

SENATE BILL NO. 1132

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

5267S.011

ADRIANE D. CROUSE, Secretary

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
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 105.711, 506.400, and 506.403, to read as
4 follows:

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

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

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

11 (2) Any officer or employee of the state of Missouri
12 or any agency of the state, including, without limitation,
13 elected officials, appointees, members of state boards or
14 commissions, and members of the Missouri National Guard upon
15 conduct of such officer or employee arising out of and
16 performed in connection with his or her official duties on
17 behalf of the state, or any agency of the state, provided

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 that moneys in this fund shall not be available for payment
19 of claims made under chapter 287;

20 (3) (a) Any physician, psychiatrist, pharmacist,
21 podiatrist, dentist, nurse, or other health care provider
22 licensed to practice in Missouri under the provisions of
23 chapter 330, 332, 334, 335, 336, 337 or 338 who is employed
24 by the state of Missouri or any agency of the state under
25 formal contract to conduct disability reviews on behalf of
26 the department of elementary and secondary education or
27 provide services to patients or inmates of state
28 correctional facilities on a part-time basis, and any
29 physician, psychiatrist, pharmacist, podiatrist, dentist,
30 nurse, or other health care provider licensed to practice in
31 Missouri under the provisions of chapter 330, 332, 334, 335,
32 336, 337, or 338 who is under formal contract to provide
33 services to patients or inmates at a county jail on a part-
34 time basis;

35 (b) Any physician licensed to practice medicine in
36 Missouri under the provisions of chapter 334 and his
37 professional corporation organized pursuant to chapter 356
38 who is employed by or under contract with a city or county
39 health department organized under chapter 192 or chapter
40 205, or a city health department operating under a city
41 charter, or a combined city-county health department to
42 provide services to patients for medical care caused by
43 pregnancy, delivery, and child care, if such medical
44 services are provided by the physician pursuant to the
45 contract without compensation or the physician is paid from
46 no other source than a governmental agency except for
47 patient co-payments required by federal or state law or
48 local ordinance;

49 (c) Any physician licensed to practice medicine in
50 Missouri under the provisions of chapter 334 who is employed
51 by or under contract with a federally funded community
52 health center organized under Section 315, 329, 330 or 340
53 of the Public Health Services Act (42 U.S.C. Section 216,
54 254c) to provide services to patients for medical care
55 caused by pregnancy, delivery, and child care, if such
56 medical services are provided by the physician pursuant to
57 the contract or employment agreement without compensation or
58 the physician is paid from no other source than a
59 governmental agency or such a federally funded community
60 health center except for patient co-payments required by
61 federal or state law or local ordinance. In the case of any
62 claim or judgment that arises under this paragraph, the
63 aggregate of payments from the state legal expense fund
64 shall be limited to a maximum of one million dollars for all
65 claims arising out of and judgments based upon the same act
66 or acts alleged in a single cause against any such
67 physician, and shall not exceed one million dollars for any
68 one claimant;

69 (d) Any physician licensed pursuant to chapter 334 who
70 is affiliated with and receives no compensation from a
71 nonprofit entity qualified as exempt from federal taxation
72 under Section 501(c)(3) of the Internal Revenue Code of
73 1986, as amended, which offers a free health screening in
74 any setting or any physician, nurse, physician assistant,
75 dental hygienist, dentist, or other health care professional
76 licensed or registered under chapter 330, 331, 332, 334,
77 335, 336, 337, or 338 who provides health care services
78 within the scope of his or her license or registration at a
79 city or county health department organized under chapter 192
80 or chapter 205, a city health department operating under a

