

SECOND REGULAR SESSION

# HOUSE BILL NO. 2361

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BOSLEY.

5095H.011

DANA RADEMAN MILLER, Chief Clerk

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## 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.

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*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Section A. Sections 105.711 and 650.058, RSMo, are repealed and three new sections  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 claim  
5 or any amount required by any final judgment rendered by a court of competent jurisdiction  
6 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, including,  
10 without limitation, elected officials, appointees, members of state boards or commissions, and  
11 members of the Missouri National Guard upon conduct of such officer or employee arising out  
12 of and performed in connection with his or her official duties on behalf of the state, or any  
13 agency of the state, provided that moneys in this fund shall not be available for payment of  
14 claims made under chapter 287;

15 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health  
16 care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335,

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.

17 336, 337 or 338 who is employed by the state of Missouri or any agency of the state under formal  
18 contract to conduct disability reviews on behalf of the department of elementary and secondary  
19 education or provide services to patients or inmates of state correctional facilities on a part-time  
20 basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care  
21 provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336,  
22 337, or 338 who is under formal contract to provide services to patients or inmates at a county  
23 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 employed  
26 by or under contract with a city or county health department organized under chapter 192 or  
27 chapter 205, or a city health department operating under a city charter, or a combined city-county  
28 health department to provide services to patients for medical care caused by pregnancy, delivery,  
29 and child care, if such medical services are provided by the physician pursuant to the contract  
30 without compensation or the physician is paid from no other source than a governmental agency  
31 except for patient co-payments required by federal or state law or local ordinance;

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

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

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

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

88 pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars;  
89 or

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

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

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

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

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

129 **3. Moneys in the state legal expense fund shall be available for the payment of any**  
130 **claim or any amount required by any final judgment rendered by a court of competent**  
131 **jurisdiction for the purposes of paying judgments arising from claims under section**  
132 **506.400.**

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

156 [~~4-~~] **5.** The attorney general shall promulgate rules regarding contract procedures and the  
157 documentation of legal practice provided under subdivision (5) of subsection 2 of this section.  
158 The limitation on payments from the state legal expense fund or any policy of insurance procured  
159 pursuant to section 105.721 as provided in subsection [7] **8** of this section shall not apply to any

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

173 ~~[5-]~~ 6. All payments shall be made from the state legal expense fund by the  
174 commissioner of administration with the approval of the attorney general. Payment from the  
175 state legal expense fund of a claim or final judgment award against a health care professional  
176 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, described in  
177 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against  
178 an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services  
179 rendered in accordance with the conditions of such paragraphs. In the case of any claim or  
180 judgment against an officer or employee of the state or any agency of the state based upon  
181 conduct of such officer or employee arising out of and performed in connection with his or her  
182 official duties on behalf of the state or any agency of the state that would give rise to a cause of  
183 action under section 537.600, the state legal expense fund shall be liable, excluding punitive  
184 damages, for:

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

187

188 The state legal expense fund shall be the exclusive remedy and shall preclude any other civil  
189 actions or proceedings for money damages arising out of or relating to the same subject matter  
190 against the state officer or employee, or the officer's or employee's estate. No officer or  
191 employee of the state or any agency of the state shall be individually liable in his or her personal  
192 capacity for conduct of such officer or employee arising out of and performed in connection with  
193 his or her official duties on behalf of the state or any agency of the state. The provisions of this  
194 subsection shall not apply to any defendant who is not an officer or employee of the state or any  
195 agency of the state in any proceeding against an officer or employee of the state or any agency

196 of the state. Nothing in this subsection shall limit the rights and remedies otherwise available  
197 to a claimant under state law or common law in proceedings where one or more defendants is  
198 not an officer or employee of the state or any agency of the state.

199 ~~[6-]~~ 7. The limitation on awards for noneconomic damages provided for in this  
200 subsection shall be increased or decreased on an annual basis effective January first of each year  
201 in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as  
202 published by the Bureau of Economic Analysis of the United States Department of Commerce.  
203 The current value of the limitation shall be calculated by the director of the department of  
204 insurance, financial institutions and professional registration, who shall furnish that value to the  
205 secretary of state, who shall publish such value in the Missouri Register as soon after each  
206 January first as practicable, but it shall otherwise be exempt from the provisions of section  
207 536.021.

208 ~~[7-]~~ 8. Except as provided in subsection ~~[3]~~ 4 of this section, in the case of any claim or  
209 judgment that arises under sections 537.600 and 537.610 against the state of Missouri, or an  
210 agency of the state, the aggregate of payments from the state legal expense fund and from any  
211 policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the  
212 limits of liability as provided in sections 537.600 to 537.610. No payment shall be made from  
213 the state legal expense fund or any policy of insurance procured with state funds pursuant to  
214 section 105.721 unless and until the benefits provided to pay the claim by any other policy of  
215 liability insurance have been exhausted.

216 ~~[8-]~~ 9. The provisions of section 33.080 notwithstanding, any moneys remaining to the  
217 credit of the state legal expense fund at the end of an appropriation period shall not be transferred  
218 to general revenue.

