

FIRST REGULAR SESSION

# HOUSE BILL NO. 1086

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOSLEY.

2320H.031

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapter 547, RSMo, by adding thereto one new section relating to a conviction review unit.

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

Section A. Chapter 547, RSMo, is amended by adding thereto one new section, to be known as section 547.500, to read as follows:

**547.500. 1. The Missouri office of prosecution services may establish a conviction review unit to investigate claims of actual innocence of any defendant, including those who plead guilty.**

**2. The Missouri office of prosecution services shall have the power to promulgate rules and regulations to receive and investigate claims of actual innocence.**

**3. The Missouri office of prosecution services shall create an application process that at a minimum shall include that:**

**(1) Any application for review of a claim of actual innocence shall not have any excessive fees and fees shall be waived in cases of indigence;**

**(2) No application shall be accepted if there is any pending motion, writ, appeal, or other matter pending regarding the defendant's conviction. Any application filed shall be considered a pleading under the Missouri rules of civil procedure, and all attorneys shall comply with supreme court rule 55.03 when signing the application. The application shall be sworn and signed under penalty of perjury by the applicant. Any witness statements attached shall be sworn and signed under penalty of perjury; and**

**(3) Any review and investigation shall be based on newly discovered and verifiable evidence of actual innocence not presented at a trial. Such newly discovered**

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.

18 **and verifiable evidence shall establish by clear and convincing evidence the actual**  
19 **innocence of the defendant.**

20 **4. The conviction review unit shall consist of two attorneys, hired by the**  
21 **executive director of the Missouri office of prosecution services, who have extensive**  
22 **experience prosecuting and defending criminal matters, an investigator, a paralegal, and**  
23 **such administrative staff as is needed to efficiently and effectively process all**  
24 **applications and claims. The executive director of the Missouri office of prosecution**  
25 **services shall coordinate the activities and budget of the conviction review unit and act**  
26 **as an ex officio member of the unit.**

27 **5. Once the review is complete, the conviction review unit shall present its**  
28 **findings and recommendations to:**

29 **(1) The office of the prosecuting attorney or circuit attorney who prosecuted the**  
30 **defendant's case, the attorney general's office if it prosecuted the case, or the special**  
31 **prosecutor who prosecuted the case; or**

32 **(2) If the review was requested by a prosecuting attorney's office, the circuit**  
33 **attorney's office, the attorney general, or a special prosecutor, the findings and**  
34 **recommendations shall be presented to the office that requested the review.**

35 **6. The circuit attorney, prosecuting attorney of any county, special prosecutor,**  
36 **attorney general's office if it prosecuted the case, Missouri office of prosecution services,**  
37 **or other prosecutor who prosecuted the case is not required to accept or follow the**  
38 **findings and recommendations of the conviction review unit.**

39 **7. (1) The application, investigation, reports, interviews, findings, and**  
40 **recommendations, and any documents, written, electronic, or otherwise, received or**  
41 **generated by the conviction review unit are closed records.**

42 **(2) The conviction review unit's findings and recommendations submitted to the**  
43 **prosecuting attorney, circuit attorney, the attorney general's office if it prosecuted the**  
44 **case, or the special prosecutor who prosecuted the case shall become open records after**  
45 **the receiving entity of the submission makes a decision not to pursue a motion under**  
46 **section 547.031 or, if such a motion is filed, after the finality of all proceedings under**  
47 **section 547.031, including appeals authorized therein.**

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