

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 662,
2 Page 3, Section 89.080, Line 28, by inserting after said section and line the following:

3
4 "105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist of
5 moneys appropriated to the fund by the general assembly and moneys otherwise credited to such
6 fund pursuant to section 105.716.

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

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

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

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

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

34 (c) Any physician licensed to practice medicine in Missouri under the provisions of chapter
35 334 who is employed by or under contract with a federally funded community health center
36 organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. Section

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1 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child
2 care, if such medical services are provided by the physician pursuant to the contract or employment
3 agreement without compensation or the physician is paid from no other source than a governmental
4 agency or such a federally funded community health center except for patient co-payments required
5 by federal or state law or local ordinance. In the case of any claim or judgment that arises under this
6 paragraph, the aggregate of payments from the state legal expense fund shall be limited to a
7 maximum of one million dollars for all claims arising out of and judgments based upon the same act
8 or acts alleged in a single cause against any such physician, and shall not exceed one million dollars
9 for any one claimant;

10 (d) Any physician licensed pursuant to chapter 334 who is affiliated with and receives no
11 compensation from a nonprofit entity qualified as exempt from federal taxation under Section
12 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in
13 any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or other health care
14 professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 who
15 provides health care services within the scope of his or her license or registration at a city or county
16 health department organized under chapter 192 or chapter 205, a city health department operating
17 under a city charter, or a combined city-county health department, or a nonprofit community health
18 center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue
19 Code of 1986, as amended, excluding federally funded community health centers as specified in
20 paragraph (c) of this subdivision and rural health clinics under 42 U.S.C. Section 1396d(l)(1), if
21 such services are restricted to primary care and preventive health services, provided that such
22 services shall not include the performance of an abortion, and if such health services are provided by
23 the health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,
24 or 338 without compensation. MO HealthNet or Medicare payments for primary care and
25 preventive health services provided by a health care professional licensed or registered under
26 chapter 330, 331, 332, 334, 335, 336, 337, or 338 who volunteers at a community health clinic is not
27 compensation for the purpose of this section if the total payment is assigned to the community
28 health clinic. For the purposes of the section, "community health clinic" means a nonprofit
29 community health center qualified as exempt from federal taxation under Section 501(c)(3) of the
30 Internal Revenue Code of 1987, as amended, that provides primary care and preventive health
31 services to people without health insurance coverage. In the case of any claim or judgment that
32 arises under this paragraph, the aggregate of payments from the state legal expense fund shall be
33 limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments
34 based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand
35 dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section
36 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance
37 obtained and maintained in force by or on behalf of any health care professional licensed or
38 registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 shall not be considered available
39 to pay that portion of a judgment or claim for which the state legal expense fund is liable under this
40 paragraph;

41 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or
42 registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental
43 hygienist in Missouri under the provisions of chapter 332, 334, or 335, or lawfully practicing, who
44 provides medical, nursing, or dental treatment within the scope of his license or registration to
45 students of a school whether a public, private, or parochial elementary or secondary school or
46 summer camp, if such physician's treatment is restricted to primary care and preventive health
47 services and if such medical, dental, or nursing services are provided by the physician, dentist,
48 physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or
49 judgment that arises under this paragraph, the aggregate of payments from the state legal expense

1 fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of
2 and judgments based upon the same act or acts alleged in a single cause and shall not exceed five
3 hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the
4 provisions of section 105.721 shall be limited to five hundred thousand dollars; or

5 (f) Any physician licensed under chapter 334, or dentist licensed under chapter 332,
6 providing medical care without compensation to an individual referred to his or her care by a city or
7 county health department organized under chapter 192 or 205, a city health department operating
8 under a city charter, or a combined city-county health department, or nonprofit health center
9 qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of
10 1986, as amended, or a federally funded community health center organized under Section 315, 329,
11 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such
12 treatment shall not include the performance of an abortion. In the case of any claim or judgment
13 that arises under this paragraph, the aggregate of payments from the state legal expense fund shall
14 be limited to a maximum of one million dollars for all claims arising out of and judgments based
15 upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any
16 one claimant, and insurance policies purchased under the provisions of section 105.721 shall be
17 limited to one million dollars. Liability or malpractice insurance obtained and maintained in force
18 by or on behalf of any physician licensed under chapter 334, or any dentist licensed under chapter
19 332, shall not be considered available to pay that portion of a judgment or claim for which the state
20 legal expense fund is liable under this paragraph;

