

SECOND REGULAR SESSION

# SENATE BILL NO. 1062

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time February 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5641S.01I

## 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Section A. Sections 105.711 and 650.058, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 105.711, 506.400,  
3 and 506.403, to read as follows:

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

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

7 (1) The state of Missouri, or any agency of the state, pursuant to section  
8 536.050 or 536.087 or section 537.600;

9 (2) Any officer or employee of the state of Missouri or any agency of the  
10 state, including, without limitation, elected officials, appointees, members of state  
11 boards or commissions, and members of the Missouri National Guard upon  
12 conduct of such officer or employee arising out of and performed in connection  
13 with his or her official duties on behalf of the state, or any agency of the state,  
14 provided that moneys in this fund shall not be available for payment of claims  
15 made under chapter 287;

16 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse,  
17 or other health care provider licensed to practice in Missouri under the provisions  
18 of chapter 330, 332, 334, 335, 336, 337 or 338 who is employed by the state of

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

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

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

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

51 (d) Any physician licensed pursuant to chapter 334 who is affiliated with  
52 and receives no compensation from a nonprofit entity qualified as exempt from  
53 federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as  
54 amended, which offers a free health screening in any setting or any physician,

55 nurse, physician assistant, dental hygienist, dentist, or other health care  
56 professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,  
57 337, or 338 who provides health care services within the scope of his or her  
58 license or registration at a city or county health department organized under  
59 chapter 192 or chapter 205, a city health department operating under a city  
60 charter, or a combined city-county health department, or a nonprofit community  
61 health center qualified as exempt from federal taxation under Section 501(c)(3)  
62 of the Internal Revenue Code of 1986, as amended, excluding federally funded  
63 community health centers as specified in paragraph (c) of this subdivision and  
64 rural health clinics under 42 U.S.C. Section 1396d(l)(1), if such services are  
65 restricted to primary care and preventive health services, provided that such  
66 services shall not include the performance of an abortion, and if such health  
67 services are provided by the health care professional licensed or registered under  
68 chapter 330, 331, 332, 334, 335, 336, 337, or 338 without compensation. MO  
69 HealthNet or Medicare payments for primary care and preventive health services  
70 provided by a health care professional licensed or registered under chapter 330,  
71 331, 332, 334, 335, 336, 337, or 338 who volunteers at a community health clinic  
72 is not compensation for the purpose of this section if the total payment is  
73 assigned to the community health clinic. For the purposes of the section,  
74 "community health clinic" means a nonprofit community health center qualified  
75 as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue  
76 Code of 1987, as amended, that provides primary care and preventive health  
77 services to people without health insurance coverage. In the case of any claim or  
78 judgment that arises under this paragraph, the aggregate of payments from the  
79 state legal expense fund shall be limited to a maximum of five hundred thousand  
80 dollars, for all claims arising out of and judgments based upon the same act or  
81 acts alleged in a single cause and shall not exceed five hundred thousand dollars  
82 for any one claimant, and insurance policies purchased pursuant to the provisions  
83 of section 105.721 shall be limited to five hundred thousand dollars. Liability or  
84 malpractice insurance obtained and maintained in force by or on behalf of any  
85 health care professional licensed or registered under chapter 330, 331, 332, 334,  
86 335, 336, 337, or 338 shall not be considered available to pay that portion of a  
87 judgment or claim for which the state legal expense fund is liable under this  
88 paragraph;

89 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist  
90 licensed or registered to practice medicine, nursing, or dentistry or to act as a

