherwise giving a**
99 **false statement by reason of his or her failure to recite or acknowledge such arrest, plea,**
100 **trial, conviction, or expungement in response to any inquiry made of him or her for any**
101 **purpose whatsoever, and no such inquiry shall be made for information relating to an**
102 **expungement under this subsection.**

103 **9. Upon entry of a certificate of innocence, the court shall order the**
104 **expungement and destruction of the associated biological samples authorized by and**
105 **given to the Missouri state highway patrol. The order shall state the information**
106 **required to be stated in a petition to expunge and destroy the samples and profile record**
107 **and shall direct the Missouri state highway patrol to expunge and destroy such samples**
108 **and profile record. The clerk of the court shall send a certified copy of the order to the**
109 **Missouri state highway patrol, which shall carry out the order and provide confirmation**
110 **of such action to the court. Nothing in this subsection shall require the Missouri state**

111 highway patrol to expunge and destroy any sample or profile record associated with the
112 claimant that was related to any offense other than the offense for which the court has
113 entered a certificate of innocence.

114 10. The decision to grant or deny a certificate of innocence shall not have a res
115 judicata effect on any other proceedings.

116 11. Nothing in this section shall preclude the department of corrections from
117 providing a claimant reentry services that are provided to other persons including, but
118 not limited to, financial assistance, housing assistance, mentoring, and counseling. Such
119 services shall be provided while an action under this section is pending and after any
120 judgment is entered, as appropriate for such claimant.

121 12. A decision under this section may be appealed to the supreme court.

506.403. 1. Any individual awarded tuition assistance under section 506.400
2 shall receive a waiver of tuition and required fees for attendance at a public institution
3 of higher education for up to one hundred twenty credit hours. Such individual may
4 attend a public institution of higher education either full-time or part-time.

5 2. (1) Subject to appropriations, the department of higher education may make
6 expenditures to each individual awarded tuition assistance under section 506.400 who is
7 enrolled in a public institution of higher education for reimbursement of additional fees
8 including, but not limited to, fees for room and board, technical equipment, and course-
9 required books.

10 (2) No public institution of higher education shall delay enrollment of an
11 individual who is awarded tuition assistance under section 506.400 because
12 appropriations are not available for any additional fees provided to such individual.

13 3. To remain eligible for the tuition and fees waiver under this section, an
14 individual shall remain in good standing at the public institution of higher education
15 where the individual is enrolled.

16 4. Individuals shall provide a written or electronic copy of the court order
17 awarding relief in the form of tuition assistance to the public institution of higher
18 education or the department of higher education.

19 5. The department of higher education shall adopt rules and regulations to
20 administer the provisions of this section. Any rule or portion of a rule, as that term is
21 defined in section 536.010, that is created under the authority delegated in this section
22 shall become effective only if it complies with and is subject to all of the provisions of
23 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
24 nonseverable and if any of the powers vested with the general assembly pursuant to
25 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are

26 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
27 **proposed or adopted after August 28, 2023, shall be invalid and void.**

2 ~~[650.058. 1. Notwithstanding the sovereign immunity of the state, any~~
3 ~~individual who was found guilty of a felony in a Missouri court and was later~~
4 ~~determined to be actually innocent of such crime solely as a result of DNA~~
5 ~~profiling analysis may be paid restitution. The individual may receive an~~
6 ~~amount of one hundred dollars per day for each day of postconviction~~
7 ~~incarceration for the crime for which the individual is determined to be~~
8 ~~actually innocent. The petition for the payment of said restitution shall be filed~~
9 ~~with the sentencing court. For the purposes of this section, the term "actually~~
10 ~~innocent" shall mean:~~

11 ~~(1) The individual was convicted of a felony for which a final order of~~
12 ~~release was entered 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~~
15 ~~crime concurrently with the sentence for which he or she is determined to be~~
16 ~~actually innocent, unless such individual was serving another concurrent~~
17 ~~sentence because his or her parole was revoked by a court or the parole board~~
18 ~~in connection with the crime for which the person has been exonerated.~~
19 ~~Regardless of whether any other basis may exist for the revocation of the~~
20 ~~person's probation or parole at the time of conviction for the crime for which~~
21 ~~the person is later determined to be actually innocent, when the court's or the~~
22 ~~parole board's sole stated reason for the revocation in its order is the conviction~~
23 ~~for the crime for which the person is later determined to be actually innocent,~~
24 ~~such order shall, for purposes of this section only, be conclusive evidence that~~
25 ~~their probation or parole was revoked in connection with the crime for which~~
26 ~~the person has been exonerated; and~~

27 ~~(4) Testing ordered under section 547.035, or testing by the order of~~
28 ~~any state or federal court, if such person was exonerated on or before August~~
29 ~~28, 2004, or testing ordered under section 650.055, if such person was or is~~
30 ~~exonerated after August 28, 2004, demonstrates a person's innocence of the~~
31 ~~crime for which the person is in custody.~~

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

46 during each fiscal year. No interest on unpaid restitution shall be awarded to
47 the individual. No individual who has been determined by the court to be
48 actually innocent shall be responsible for the costs of care under section
49 217.831.

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

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

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

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

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

✓