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

22 (5) Any attorney licensed to practice law in the state of Missouri who practices law at or
23 through a nonprofit community social services center qualified as exempt from federal taxation
24 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency
25 of any federal, state, or local government, if such legal practice is provided by the attorney without
26 compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate
27 of payments from the state legal expense fund shall be limited to a maximum of five hundred
28 thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged
29 in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and
30 insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five
31 hundred thousand dollars;

32 (6) Any social welfare board created under section 205.770 and the members and officers
33 thereof upon conduct of such officer or employee while acting in his or her capacity as a board
34 member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other
35 health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or
36 338 who is referred to provide medical care without compensation by the board and who provides
37 health care services within the scope of his or her license or registration as prescribed by the board;
38 or

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

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

47 4. The department of health and senior services shall promulgate rules regarding contract
48 procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of
49 subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal

1 expense fund or any policy of insurance procured pursuant to the provisions of section 105.721,
2 provided in subsection ~~[7]~~ 8 of this section, shall not apply to any claim or judgment arising under
3 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim or
4 judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of
5 this section shall be paid by the state legal expense fund or any policy of insurance procured
6 pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235.
7 Liability or malpractice insurance obtained and maintained in force by any health care professional
8 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 for coverage
9 concerning his or her private practice and assets shall not be considered available under subsection
10 ~~[7]~~ 8 of this section to pay that portion of a judgment or claim for which the state legal expense fund
11 is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section.
12 However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335,
13 336, 337, or 338 may purchase liability or malpractice insurance for coverage of liability claims or
14 judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of
15 subsection 2 of this section which exceed the amount of liability coverage provided by the state
16 legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of
17 subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund
18 shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f)
19 of subdivision (3) of subsection 2 of this section is in effect.

20 ~~[4-]~~ 5. The attorney general shall promulgate rules regarding contract procedures and the
21 documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The
22 limitation on payments from the state legal expense fund or any policy of insurance procured
23 pursuant to section 105.721 as provided in subsection ~~[7]~~ 8 of this section shall not apply to any
24 claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or
25 judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal
26 expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages
27 are allowed under sections 538.205 to 538.235. Liability or malpractice insurance otherwise
28 obtained and maintained in force shall not be considered available under subsection ~~[7]~~ 8 of this
29 section to pay that portion of a judgment or claim for which the state legal expense fund is liable
30 under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or
31 malpractice insurance for coverage of liability claims or judgments based upon legal practice
32 rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability
33 coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this
34 section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state
35 legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of
36 subsection 2 of this section is in effect.

37 ~~[5-]~~ 6. All payments shall be made from the state legal expense fund by the commissioner of
38 administration with the approval of the attorney general. Payment from the state legal expense fund
39 of a claim or final judgment award against a health care professional licensed or registered under
40 chapter 330, 331, 332, 334, 335, 336, 337, or 338, described in paragraph (a), (b), (c), (d), (e), or (f)
41 of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of
42 subsection 2 of this section, shall only be made for services rendered in accordance with the
43 conditions of such paragraphs. In the case of any claim or judgment against an officer or employee
44 of the state or any agency of the state based upon conduct of such officer or employee arising out of
45 and performed in connection with his or her official duties on behalf of the state or any agency of
46 the state that would give rise to a cause of action under section 537.600, the state legal expense fund
47 shall be liable, excluding punitive damages, for:

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

1
2 The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions
3 or proceedings for money damages arising out of or relating to the same subject matter against the
4 state officer or employee, or the officer's or employee's estate. No officer or employee of the state
5 or any agency of the state shall be individually liable in his or her personal capacity for conduct of
6 such officer or employee arising out of and performed in connection with his or her official duties
7 on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to
8 any defendant who is not an officer or employee of the state or any agency of the state in any
9 proceeding against an officer or employee of the state or any agency of the state. Nothing in this
10 subsection shall limit the rights and remedies otherwise available to a claimant under state law or
11 common law in proceedings where one or more defendants is not an officer or employee of the state
12 or any agency of the state.

13 ~~[6.]~~ 7. The limitation on awards for noneconomic damages provided for in this subsection
14 shall be increased or decreased on an annual basis effective January first of each year in accordance
15 with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau
16 of Economic Analysis of the United States Department of Commerce. The current value of the
17 limitation shall be calculated by the director of the department of insurance, financial institutions
18 and professional registration, who shall furnish that value to the secretary of state, who shall publish
19 such value in the Missouri Register as soon after each January first as practicable, but it shall
20 otherwise be exempt from the provisions of section 536.021.