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

105 (f) Any physician licensed under chapter 334, or dentist licensed under  
106 chapter 332, providing medical care without compensation to an individual  
107 referred to his or her care by a city or county health department organized under  
108 chapter 192 or 205, a city health department operating under a city charter, or  
109 a combined city-county health department, or nonprofit health center qualified  
110 as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue  
111 Code of 1986, as amended, or a federally funded community health center  
112 organized under Section 315, 329, 330, or 340 of the Public Health Services Act,  
113 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the  
114 performance of an abortion. In the case of any claim or judgment that arises  
115 under this paragraph, the aggregate of payments from the state legal expense  
116 fund shall be limited to a maximum of one million dollars for all claims arising  
117 out of and judgments based upon the same act or acts alleged in a single cause  
118 and shall not exceed one million dollars for any one claimant, and insurance  
119 policies purchased under the provisions of section 105.721 shall be limited to one  
120 million dollars. Liability or malpractice insurance obtained and maintained in  
121 force by or on behalf of any physician licensed under chapter 334, or any dentist  
122 licensed under chapter 332, shall not be considered available to pay that portion  
123 of a judgment or claim for which the state legal expense fund is liable under this  
124 paragraph;

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

126 (5) Any attorney licensed to practice law in the state of Missouri who

127 practices law at or through a nonprofit community social services center qualified  
128 as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue  
129 Code of 1986, as amended, or through any agency of any federal, state, or local  
130 government, if such legal practice is provided by the attorney without  
131 compensation. In the case of any claim or judgment that arises under this  
132 subdivision, the aggregate of payments from the state legal expense fund shall be  
133 limited to a maximum of five hundred thousand dollars for all claims arising out  
134 of and judgments based upon the same act or acts alleged in a single cause and  
135 shall not exceed five hundred thousand dollars for any one claimant, and  
136 insurance policies purchased pursuant to the provisions of section 105.721 shall  
137 be limited to five hundred thousand dollars;

138 (6) Any social welfare board created under section 205.770 and the  
139 members and officers thereof upon conduct of such officer or employee while  
140 acting in his or her capacity as a board member or officer, and any physician,  
141 nurse, physician assistant, dental hygienist, dentist, or other health care  
142 professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,  
143 337, or 338 who is referred to provide medical care without compensation by the  
144 board and who provides health care services within the scope of his or her license  
145 or registration as prescribed by the board; or

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

152 **3. Moneys in the state legal expense fund shall be available for**  
153 **the payment of any claim or any amount required by any final**  
154 **judgment rendered by a court of competent jurisdiction for the**  
155 **purposes of paying judgments arising from claims under section**  
156 **506.400.**

157 **4.** The department of health and senior services shall promulgate rules  
158 regarding contract procedures and the documentation of care provided under  
159 paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this  
160 section. The limitation on payments from the state legal expense fund or any  
161 policy of insurance procured pursuant to the provisions of section 105.721,  
162 provided in subsection [7] 8 of this section, shall not apply to any claim or

163 judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of  
164 subsection 2 of this section. Any claim or judgment arising under paragraph (a),  
165 (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid  
166 by the state legal expense fund or any policy of insurance procured pursuant to  
167 section 105.721, to the extent damages are allowed under sections 538.205 to  
168 538.235. Liability or malpractice insurance obtained and maintained in force by  
169 any health care professional licensed or registered under chapter 330, 331, 332,  
170 334, 335, 336, 337, or 338 for coverage concerning his or her private practice and  
171 assets shall not be considered available under subsection [7] 8 of this section to  
172 pay that portion of a judgment or claim for which the state legal expense fund is  
173 liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection  
174 2 of this section. However, a health care professional licensed or registered under  
175 chapter 330, 331, 332, 334, 335, 336, 337, or 338 may purchase liability or  
176 malpractice insurance for coverage of liability claims or judgments based upon  
177 care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection  
178 2 of this section which exceed the amount of liability coverage provided by the  
179 state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c),  
180 (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or  
181 modified, the state legal expense fund shall be available for damages which occur  
182 while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of  
183 subsection 2 of this section is in effect.