81 city charter, or a combined city-county health department,
82 or a nonprofit community health center qualified as exempt
83 from federal taxation under Section 501(c)(3) of the
84 Internal Revenue Code of 1986, as amended, excluding
85 federally funded community health centers as specified in
86 paragraph (c) of this subdivision and rural health clinics
87 under 42 U.S.C. Section 1396d(1)(1), if such services are
88 restricted to primary care and preventive health services,
89 provided that such services shall not include the
90 performance of an abortion, and if such health services are
91 provided by the health care professional licensed or
92 registered under chapter 330, 331, 332, 334, 335, 336, 337,
93 or 338 without compensation. MO HealthNet or Medicare
94 payments for primary care and preventive health services
95 provided by a health care professional licensed or
96 registered under chapter 330, 331, 332, 334, 335, 336, 337,
97 or 338 who volunteers at a community health clinic is not
98 compensation for the purpose of this section if the total
99 payment is assigned to the community health clinic. For the
100 purposes of the section, "community health clinic" means a
101 nonprofit community health center qualified as exempt from
102 federal taxation under Section 501(c)(3) of the Internal
103 Revenue Code of 1987, as amended, that provides primary care
104 and preventive health services to people without health
105 insurance coverage. In the case of any claim or judgment
106 that arises under this paragraph, the aggregate of payments
107 from the state legal expense fund shall be limited to a
108 maximum of five hundred thousand dollars, for all claims
109 arising out of and judgments based upon the same act or acts
110 alleged in a single cause and shall not exceed five hundred
111 thousand dollars for any one claimant, and insurance
112 policies purchased pursuant to the provisions of section

113 105.721 shall be limited to five hundred thousand dollars.
114 Liability or malpractice insurance obtained and maintained
115 in force by or on behalf of any health care professional
116 licensed or registered under chapter 330, 331, 332, 334,
117 335, 336, 337, or 338 shall not be considered available to
118 pay that portion of a judgment or claim for which the state
119 legal expense fund is liable under this paragraph;

120 (e) Any physician, nurse, physician assistant, dental
121 hygienist, or dentist licensed or registered to practice
122 medicine, nursing, or dentistry or to act as a physician
123 assistant or dental hygienist in Missouri under the
124 provisions of chapter 332, 334, or 335, or lawfully
125 practicing, who provides medical, nursing, or dental
126 treatment within the scope of his license or registration to
127 students of a school whether a public, private, or parochial
128 elementary or secondary school or summer camp, if such
129 physician's treatment is restricted to primary care and
130 preventive health services and if such medical, dental, or
131 nursing services are provided by the physician, dentist,
132 physician assistant, dental hygienist, or nurse without
133 compensation. In the case of any claim or judgment that
134 arises under this paragraph, the aggregate of payments from
135 the state legal expense fund shall be limited to a maximum
136 of five hundred thousand dollars, for all claims arising out
137 of and judgments based upon the same act or acts alleged in
138 a single cause and shall not exceed five hundred thousand
139 dollars for any one claimant, and insurance policies
140 purchased pursuant to the provisions of section 105.721
141 shall be limited to five hundred thousand dollars; or

142 (f) Any physician licensed under chapter 334, or
143 dentist licensed under chapter 332, providing medical care
144 without compensation to an individual referred to his or her

145 care by a city or county health department organized under
146 chapter 192 or 205, a city health department operating under
147 a city charter, or a combined city-county health department,
148 or nonprofit health center qualified as exempt from federal
149 taxation under Section 501(c)(3) of the Internal Revenue
150 Code of 1986, as amended, or a federally funded community
151 health center organized under Section 315, 329, 330, or 340
152 of the Public Health Services Act, 42 U.S.C. Section 216,
153 254c; provided that such treatment shall not include the
154 performance of an abortion. In the case of any claim or
155 judgment that arises under this paragraph, the aggregate of
156 payments from the state legal expense fund shall be limited
157 to a maximum of one million dollars for all claims arising
158 out of and judgments based upon the same act or acts alleged
159 in a single cause and shall not exceed one million dollars
160 for any one claimant, and insurance policies purchased under
161 the provisions of section 105.721 shall be limited to one
162 million dollars. Liability or malpractice insurance
163 obtained and maintained in force by or on behalf of any
164 physician licensed under chapter 334, or any dentist
165 licensed under chapter 332, shall not be considered
166 available to pay that portion of a judgment or claim for
167 which the state legal expense fund is liable under this
168 paragraph;

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

171 (5) Any attorney licensed to practice law in the state
172 of Missouri who practices law at or through a nonprofit
173 community social services center qualified as exempt from
174 federal taxation under Section 501(c)(3) of the Internal
175 Revenue Code of 1986, as amended, or through any agency of
176 any federal, state, or local government, if such legal