21 ~~[7.]~~ 8. Except as provided in subsection ~~[3]~~ 4 of this section, in the case of any claim or
22 judgment that arises under sections 537.600 and 537.610 against the state of Missouri, or an agency
23 of the state, the aggregate of payments from the state legal expense fund and from any policy of
24 insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of
25 liability as provided in sections 537.600 to 537.610. No payment shall be made from the state legal
26 expense fund or any policy of insurance procured with state funds pursuant to section 105.721
27 unless and until the benefits provided to pay the claim by any other policy of liability insurance have
28 been exhausted.

29 ~~[8.]~~ 9. The provisions of section 33.080 notwithstanding, any moneys remaining to the
30 credit of the state legal expense fund at the end of an appropriation period shall not be transferred to
31 general revenue.

32 ~~[9.]~~ 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is
33 promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective
34 only if it has been promulgated pursuant to the provisions of chapter 536. Nothing in this section
35 shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28,
36 1999, if it fully complied with the provisions of chapter 536. This section and chapter 536 are
37 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to
38 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
39 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
40 August 28, 1999, shall be invalid and void."; and

41
42 Further amend said bill, Page 9, Section 485.060, Line 23, by inserting after said section and line the
43 following:

44
45 "506.400. 1. As used in this section, "claimant" means a person convicted and subsequently
46 imprisoned for one or more offenses that such person did not commit.

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

49 3. (1) The claimant shall establish the following by a preponderance of evidence:

1 (a) The claimant was convicted of a felony offense and subsequently imprisoned;

2 (b) The claimant's judgment of conviction was reversed or vacated and either the charges
3 were dismissed or on retrial the claimant was found to be not guilty;

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

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

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

17 4. (1) The suit, accompanied by a statement of the facts concerning the claim for damages,
18 verified in the manner provided for the verification of complaints in the rules of civil procedure,
19 shall be brought by the claimant within a period of two years after the:

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

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

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

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

26 (4) Any claim filed under this section shall be served on the attorney general.

27 (5) The suit for a claim filed under this section shall be tried by the court, and no request for
28 a jury trial shall be made.

29 5. (1) Damages awarded under this section shall be:

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

33 (b) Not less than twenty-five thousand dollars for each additional year served on parole or
34 postrelease supervision or each additional year the claimant was required to register as a sexual
35 offender under sections 589.400 to 589.425, whichever is greater.

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

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

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

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

48 (a) Shall be entitled to receive reasonable attorney's fees and costs incurred in the action
49 brought under this section not to exceed a total of twenty-five thousand dollars, unless a greater

1 reasonable total is authorized by the court upon a finding of good cause shown;

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

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

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

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

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

27 8. Upon entry of a certificate of innocence, the claimant shall automatically be granted an
28 order of expungement from the court in which he or she pled guilty or was sentenced to expunge
29 from all official records or recordations of his or her arrest, plea, trial, or conviction. Upon granting
30 of the order of expungement, the records and files maintained in any administrative or court
31 proceeding in an associate or circuit division of the court shall be confidential and only available to
32 the parties or by order of the court for good cause shown. The effect of such order shall be to
33 restore such person to the status he or she occupied prior to such arrest, plea, or conviction and as if
34 such event had never taken place. No person as to whom such order has been entered shall be held
35 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false
36 statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction,
37 or expungement in response to any inquiry made of him or her for any purpose whatsoever, and no
38 such inquiry shall be made for information relating to an expungement under this subsection.

39 9. Upon entry of a certificate of innocence, the court shall order the expungement and
40 destruction of the associated biological samples authorized by and given to the Missouri state
41 highway patrol. The order shall state the information required to be stated in a petition to expunge
42 and destroy the samples and profile record and shall direct the Missouri state highway patrol to
43 expunge and destroy such samples and profile record. The clerk of the court shall send a certified
44 copy of the order to the Missouri state highway patrol, which shall carry out the order and provide
45 confirmation of such action to the court. Nothing in this subsection shall require the Missouri state
46 highway patrol to expunge and destroy any sample or profile record associated with the claimant
47 that was related to any offense other than the offense for which the court has entered a certificate of
48 innocence.

49 10. The decision to grant or deny a certificate of innocence shall not have a res judicata

1 effect on any other proceedings.

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

7 12. A decision under this section may be appealed to the supreme court.

8 506.403. 1. Any individual awarded tuition assistance under section 506.400 shall receive a
 9 waiver of tuition and required fees for attendance at a public institution of higher education for up to
 10 one hundred twenty credit hours. Such individual may attend a public institution of higher
 11 education either full time or part time.

