

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SCS/HCS/House Bill No. 547, Page 9, Section 557.014, Line 104,

2 by inserting after all of said line the following:

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

14 (1) The individual was convicted of a felony for which a
15 final order of release was entered by the court;

16 (2) All appeals of the order of release have been
17 exhausted;

18 (3) The individual was not serving any term of a sentence
19 for any other crime concurrently with the sentence for which he
20 or she is determined to be actually innocent, unless such
21 individual was serving another concurrent sentence because his or
22 her parole was revoked by a court or the board of probation and
23 parole in connection with the crime for which the person has been
24 exonerated. Regardless of whether any other basis may exist for

1 the revocation of the person's probation or parole at the time of
2 conviction for the crime for which the person is later determined
3 to be actually innocent, when the court's or the board of
4 probation and parole's sole stated reason for the revocation in
5 its order is the conviction for the crime for which the person is
6 later determined to be actually innocent, such order shall, for
7 purposes of this section only, be conclusive evidence that their
8 probation or parole was revoked in connection with the crime for
9 which the person has been exonerated; and

10 (4) Testing ordered under section 547.035, or testing by
11 the order of any state or federal court, if such person was
12 exonerated on or before August 28, 2004, or testing ordered under
13 section 650.055, if such person was or is exonerated after August
14 28, 2004, demonstrates a person's innocence of the crime for
15 which the person is in custody.

16
17 Any individual who receives restitution under this section shall
18 be prohibited from seeking any civil redress from the state, its
19 departments and agencies, or any employee thereof, or any
20 political subdivision or its employees. This section shall not
21 be construed as a waiver of sovereign immunity for any purposes
22 other than the restitution provided for herein. The department
23 of corrections shall determine the aggregate amount of
24 restitution owed during a fiscal year. If insufficient moneys
25 are appropriated each fiscal year to pay restitution to such
26 persons, the department shall pay each individual who has
27 received an order awarding restitution a pro rata share of the
28 amount appropriated. Provided sufficient moneys are appropriated
29 to the department, the amounts owed to such individual shall be

1 paid on June thirtieth of each subsequent fiscal year, until such
2 time as the restitution to the individual has been paid in full.
3 However, no individual awarded restitution under this subsection
4 shall receive more than thirty-six thousand five hundred dollars
5 during each fiscal year. No interest on unpaid restitution shall
6 be awarded to the individual. No individual who has been
7 determined by the court to be actually innocent shall be
8 responsible for the costs of care under section 217.831.

9 2. If the results of the DNA testing confirm the person's
10 guilt, then the person filing for DNA testing under section
11 547.035, shall:

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

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

18 3. A petition for payment of restitution under this section
19 may only be filed by the individual determined to be actually
20 innocent or the individual's legal guardian. No claim or
21 petition for restitution under this section may be filed by the
22 individual's heirs or assigns. An individual's right to receive
23 restitution under this section is not assignable or otherwise
24 transferrable. The state's obligation to pay restitution under
25 this section shall cease upon the individual's death. Any
26 beneficiary designation that purports to bequeath, assign, or
27 otherwise convey the right to receive such restitution shall be
28 void and unenforceable.

29 4. An individual who is determined to be actually innocent

1 of a crime under this chapter shall automatically be granted an
2 order of expungement from the court in which he or she pled
3 guilty or was sentenced to expunge from all official records all
4 recordations of his or her arrest, plea, trial or conviction.
5 Upon granting of the order of expungement, the records and files
6 maintained in any administrative or court proceeding in an
7 associate or circuit division of the court shall be confidential
8 and only available to the parties or by order of the court for
9 good cause shown. The effect of such order shall be to restore
10 such person to the status he or she occupied prior to such
11 arrest, plea or conviction and as if such event had never taken
12 place. No person as to whom such order has been entered shall be
13 held thereafter under any provision of any law to be guilty of
14 perjury or otherwise giving a false statement by reason of his or
15 her failure to recite or acknowledge such arrest, plea, trial,
16 conviction or expungement in response to any inquiry made of him
17 or her for any purpose whatsoever and no such inquiry shall be
18 made for information relating to an expungement under this
19 section."; and

20 Further amend the title and enacting clause accordingly.