177 practice is provided by the attorney without compensation.
178 In the case of any claim or judgment that arises under this
179 subdivision, the aggregate of payments from the state legal
180 expense fund shall be limited to a maximum of five hundred
181 thousand dollars for all claims arising out of and judgments
182 based upon the same act or acts alleged in a single cause
183 and shall not exceed five hundred thousand dollars for any
184 one claimant, and insurance policies purchased pursuant to
185 the provisions of section 105.721 shall be limited to five
186 hundred thousand dollars;

187 (6) Any social welfare board created under section
188 205.770 and the members and officers thereof upon conduct of
189 such officer or employee while acting in his or her capacity
190 as a board member or officer, and any physician, nurse,
191 physician assistant, dental hygienist, dentist, or other
192 health care professional licensed or registered under
193 chapter 330, 331, 332, 334, 335, 336, 337, or 338 who is
194 referred to provide medical care without compensation by the
195 board and who provides health care services within the scope
196 of his or her license or registration as prescribed by the
197 board; or

198 (7) Any person who is selected or appointed by the
199 state director of revenue under subsection 2 of section
200 136.055 to act as an agent of the department of revenue, to
201 the extent that such agent's actions or inactions upon which
202 such claim or judgment is based were performed in the course
203 of the person's official duties as an agent of the
204 department of revenue and in the manner required by state
205 law or department of revenue rules.

206 **3. Moneys in the state legal expense fund shall be**
207 **available for the payment of any claim or any amount**
208 **required by any final judgment rendered by a court of**

209 **competent jurisdiction for the purposes of paying judgments**
210 **arising from claims under section 506.400.**

211 4. The department of health and senior services shall
212 promulgate rules regarding contract procedures and the
213 documentation of care provided under paragraphs (b), (c),
214 (d), (e), and (f) of subdivision (3) of subsection 2 of this
215 section. The limitation on payments from the state legal
216 expense fund or any policy of insurance procured pursuant to
217 the provisions of section 105.721, provided in subsection
218 [7] 8 of this section, shall not apply to any claim or
219 judgment arising under paragraph (a), (b), (c), (d), (e), or
220 (f) of subdivision (3) of subsection 2 of this section. Any
221 claim or judgment arising under paragraph (a), (b), (c),
222 (d), (e), or (f) of subdivision (3) of subsection 2 of this
223 section shall be paid by the state legal expense fund or any
224 policy of insurance procured pursuant to section 105.721, to
225 the extent damages are allowed under sections 538.205 to
226 538.235. Liability or malpractice insurance obtained and
227 maintained in force by any health care professional licensed
228 or registered under chapter 330, 331, 332, 334, 335, 336,
229 337, or 338 for coverage concerning his or her private
230 practice and assets shall not be considered available under
231 subsection [7] 8 of this section to pay that portion of a
232 judgment or claim for which the state legal expense fund is
233 liable under paragraph (a), (b), (c), (d), (e), or (f) of
234 subdivision (3) of subsection 2 of this section. However, a
235 health care professional licensed or registered under
236 chapter 330, 331, 332, 334, 335, 336, 337, or 338 may
237 purchase liability or malpractice insurance for coverage of
238 liability claims or judgments based upon care rendered under
239 paragraphs (c), (d), (e), and (f) of subdivision (3) of
240 subsection 2 of this section which exceed the amount of

241 liability coverage provided by the state legal expense fund
242 under those paragraphs. Even if paragraph (a), (b), (c),
243 (d), (e), or (f) of subdivision (3) of subsection 2 of this
244 section is repealed or modified, the state legal expense
245 fund shall be available for damages which occur while the
246 pertinent paragraph (a), (b), (c), (d), (e), or (f) of
247 subdivision (3) of subsection 2 of this section is in effect.