219 ~~[9-]~~ 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
220 promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective  
221 only if it has been promulgated pursuant to the provisions of chapter 536. Nothing in this section  
222 shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28,  
223 1999, if it fully complied with the provisions of chapter 536. This section and chapter 536 are  
224 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536  
225 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
226 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
227 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 the**  
8 **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 was**  
10 **convicted and was not an accessory or accomplice to the acts that were the basis of the**  
11 **conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal**  
12 **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 suborning**  
16 **perjury, fabricating evidence, or causing or bringing about the conviction under this**  
17 **subsection.**

18           **(2) The court, in exercising its discretion as permitted by law regarding the weight**  
19 **and admissibility of evidence submitted under this section, may, in the interest of justice,**  
20 **give due consideration to difficulties of proof caused by the passage of time, the death or**  
21 **unavailability of witnesses, the destruction of evidence, or other factors not caused by such**  
22 **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 of**  
25 **civil procedure, shall be brought by the claimant within a period of two years after the:**

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

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

29           **(2) A claimant convicted, imprisoned, and released from custody before August 28,**  
30 **2020, shall commence an action under this section no later than August 28, 2022.**

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

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

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

35           **5. (1) Damages awarded under this section shall be:**

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



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

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

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

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

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

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

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

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

63           **6. (1) If, at the time of the judgment entry referred to in subsection 5 of this section,**  
64 **the claimant has won a monetary award against the state or any political subdivision**  
65 **thereof in a civil action related to the same subject, or has entered into a settlement**  
66 **agreement with the state or any political subdivision thereof related to the same subject,**  
67 **the amount of the award in the action or the amount received in the settlement agreement,**  
68 **less any sums paid to attorneys or for costs in litigating the other civil action or obtaining**  
69 **the settlement agreement, shall be deducted from the sum of moneys to which the claimant**  
70 **is entitled under this section. The court shall include in the judgment entry an award to**  
71 **the state of any amount deducted under this subsection.**

72           **(2) If subdivision (1) of this subsection does not apply and if, after the time of the**  
73 **judgment entry referred to in subsection 5 of this section, the claimant wins a monetary**  
74 **award against the state or any political subdivision thereof in a civil action related to the**

75 same subject, or enters into a settlement agreement with the state or any political  
76 subdivision thereof related to the same subject, the claimant shall reimburse the state for  
77 the sum of moneys paid under the judgment entry referred to in subsection 5 of this  
78 section, less any sums paid to attorneys or for costs in litigating the other civil action or  
79 obtaining the settlement agreement. A reimbursement required under this subsection shall  
80 not exceed the amount of the monetary award the claimant wins for damages in the other  
81 civil action or the amount received in the settlement agreement.

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

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

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

110 related to any offense other than the offense for which the court has entered a certificate  
111 of innocence.

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

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

119       **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 shall**  
2 **receive a waiver of tuition and required fees for attendance at a public institution of higher**  
3 **education for up to one hundred twenty credit hours. Such individual may attend a public**  
4 **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 reimburse each individual awarded tuition assistance under section**  
7 **506.400 who is enrolled in a public institution of higher education for additional fees**  
8 **including, but not limited to, fees for room and board, technical equipment, and**  
9 **course-required books.**

10       **(2) No public institution of higher education shall delay enrollment of an individual**  
11 **who is awarded tuition assistance under section 506.400 because appropriations are not**  
12 **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 where**  
15 **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 shall**  
22 **become effective only if it complies with and is subject to all of the provisions of chapter**  
23 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**  
24 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**  
25 **to delay the effective date, or to disapprove and annul a rule are subsequently held**

26 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
 27 **after August 28, 2020, 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 amount~~  
 6 ~~of one hundred dollars per day for each day of postconviction incarceration for~~  
 7 ~~the crime for which the individual is determined to be actually innocent. The~~  
 8 ~~petition for the payment of said restitution shall be filed with the sentencing~~  
 9 ~~court. For the purposes of this section, the term "actually innocent" shall mean:~~

10 ~~\_\_\_\_\_ (1) The individual was convicted of a felony for which a final order of~~  
 11 ~~release was entered by the court;~~

12 ~~\_\_\_\_\_ (2) All appeals of the order of release have been exhausted;~~

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

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

31 ~~\_\_\_\_\_ Any individual who receives restitution under this section shall be prohibited~~  
 32 ~~from seeking any civil redress from the state, its departments and agencies, or any~~  
 33 ~~employee thereof, or any political subdivision or its employees. This section~~  
 34 ~~shall not be construed as a waiver of sovereign immunity for any purposes other~~  
 35 ~~than the restitution provided for herein. The department of corrections shall~~  
 36 ~~determine the aggregate amount of restitution owed during a fiscal year. If~~  
 37 ~~insufficient moneys are appropriated each fiscal year to pay restitution to such~~  
 38 ~~persons, the department shall pay each individual who has received an order~~  
 39 ~~awarding restitution a pro rata share of the amount appropriated. Provided~~  
 40 ~~sufficient moneys are appropriated to the department, the amounts owed to such~~  
 41 ~~individual shall be paid on June thirtieth of each subsequent fiscal year, until such~~

42 ~~time as the restitution to the individual has been paid in full. However, no~~  
43 ~~individual awarded restitution under this subsection shall receive more than~~  
44 ~~thirty-six thousand five hundred dollars during each fiscal year. No interest on~~  
45 ~~unpaid restitution shall be awarded to the individual. No individual who has~~  
46 ~~been determined by the court to be actually innocent shall be responsible for the~~  
47 ~~costs of care under section 217.831.~~

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

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

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

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

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

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