

# SENATE BILL NO. 1170

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

5069S.011

KRISTINA MARTIN, 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 convictions.

*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2 repealed and three new sections enacted in lieu thereof, to be  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

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

17   behalf of the state, or any agency of the state, provided  
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;

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection [7] 8 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235. Liability or malpractice insurance obtained and maintained in force by any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 for coverage concerning his or her private practice and assets shall not be considered available under subsection [7] 8 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which exceed the amount of



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

**[4.] 5.** The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection **[7] 8** of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection **[7] 8** of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed

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

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

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

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

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

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

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

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

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

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

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

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

**3. (1) The claimant shall establish the following by 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, 2026, shall commence an  
44 action under this section no later than August 28, 2028.

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 post-release  
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

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

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

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

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

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

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

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

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

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

8. Upon entry of a certificate of innocence, the claimant shall automatically be granted an order of expungement from the court in which he or she pled guilty or was sentenced to expunge from all official records or recordations of his or her arrest, plea, trial, or conviction. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the court 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.

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

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 receive a waiver of tuition and required fees for attendance at a public institution of higher education for up to one hundred twenty credit hours. Such individual may attend a public institution of higher education either full-time or part-time.

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

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

3. To remain eligible for the tuition and fees waiver under this section, an individual shall remain in good standing at the public institution of higher education where 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 2026, shall be invalid and void.

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

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

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

19           (3) The individual was not serving any  
20 term of a sentence for any other crime  
21 concurrently with the sentence for which he or  
22 she is determined to be actually innocent,  
23 unless such individual was serving another  
24 concurrent sentence because his or her parole  
25 was revoked by a court or the parole board in  
26 connection with the crime for which the person  
27 has been exonerated. Regardless of whether any  
28 other basis may exist for the revocation of the  
29 person's probation or parole at the time of  
30 conviction for the crime for which the person is  
31 later determined to be actually innocent, when  
32 the court's or the parole board's sole stated  
33 reason for the revocation in its order is the  
34 conviction for the crime for which the person is  
35 later determined to be actually innocent, such  
36 order shall, for purposes of this section only,  
37 be conclusive evidence that the persons's  
38 probation or parole was revoked in connection  
39 with the crime for which the person has been  
40 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, or after an  
47 evidentiary hearing and finding in a habeas  
48 corpus proceeding or a proceeding held pursuant  
49 to section 547.031 which demonstrates a person's  
50 innocence of the crime for which the person is  
51 in custody.

52 Any individual who receives restitution under  
53 this section shall be prohibited from seeking  
54 any civil redress from the state, its  
55 departments and agencies, or any employee  
56 thereof, or any political subdivision or its  
57 employees. This section shall not be construed  
58 as a waiver of sovereign immunity for any  
59 purposes other than the restitution provided for  
60 herein. The department of corrections shall  
61 determine the aggregate amount of restitution  
62 owed during a fiscal year. If insufficient

moneys are appropriated each fiscal year to pay restitution to such persons, the department shall pay each individual who has received an order awarding restitution a pro rata share of the amount appropriated. Provided sufficient moneys are appropriated to the department, the amounts owed to such individual shall be paid on June thirtieth of each subsequent fiscal year, until such time as the restitution to the individual has been paid in full. However, no individual awarded restitution under this subsection shall receive more than sixty-five thousand dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the individual. However, an individual may also be awarded other nonmonetary relief, including counseling, housing assistance, and personal financial literary assistance.

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

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

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

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

106 to receive such restitution shall be void and  
107 unenforceable.

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

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