248 [4.] 5. The attorney general shall promulgate rules
249 regarding contract procedures and the documentation of legal
250 practice provided under subdivision (5) of subsection 2 of
251 this section. The limitation on payments from the state
252 legal expense fund or any policy of insurance procured
253 pursuant to section 105.721 as provided in subsection [7] 8
254 of this section shall not apply to any claim or judgment
255 arising under subdivision (5) of subsection 2 of this
256 section. Any claim or judgment arising under subdivision
257 (5) of subsection 2 of this section shall be paid by the
258 state legal expense fund or any policy of insurance procured
259 pursuant to section 105.721 to the extent damages are
260 allowed under sections 538.205 to 538.235. Liability or
261 malpractice insurance otherwise obtained and maintained in
262 force shall not be considered available under subsection [7]
263 8 of this section to pay that portion of a judgment or claim
264 for which the state legal expense fund is liable under
265 subdivision (5) of subsection 2 of this section. However,
266 an attorney may obtain liability or malpractice insurance
267 for coverage of liability claims or judgments based upon
268 legal practice rendered under subdivision (5) of subsection
269 2 of this section that exceed the amount of liability
270 coverage provided by the state legal expense fund under
271 subdivision (5) of subsection 2 of this section. Even if
272 subdivision (5) of subsection 2 of this section is repealed

273 or amended, the state legal expense fund shall be available
274 for damages that occur while the pertinent subdivision (5)
275 of subsection 2 of this section is in effect.

276 [5.] 6. All payments shall be made from the state
277 legal expense fund by the commissioner of administration
278 with the approval of the attorney general. Payment from the
279 state legal expense fund of a claim or final judgment award
280 against a health care professional licensed or registered
281 under chapter 330, 331, 332, 334, 335, 336, 337, or 338,
282 described in paragraph (a), (b), (c), (d), (e), or (f) of
283 subdivision (3) of subsection 2 of this section, or against
284 an attorney in subdivision (5) of subsection 2 of this
285 section, shall only be made for services rendered in
286 accordance with the conditions of such paragraphs. In the
287 case of any claim or judgment against an officer or employee
288 of the state or any agency of the state based upon conduct
289 of such officer or employee arising out of and performed in
290 connection with his or her official duties on behalf of the
291 state or any agency of the state that would give rise to a
292 cause of action under section 537.600, the state legal
293 expense fund shall be liable, excluding punitive damages,
294 for:

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

298 The state legal expense fund shall be the exclusive remedy
299 and shall preclude any other civil actions or proceedings
300 for money damages arising out of or relating to the same
301 subject matter against the state officer or employee, or the
302 officer's or employee's estate. No officer or employee of
303 the state or any agency of the state shall be individually

304 liable in his or her personal capacity for conduct of such
305 officer or employee arising out of and performed in
306 connection with his or her official duties on behalf of the
307 state or any agency of the state. The provisions of this
308 subsection shall not apply to any defendant who is not an
309 officer or employee of the state or any agency of the state
310 in any proceeding against an officer or employee of the
311 state or any agency of the state. Nothing in this
312 subsection shall limit the rights and remedies otherwise
313 available to a claimant under state law or common law in
314 proceedings where one or more defendants is not an officer
315 or employee of the state or any agency of the state.

316 [6.] 7. The limitation on awards for noneconomic
317 damages provided for in this subsection shall be increased
318 or decreased on an annual basis effective January first of
319 each year in accordance with the Implicit Price Deflator for
320 Personal Consumption Expenditures as published by the Bureau
321 of Economic Analysis of the United States Department of
322 Commerce. The current value of the limitation shall be
323 calculated by the director of the department of commerce and
324 insurance, who shall furnish that value to the secretary of
325 state, who shall publish such value in the Missouri Register
326 as soon after each January first as practicable, but it
327 shall otherwise be exempt from the provisions of section
328 536.021.

329 [7.] 8. Except as provided in subsection [3] 4 of this
330 section, in the case of any claim or judgment that arises
331 under sections 537.600 and 537.610 against the state of
332 Missouri, or an agency of the state, the aggregate of
333 payments from the state legal expense fund and from any
334 policy of insurance procured pursuant to the provisions of
335 section 105.721 shall not exceed the limits of liability as

336 provided in sections 537.600 to 537.610. No payment shall
337 be made from the state legal expense fund or any policy of
338 insurance procured with state funds pursuant to section
339 105.721 unless and until the benefits provided to pay the
340 claim by any other policy of liability insurance have been
341 exhausted.

342 [8.] 9. The provisions of section 33.080
343 notwithstanding, any moneys remaining to the credit of the
344 state legal expense fund at the end of an appropriation
345 period shall not be transferred to general revenue.

