

FIRST REGULAR SESSION

# HOUSE BILL NO. 731

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COLLINS.

1956H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 547, RSMo, by adding thereto one new section relating to actual innocence.

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*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  
2 known as section 547.033, to read as follows:

3 **547.033. Any person in the custody of, or under the supervision of, the**  
4 **department of corrections may raise a freestanding claim of actual innocence in any**  
5 **postconviction action or proceeding challenging the validity of the original judgment.**  
6 **The court shall have the authority to review, decide, and issue an order on such a claim**  
7 **if the court finds that there is clear and convincing evidence supporting the claim of**  
8 **actual innocence. In considering a claim of actual innocence, the court shall evaluate all**  
9 **relevant evidence and information including, but not limited to, evidence not presented**  
10 **to the original trier of fact at trial, during plea hearings, or at other proceedings. The**  
11 **court shall also consider evidence introduced during the original trial or plea, as well as**  
12 **any evidence submitted during direct appeals, postconviction hearings, or state or**  
13 **federal habeas actions. If the court determines, based on the totality of the evidence,**  
14 **that the burden of proof has been met by clear and convincing evidence and that such**  
**evidence undermines confidence in the original judgment, the court shall vacate or set**  
**aside the judgment.**

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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.