

SENATE BILL NO. 860

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

3707S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 650.058, RSMo, and to enact in lieu thereof one new section relating to wrongful convictions.

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

Section A. Section 650.058, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 650.058,
3 to read as follows:

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

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

14 (2) All appeals of the order of release have been
15 exhausted;

16 (3) The individual was not serving any term of a
17 sentence for any other crime concurrently with the sentence
18 for which he or she is determined to be actually innocent,

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

19 unless such individual was serving another concurrent
20 sentence because his or her parole was revoked by a court or
21 the parole board in connection with the crime for which the
22 person has been exonerated. Regardless of whether any other
23 basis may exist for the revocation of the person's probation
24 or parole at the time of conviction for the crime for which
25 the person is later determined to be actually innocent, when
26 the court's or the parole board's sole stated reason for the
27 revocation in its order is the conviction for the crime for
28 which the person is later determined to be actually
29 innocent, such order shall, for purposes of this section
30 only, be conclusive evidence that **[their] the person's**
31 probation or parole was revoked in connection with the crime
32 for which the person has been exonerated; and

33 (4) Testing ordered under section 547.035, or testing
34 by the order of any state or federal court, if such person
35 was exonerated on or before August 28, 2004, or testing
36 ordered under section 650.055, if such person was or is
37 exonerated after August 28, 2004, **or any other evidentiary**
38 **method** demonstrates a person's innocence of the crime for
39 which the person is in custody.

40 Any individual who receives restitution under this section
41 shall be prohibited from seeking any civil redress from the
42 state, its departments and agencies, or any employee
43 thereof, or any political subdivision or its employees.
44 This section shall not be construed as a waiver of sovereign
45 immunity for any purposes other than the restitution
46 provided for herein. The department of corrections shall
47 determine the aggregate amount of restitution owed during a
48 fiscal year. If insufficient moneys are appropriated each
49 fiscal year to pay restitution to such persons, the

50 department shall pay each individual who has received an
51 order awarding restitution a pro rata share of the amount
52 appropriated. Provided sufficient moneys are appropriated
53 to the department, the amounts owed to such individual shall
54 be paid on June thirtieth of each subsequent fiscal year,
55 until such time as the restitution to the individual has
56 been paid in full. However, no individual awarded
57 restitution under this subsection shall receive more than
58 ~~[thirty-six]~~ **sixty-five** thousand ~~[five hundred]~~ dollars
59 during each fiscal year. No interest on unpaid restitution
60 shall be awarded to the individual. No individual who has
61 been determined by the court to be actually innocent shall
62 be responsible for the costs of care under section 217.831
63 **and may also be awarded other nonmonetary relief, including**
64 **counseling, housing assistance, and personal financial**
65 **literary assistance.**

66 2. If **a person receives DNA testing and** the results of
67 the DNA testing confirm the person's guilt, then the person
68 filing for DNA testing under section 547.035, shall:

69 (1) Be liable for any reasonable costs incurred when
70 conducting the DNA test, including but not limited to the
71 cost of the test. Such costs shall be determined by the
72 court and shall be included in the findings of fact and
73 conclusions of law made by the court; and

74 (2) Be sanctioned under the provisions of section
75 217.262.

76 3. A petition for payment of restitution under this
77 section may ~~[only]~~ be filed **only** by the individual
78 determined to be actually innocent or the individual's legal
79 guardian. No claim or petition for restitution under this
80 section may be filed by the individual's heirs or assigns.
81 An individual's right to receive restitution under this

82 section is not assignable or otherwise transferrable. The
83 state's obligation to pay restitution under this section
84 shall cease upon the individual's death. Any beneficiary
85 designation that purports to bequeath, assign, or otherwise
86 convey the right to receive such restitution shall be void
87 and unenforceable.

88 4. An individual who is determined to be actually
89 innocent of a crime under this chapter shall automatically
90 be granted an order of expungement from the court in which
91 he or she pled guilty or was sentenced to expunge from all
92 official records all recordations of his or her arrest,
93 plea, trial or conviction. Upon **the court's** granting of the
94 order of expungement, the records and files maintained in
95 any administrative or court proceeding in an associate or
96 circuit division of the court shall be confidential and
97 **[only]** available **only** to the parties or by order of the
98 court for good cause shown. The effect of such order shall
99 be to restore such person to the status he or she occupied
100 prior to such arrest, plea or conviction and as if such
101 event had never taken place. No person as to whom such
102 order has been entered shall be held thereafter under any
103 provision of any law to be guilty of perjury or otherwise
104 giving a false statement by reason of his or her failure to
105 recite or acknowledge such arrest, plea, trial, conviction
106 or expungement in response to any inquiry made of him or her
107 for any purpose whatsoever, and no such inquiry shall be
108 made for information relating to an expungement under this
109 section.

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