12 2. (1) Subject to appropriations, the department of higher education may make expenditures
 13 to reimburse each individual awarded tuition assistance under section 506.400 who is enrolled in a
 14 public institution of higher education for additional fees including, but not limited to, fees for room
 15 and board, technical equipment, and course-required books.

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

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

22 4. Individuals shall provide a written or electronic copy of the court order awarding relief in
 23 the form of tuition assistance to the public institution of higher education or the department of
 24 higher education.

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

33
 34 Further amend said bill, Page 23, Section 211.438, Line 3, by inserting after said section and line the
 35 following:

36
 37 ~~"[650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was~~
 38 ~~found guilty of a felony in a Missouri court and was later determined to be actually innocent of such~~
 39 ~~crime solely as a result of DNA profiling analysis may be paid restitution. The individual may~~
 40 ~~receive an amount of one hundred dollars per day for each day of postconviction incarceration for~~
 41 ~~the crime for which the individual is determined to be actually innocent. The petition for the~~
 42 ~~payment of said restitution shall be filed with the sentencing court. For the purposes of this section,~~
 43 ~~the term "actually innocent" shall mean:~~

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

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

47 ~~(3) The individual was not serving any term of a sentence for any other crime~~
 48 ~~concurrently with the sentence for which he or she is determined to be actually~~
 49 ~~innocent, unless such individual was serving another concurrent sentence because his~~

1 or her parole was revoked by a court or the board of probation and parole in
2 connection with the crime for which the person has been exonerated. Regardless of
3 whether any other basis may exist for the revocation of the person's probation or
4 parole at the time of conviction for the crime for which the person is later determined
5 to be actually innocent, when the court's or the board of probation and parole's sole
6 stated reason for the revocation in its order is the conviction for the crime for which
7 the person is later determined to be actually innocent, such order shall, for purposes
8 of this section only, be conclusive evidence that their probation or parole was
9 revoked in connection with the crime for which the person has been exonerated; and
10 (4) Testing ordered under section 547.035, or testing by the order of any state or
11 federal court, if such person was exonerated on or before August 28, 2004, or testing
12 ordered under section 650.055, if such person was or is exonerated after August 28,
13 2004, demonstrates a person's innocence of the crime for which the person is in
14 custody.

15
16 Any individual who receives restitution under this section shall be prohibited from
17 seeking any civil redress from the state, its departments and agencies, or any
18 employee thereof, or any political subdivision or its employees. This section shall
19 not be construed as a waiver of sovereign immunity for any purposes other than the
20 restitution provided for herein. The department of corrections shall determine the
21 aggregate amount of restitution owed during a fiscal year. If insufficient moneys are
22 appropriated each fiscal year to pay restitution to such persons, the department shall
23 pay each individual who has received an order awarding restitution a pro rata share of
24 the amount appropriated. Provided sufficient moneys are appropriated to the
25 department, the amounts owed to such individual shall be paid on June thirtieth of
26 each subsequent fiscal year, until such time as the restitution to the individual has
27 been paid in full. However, no individual awarded restitution under this subsection
28 shall receive more than thirty-six thousand five hundred dollars during each fiscal
29 year. No interest on unpaid restitution shall be awarded to the individual. No
30 individual who has been determined by the court to be actually innocent shall be
31 responsible for the costs of care under section 217.831.

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

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

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

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

47 4. An individual who is determined to be actually innocent of a crime under this
48 chapter shall automatically be granted an order of expungement from the court in
49 which he or she pled guilty or was sentenced to expunge from all official records all

1 ~~recordations of his or her arrest, plea, trial or conviction. Upon granting of the order~~
2 ~~of expungement, the records and files maintained in any administrative or court~~
3 ~~proceeding in an associate or circuit division of the court shall be confidential and~~
4 ~~only available to the parties or by order of the court for good cause shown. The~~
5 ~~effect of such order shall be to restore such person to the status he or she occupied~~
6 ~~prior to such arrest, plea or conviction and as if such event had never taken place. No~~
7 ~~person as to whom such order has been entered shall be held thereafter under any~~
8 ~~provision of any law to be guilty of perjury or otherwise giving a false statement by~~
9 ~~reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction~~
10 ~~or expungement in response to any inquiry made of him or her for any purpose~~
11 ~~whatsoever and no such inquiry shall be made for information relating to an~~
12 ~~expungement under this section.]"; and~~

13
14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.