184 [4.] 5. The attorney general shall promulgate rules regarding contract  
185 procedures and the documentation of legal practice provided under subdivision  
186 (5) of subsection 2 of this section. The limitation on payments from the state  
187 legal expense fund or any policy of insurance procured pursuant to section  
188 105.721 as provided in subsection [7] 8 of this section shall not apply to any  
189 claim or judgment arising under subdivision (5) of subsection 2 of this  
190 section. Any claim or judgment arising under subdivision (5) of subsection 2 of  
191 this section shall be paid by the state legal expense fund or any policy of  
192 insurance procured pursuant to section 105.721 to the extent damages are  
193 allowed under sections 538.205 to 538.235. Liability or malpractice insurance  
194 otherwise obtained and maintained in force shall not be considered available  
195 under subsection [7] 8 of this section to pay that portion of a judgment or claim  
196 for which the state legal expense fund is liable under subdivision (5) of subsection  
197 2 of this section. However, an attorney may obtain liability or malpractice  
198 insurance for coverage of liability claims or judgments based upon legal practice

199 rendered under subdivision (5) of subsection 2 of this section that exceed the  
200 amount of liability coverage provided by the state legal expense fund under  
201 subdivision (5) of subsection 2 of this section. Even if subdivision (5) of  
202 subsection 2 of this section is repealed or amended, the state legal expense fund  
203 shall be available for damages that occur while the pertinent subdivision (5) of  
204 subsection 2 of this section is in effect.

205       **[5.] 6.** All payments shall be made from the state legal expense fund by  
206 the commissioner of administration with the approval of the attorney  
207 general. Payment from the state legal expense fund of a claim or final judgment  
208 award against a health care professional licensed or registered under chapter 330,  
209 331, 332, 334, 335, 336, 337, or 338, described in paragraph (a), (b), (c), (d), (e),  
210 or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in  
211 subdivision (5) of subsection 2 of this section, shall only be made for services  
212 rendered in accordance with the conditions of such paragraphs. In the case of  
213 any claim or judgment against an officer or employee of the state or any agency  
214 of the state based upon conduct of such officer or employee arising out of and  
215 performed in connection with his or her official duties on behalf of the state or  
216 any agency of the state that would give rise to a cause of action under section  
217 537.600, the state legal expense fund shall be liable, excluding punitive damages,  
218 for:

- 219       (1) Economic damages to any one claimant; and  
220       (2) Up to three hundred fifty thousand dollars for noneconomic damages.
- 221 The state legal expense fund shall be the exclusive remedy and shall preclude any  
222 other civil actions or proceedings for money damages arising out of or relating to  
223 the same subject matter against the state officer or employee, or the officer's or  
224 employee's estate. No officer or employee of the state or any agency of the state  
225 shall be individually liable in his or her personal capacity for conduct of such  
226 officer or employee arising out of and performed in connection with his or her  
227 official duties on behalf of the state or any agency of the state. The provisions of  
228 this subsection shall not apply to any defendant who is not an officer or employee  
229 of the state or any agency of the state in any proceeding against an officer or  
230 employee of the state or any agency of the state. Nothing in this subsection shall  
231 limit the rights and remedies otherwise available to a claimant under state law  
232 or common law in proceedings where one or more defendants is not an officer or  
233 employee of the state or any agency of the state.

234       **[6.] 7.** The limitation on awards for noneconomic damages provided for

235 in this subsection shall be increased or decreased on an annual basis effective  
236 January first of each year in accordance with the Implicit Price Deflator for  
237 Personal Consumption Expenditures as published by the Bureau of Economic  
238 Analysis of the United States Department of Commerce. The current value of the  
239 limitation shall be calculated by the director of the department of commerce and  
240 insurance, who shall furnish that value to the secretary of state, who shall  
241 publish such value in the Missouri Register as soon after each January first as  
242 practicable, but it shall otherwise be exempt from the provisions of section  
243 536.021.

244 [7.] 8. Except as provided in subsection [3] 4 of this section, in the case  
245 of any claim or judgment that arises under sections 537.600 and 537.610 against  
246 the state of Missouri, or an agency of the state, the aggregate of payments from  
247 the state legal expense fund and from any policy of insurance procured pursuant  
248 to the provisions of section 105.721 shall not exceed the limits of liability as  
249 provided in sections 537.600 to 537.610. No payment shall be made from the  
250 state legal expense fund or any policy of insurance procured with state funds  
251 pursuant to section 105.721 unless and until the benefits provided to pay the  
252 claim by any other policy of liability insurance have been exhausted.

