

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By  
\_\_\_\_\_

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill No. 291, Page 23, Section 488.5050, Line 21, by deleting said line and inserting in lieu  
3 thereof the following:  
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5 "650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was  
6 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such  
7 crime [~~solely~~] as a result of DNA profiling analysis may be paid restitution. The individual may  
8 receive an amount of [~~fifty~~] one hundred dollars per day for each day of postconviction  
9 incarceration for the crime for which the individual is determined to be actually innocent. The  
10 petition for the payment of said restitution 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 a final order of release was entered  
13 by the court;

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

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17 was serving another concurrent sentence because his or her parole was revoked by a court or the  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24 their probation or parole was revoked in connection with the crime for which the person has been  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

26 (4) Testing ordered under section 547.035, or testing by the order of any state or federal  
27 court, if such person was exonerated on or before August 28, 2004, or testing ordered under section  
28 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's  
29 innocence of the crime for which the person is in custody.  
30

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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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

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

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

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

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

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

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