346 [9.] 10. Any rule or portion of a rule, as that term
347 is defined in section 536.010, that is promulgated under the
348 authority delegated in sections 105.711 to 105.726 shall
349 become effective only if it has been promulgated pursuant to
350 the provisions of chapter 536. Nothing in this section
351 shall be interpreted to repeal or affect the validity of any
352 rule filed or adopted prior to August 28, 1999, if it fully
353 complied with the provisions of chapter 536. This section
354 and chapter 536 are nonseverable and if any of the powers
355 vested with the general assembly pursuant to chapter 536 to
356 review, to delay the effective date, or to disapprove and
357 annul a rule are subsequently held unconstitutional, then
358 the grant of rulemaking authority and any rule proposed or
359 adopted after August 28, 1999, shall be invalid and void.

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

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

7 3. (1) **The claimant shall establish the following by**
8 **a preponderance of evidence:**

9 (a) The claimant was convicted of a felony offense and
10 subsequently imprisoned;

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

14 (c) The claimant did not commit the offense or
15 offenses for which the claimant was convicted and was not an
16 accessory or accomplice to the acts that were the basis of
17 the conviction and resulted in a reversal or vacation of the
18 judgment of conviction, dismissal of the charges, or finding
19 of not guilty on retrial; and

20 (d) The claimant did not commit or suborn perjury,
21 fabricate evidence, or by the claimant's own conduct cause
22 or bring about the conviction. Neither a confession or
23 admission later found to be false nor a guilty plea shall
24 constitute committing or suborning perjury, fabricating
25 evidence, or causing or bringing about the conviction under
26 this subsection.

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

34 4. (1) The suit, accompanied by a statement of the
35 facts concerning the claim for damages, verified in the
36 manner provided for the verification of complaints in the
37 rules of civil procedure, shall be brought by the claimant
38 within a period of two years after the:

39 (a) Dismissal of the criminal charges against the
40 claimant or finding of not guilty on retrial; or

41 (b) Grant of a pardon to the claimant.

42 (2) A claimant convicted, imprisoned, and released
43 from custody before August 28, 2022, shall commence an
44 action under this section no later than August 28, 2024.

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

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

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

52 5. (1) Damages awarded under this section shall be:

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

57 (b) Not less than twenty-five thousand dollars for
58 each additional year served on parole or postrelease
59 supervision or each additional year the claimant was
60 required to register as a sexual offender under sections
61 589.400 to 589.425, whichever is greater.

62 (2) A claimant shall not receive compensation for any
63 period of incarceration during which the claimant was
64 concurrently serving a sentence for a conviction of another
65 crime for which such claimant was lawfully incarcerated.

66 (3) (a) Except as provided in paragraph (b) of this
67 subdivision, the court shall order that the award be paid as
68 a combination of an initial payment not to exceed one
69 hundred thousand dollars or twenty-five percent of the
70 award, whichever is greater, and the remainder as an annuity
71 not to exceed eighty thousand dollars per year. The

72 claimant shall designate a beneficiary or beneficiaries for
73 the annuity by filing such designation with the court.

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

77 (4) In addition to the damages awarded under
78 subdivision (1) of this subsection, the claimant:

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

84 (b) May also be awarded other nonmonetary relief as
85 sought in the complaint including, but not limited to,
86 counseling, housing assistance, and personal financial
87 literacy assistance, as appropriate; and

88 (c) Shall be entitled to receive tuition assistance
89 under section 506.403.

90 6. (1) If, at the time of the judgment entry referred
91 to in subsection 5 of this section, the claimant has won a
92 monetary award against the state or any political
93 subdivision thereof in a civil action related to the same
94 subject, or has entered into a settlement agreement with the
95 state or any political subdivision thereof related to the
96 same subject, the amount of the award in the action or the
97 amount received in the settlement agreement, less any sums
98 paid to attorneys or for costs in litigating the other civil
99 action or obtaining the settlement agreement, shall be
100 deducted from the sum of moneys to which the claimant is
101 entitled under this section. The court shall include in the
102 judgment entry an award to the state of any amount deducted
103 under this subsection.