253 [8.] 9. The provisions of section 33.080 notwithstanding, any moneys  
254 remaining to the credit of the state legal expense fund at the end of an  
255 appropriation period shall not be transferred to general revenue.

256 [9.] 10. Any rule or portion of a rule, as that term is defined in section  
257 536.010, that is promulgated under the authority delegated in sections 105.711  
258 to 105.726 shall become effective only if it has been promulgated pursuant to the  
259 provisions of chapter 536. Nothing in this section shall be interpreted to repeal  
260 or affect the validity of any rule filed or adopted prior to August 28, 1999, if it  
261 fully complied with the provisions of chapter 536. This section and chapter 536  
262 are nonseverable and if any of the powers vested with the general assembly  
263 pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
264 and annul a rule are subsequently held unconstitutional, then the grant of  
265 rulemaking authority and any rule proposed or adopted after August 28, 1999,  
266 shall be invalid and void.

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

4 2. Notwithstanding any other provision of law to the contrary,



5 a claimant may bring an action in the circuit court seeking damages  
6 from the state under this section.

7 3. (1) The claimant shall establish the following by a  
8 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 or  
12 vacated and either the charges were dismissed or on retrial the  
13 claimant was found to be not guilty;

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

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

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

31 4. (1) The cause of action, accompanied by a statement of the  
32 facts concerning the claim for damages, verified in the manner  
33 provided for the verification of complaints in the rules of civil  
34 procedure, shall be brought by the claimant within a period of two  
35 years after the:

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

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

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

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

44           (4) Any claim filed under this section shall be tried by the court,  
45 and no request for a jury trial shall be made.

46           5. (1) Damages awarded under this section shall be:

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

50           (b) Not less than twenty-five thousand dollars for each additional  
51 year served on parole, postrelease supervision, or from which the  
52 claimant was required to register as a sexual offender under sections  
53 589.400 to 589.425.

54           (2) A claimant shall not receive compensation for any period of  
55 incarceration during which the claimant was concurrently serving a  
56 sentence for a conviction of another crime for which such claimant was  
57 lawfully incarcerated.

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

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

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

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

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

77           (c) Shall be entitled to receive tuition assistance under section  
78 506.403.

79           6. (1) If, at the time of the judgment entry referred to in  
80 subsection 5 of this section, the claimant has won a monetary award  
81 against the state or any political subdivision thereof in a civil action  
82 related to the same subject, or has entered into a settlement agreement  
83 with the state or any political subdivision thereof related to the same  
84 subject, the amount of the award in the action or the amount received  
85 in the settlement agreement, less any sums paid to attorneys or for  
86 costs in litigating the other civil action or obtaining the settlement  
87 agreement, shall be deducted from the sum of moneys to which the  
88 claimant is entitled under this section. The court shall include in the  
89 judgment entry an award to the state of any amount deducted under  
90 this subsection.

91           (2) If subdivision (1) of this subsection does not apply and if,  
92 after the time of the judgment entry referred to in subsection 5 of this  
93 section, the claimant wins a monetary award against the state or any  
94 political subdivision thereof in a civil action related to the same  
95 subject, or enters into a settlement agreement with the state or any  
96 political subdivision thereof related to the same subject, the sum of  
97 moneys paid under the judgment entry referred to in subsection 5 of  
98 this section shall be offset against any monetary award, less any sums  
99 paid to attorneys or for costs in litigating the other civil action or  
100 obtaining the settlement agreement. Such offset required under this  
101 subsection shall not exceed the amount of the monetary award the  
102 claimant wins for damages in the other civil action or the amount  
103 received in the settlement agreement.

