

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Bill No. 9, Page 54, Section 595.045, Line 118, by inserting
2 immediately after said section and line the following:

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

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

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

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16 was serving another concurrent sentence because his or her parole was revoked by a court or the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23 their probation or parole was revoked in connection with the crime for which the person has been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

25 (4) Testing ordered under section 547.035, or testing by the order of any state or federal
26 court, if such person was exonerated on or before August 28, 2004, or testing ordered under section
27 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's
28 innocence of the crime for which the person is in custody.

29
30 Any individual who receives restitution under this section shall be prohibited from seeking any civil
31 redress from the state, its departments and agencies, or any employee thereof, or any political
32 subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity
33 for any purposes other than the restitution provided for herein. The department of corrections shall
34 determine the aggregate amount of restitution owed during a fiscal year. If insufficient moneys are
35 appropriated each fiscal year to pay restitution to such persons, the department shall pay each
36 individual who has received an order awarding restitution a pro rata share of the amount

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

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

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

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

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

21 4. An individual who is determined to be actually innocent of a crime under this chapter
22 shall automatically be granted an order of expungement from the court in which he or she pled
23 guilty or was sentenced to expunge from all official records all recordations of his or her arrest,
24 plea, trial or conviction. Upon granting of the order of expungement, the records and files
25 maintained in any administrative or court proceeding in an associate or circuit division of the court
26 shall be confidential and only available to the parties or by order of the court for good cause shown.
27 The effect of such order shall be to restore such person to the status he or she occupied prior to such
28 arrest, plea or conviction and as if such event had never taken place. No person as to whom such
29 order has been entered shall be held thereafter under any provision of any law to be guilty of perjury
30 or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such
31 arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any
32 purpose whatsoever and no such inquiry shall be made for information relating to an expungement
33 under this section."; and

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35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.