104 (2) If subdivision (1) of this subsection does not
105 apply and if, after the time of the judgment entry referred
106 to in subsection 5 of this section, the claimant wins a
107 monetary award against the state or any political
108 subdivision thereof in a civil action related to the same
109 subject, or enters into a settlement agreement with the
110 state or any political subdivision thereof related to the
111 same subject, the claimant shall reimburse the state for the
112 sum of moneys paid under the judgment entry referred to in
113 subsection 5 of this section, less any sums paid to
114 attorneys or for costs in litigating the other civil action
115 or obtaining the settlement agreement. A reimbursement
116 required under this subsection shall not exceed the amount
117 of the monetary award the claimant wins for damages in the
118 other civil action or the amount received in the settlement
119 agreement.

120 7. If the court finds that the claimant is entitled to
121 a judgment, it shall enter a certificate of innocence
122 finding that the claimant was innocent of all offenses for
123 which the claimant was mistakenly convicted. The clerk of
124 the court shall send a certified copy of the certificate of
125 innocence and the judgment entry to the attorney general for
126 payment under section 105.711.

127 8. Upon entry of a certificate of innocence, the
128 claimant shall automatically be granted an order of
129 expungement from the court in which he or she pled guilty or
130 was sentenced to expunge from all official records or
131 recordations of his or her arrest, plea, trial, or
132 conviction. Upon granting of the order of expungement, the
133 records and files maintained in any administrative or court
134 proceeding in an associate or circuit division of the court
135 shall be confidential and only available to the parties or

136 by order of the court for good cause shown. The effect of
137 such order shall be to restore such person to the status he
138 or she occupied prior to such arrest, plea, or conviction
139 and as if such event had never taken place. No person as to
140 whom such order has been entered shall be held thereafter
141 under any provision of any law to be guilty of perjury or
142 otherwise giving a false statement by reason of his or her
143 failure to recite or acknowledge such arrest, plea, trial,
144 conviction, or expungement in response to any inquiry made
145 of him or her for any purpose whatsoever, and no such
146 inquiry shall be made for information relating to an
147 expungement under this subsection.

148 9. Upon entry of a certificate of innocence, the court
149 shall order the expungement and destruction of the
150 associated biological samples authorized by and given to the
151 Missouri state highway patrol. The order shall state the
152 information required to be stated in a petition to expunge
153 and destroy the samples and profile record and shall direct
154 the Missouri state highway patrol to expunge and destroy
155 such samples and profile record. The clerk of the court
156 shall send a certified copy of the order to the Missouri
157 state highway patrol, which shall carry out the order and
158 provide confirmation of such action to the court. Nothing in
159 this subsection shall require the Missouri state highway
160 patrol to expunge and destroy any sample or profile record
161 associated with the claimant that was related to any offense
162 other than the offense for which the court has entered a
163 certificate of innocence.

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

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

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

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

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

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

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

23 4. Individuals shall provide a written or electronic
24 copy of the court order awarding relief in the form of
25 tuition assistance to the public institution of higher
26 education or the department of higher education.

27 5. The department of higher education shall adopt
28 rules and regulations to administer the provisions of this
29 section. Any rule or portion of a rule, as that term is
30 defined in section 536.010, that is created under the
31 authority delegated in this section shall become effective
32 only if it complies with and is subject to all of the
33 provisions of chapter 536 and, if applicable, section
34 536.028. This section and chapter 536 are nonseverable, and
35 if any of the powers vested with the general assembly
36 pursuant to chapter 536 to review, to delay the effective
37 date, or to disapprove and annul a rule are subsequently
38 held unconstitutional, then the grant of rulemaking
39 authority and any rule proposed or adopted after August 28,
40 2022, shall be invalid and void.

2 [650.058. 1. Notwithstanding the
3 sovereign immunity of the state, any individual
4 who was found guilty of a felony in a Missouri
5 court and was later determined to be actually
6 innocent of such crime solely as a result of DNA
7 profiling analysis may be paid restitution. The
8 individual may receive an amount of one hundred
9 dollars per day for each day of postconviction
10 incarceration for the crime for which the
11 individual is determined to be actually
12 innocent. The petition for the payment of said
13 restitution shall be filed with the sentencing
14 court. For the purposes of this section, the
15 term "actually innocent" shall mean:
16 (1) The individual was convicted of a
17 felony for which a final order of release was
18 entered by the court;
19 (2) All appeals of the order of release
20 have been exhausted;
21 (3) The individual was not serving any
22 term of a sentence for any other crime
23 concurrently with the sentence for which he or
24 she is determined to be actually innocent,
unless such individual was serving another