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

110           8. Upon entry of a certificate of innocence, the claimant shall  
111 automatically be granted an order of expungement from the court in  
112 which he or she pled guilty or was sentenced to expunge from all  
113 official records or recordations of his or her arrest, plea, trial, or  
114 conviction and such an order of expungement shall not prevent the  
115 claimant from receiving an additional order of expungement for a

116 felony offense pursuant to section 610.140. Upon granting of the order  
117 of expungement, the records and files maintained in any administrative  
118 or court proceeding in an associate or circuit division of the court shall  
119 be confidential and only available to the parties or by order of the  
120 court for good cause shown. The effect of such order shall be to restore  
121 such person to the status he or she occupied prior to such arrest, plea,  
122 or conviction and as if such event had never taken place. No person as  
123 to whom such order has been entered shall be held thereafter under  
124 any provision of any law to be guilty of perjury or otherwise giving a  
125 false statement by reason of his or her failure to recite or acknowledge  
126 such arrest, plea, trial, conviction, or expungement in response to any  
127 inquiry made of him or her for any purpose whatsoever, and no such  
128 inquiry shall be made for information relating to an expungement  
129 under this subsection.

130       9. Upon entry of a certificate of innocence, the court shall order  
131 the expungement and destruction of the associated biological samples  
132 authorized by and given to the Missouri state highway patrol. The  
133 order shall state the information required to be stated in a petition to  
134 expunge and destroy the samples and profile record and shall direct  
135 the Missouri state highway patrol to expunge and destroy such samples  
136 and profile record. The clerk of the court shall send a certified copy of  
137 the order to the Missouri state highway patrol, which shall carry out  
138 the order and provide confirmation of such action to the  
139 court. Nothing in this subsection shall require the Missouri state  
140 highway patrol to expunge and destroy any sample or profile record  
141 associated with the claimant that was related to any offense other than  
142 the offense for which the court has entered a certificate of  
143 innocence. Such an order of expungement shall not prevent the  
144 claimant from receiving an additional order of expungement for a  
145 felony offense pursuant to section 610.140.

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

148       11. Nothing in this section shall preclude the department of  
149 corrections from providing reentry services to a claimant that are  
150 provided to other persons including, but not limited to, financial  
151 assistance, housing assistance, mentoring, and counseling. Such  
152 services shall be provided while an action under this section is pending

153 and after any judgment is entered, as appropriate for such claimant.

154       **12.** A decision under this section may be appealed to the supreme  
155 court.

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

6       **2. (1)** Subject to appropriations, the department of higher  
7 education and workforce development may make expenditures to  
8 reimburse each individual awarded tuition assistance under section  
9 506.400 who is enrolled in a public institution of higher education for  
10 additional fees including, but not limited to, fees for room and board,  
11 technical equipment, and course-required books.

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

16       **3.** To remain eligible for the tuition and fees waiver under this  
17 section, an individual shall remain in good standing at the public  
18 institution of higher education where the individual is enrolled.

19       **4.** Individuals shall provide a written or electronic copy of the  
20 court order awarding relief in the form of tuition assistance to the  
21 public institution of higher education or the department of higher  
22 education and workforce development.

23       **5.** The department of higher education and workforce  
24 development shall adopt rules and regulations to administer the  
25 provisions of this section. Any rule or portion of a rule, as that term is  
26 defined in section 536.010, that is created under the authority delegated  
27 in this section shall become effective only if it complies with and is  
28 subject to all of the provisions of chapter 536 and, if applicable, section  
29 536.028. This section and chapter 536 are nonseverable, and if any of  
30 the powers vested with the general assembly pursuant to chapter 536  
31 to review, to delay the effective date, or to disapprove and annul a rule  
32 are subsequently held unconstitutional, then the grant of rulemaking  
33 authority and any rule proposed or adopted after August 28, 2020, shall  
34 be invalid and void.

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

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

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

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

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

Any individual who receives restitution under this section shall be

prohibited from seeking any civil redress from the state, its departments and agencies, or any employee thereof, or any political subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity for any purposes other than the restitution provided for herein. The department of corrections shall determine the aggregate amount of restitution 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 thirty-six thousand five hundred dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the individual. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831.

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 only be filed 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

73 purports to bequeath, assign, or otherwise convey the right to  
74 receive such restitution shall be void and unenforceable.

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

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