25 concurrent sentence because his or her parole
26 was revoked by a court or the parole board in
27 connection with the crime for which the person
28 has been exonerated. Regardless of whether any
29 other basis may exist for the revocation of the
30 person's probation or parole at the time of
31 conviction for the crime for which the person is
32 later determined to be actually innocent, when
33 the court's or the parole board's sole stated
34 reason for the revocation in its order is the
35 conviction for the crime for which the person is
36 later determined to be actually innocent, such
37 order shall, for purposes of this section only,
38 be conclusive evidence that their probation or
39 parole was revoked in connection with the crime
40 for which the person has been exonerated; and

41 (4) Testing ordered under section 547.035,
42 or testing by the order of any state or federal
43 court, if such person was exonerated on or
44 before August 28, 2004, or testing ordered under
45 section 650.055, if such person was or is
46 exonerated after August 28, 2004, demonstrates a
47 person's innocence of the crime for which the
48 person is in custody.

49 Any individual who receives restitution under
50 this section shall be prohibited from seeking
51 any civil redress from the state, its
52 departments and agencies, or any employee
53 thereof, or any political subdivision or its
54 employees. This section shall not be construed
55 as a waiver of sovereign immunity for any
56 purposes other than the restitution provided for
57 herein. The department of corrections shall
58 determine the aggregate amount of restitution
59 owed during a fiscal year. If insufficient
60 moneys are appropriated each fiscal year to pay
61 restitution to such persons, the department
62 shall pay each individual who has received an
63 order awarding restitution a pro rata share of
64 the amount appropriated. Provided sufficient
65 moneys are appropriated to the department, the
66 amounts owed to such individual shall be paid on
67 June thirtieth of each subsequent fiscal year,
68 until such time as the restitution to the
69 individual has been paid in full. However, no
70 individual awarded restitution under this
71 subsection shall receive more than thirty-six
72 thousand five hundred dollars during each fiscal
73 year. No interest on unpaid restitution shall
74 be awarded to the individual. No individual who
75 has been determined by the court to be actually
76 innocent shall be responsible for the costs of
77 care under section 217.831.

78 2. If the results of the DNA testing
79 confirm the person's guilt, then the person
80 filing for DNA testing under section 547.035,
81 shall:

82 (1) Be liable for any reasonable costs
83 incurred when conducting the DNA test, including
84 but not limited to the cost of the test. Such
85 costs shall be determined by the court and shall
86 be included in the findings of fact and
87 conclusions of law made by the court; and
88 (2) Be sanctioned under the provisions of
89 section 217.262.

90 3. A petition for payment of restitution
91 under this section may only be filed by the
92 individual determined to be actually innocent or
93 the individual's legal guardian. No claim or
94 petition for restitution under this section may
95 be filed by the individual's heirs or assigns.
96 An individual's right to receive restitution
97 under this section is not assignable or
98 otherwise transferrable. The state's obligation
99 to pay restitution under this section shall
100 cease upon the individual's death. Any
101 beneficiary designation that purports to
102 bequeath, assign, or otherwise convey the right
103 to receive such restitution shall be void and
104 unenforceable.

105 4. An individual who is determined to be
106 actually innocent of a crime under this chapter
107 shall automatically be granted an order of
108 expungement from the court in which he or she
109 pled guilty or was sentenced to expunge from all
110 official records all recordations of his or her
111 arrest, plea, trial or conviction. Upon
112 granting of the order of expungement, the
113 records and files maintained in any
114 administrative or court proceeding in an
115 associate or circuit division of the court shall
116 be confidential and only available to the
117 parties or by order of the court for good cause
118 shown. The effect of such order shall be to
119 restore such person to the status he or she
120 occupied prior to such arrest, plea or
121 conviction and as if such event had never taken
122 place. No person as to whom such order has been
123 entered shall be held thereafter under any
124 provision of any law to be guilty of perjury or
125 otherwise giving a false statement by reason of
126 his or her failure to recite or acknowledge such
127 arrest, plea, trial, conviction or expungement
128 in response to any inquiry made of him or her
129 for any purpose whatsoever and no such inquiry
130 shall be made for information relating to an
131 expungement under this section.]

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