

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2412
101ST GENERAL ASSEMBLY

5161H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 650.058, RSMo, and to enact in lieu thereof three new sections relating to restitution for individuals who are actually innocent.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 650.058, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 490.800, 506.403, and 650.058, to read as follows:

490.800. 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 offense as a result of any evidentiary method except DNA profiling analysis may be paid restitution. The individual may receive an amount of one hundred forty dollars per day for each day of postconviction incarceration for the offense for which the individual is determined to be actually innocent. The petition for the payment of such 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 offense 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to be actually innocent, unless such individual was serving another concurrent sentence because his or her parole was revoked by a court or the parole board in connection with the offense for which the person has been exonerated.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 offense for which the person is later determined to be actually innocent, when the

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 court's or the parole board's sole stated reason for the revocation in its order is the
20 conviction for the offense for which the person is later determined to be actually
21 innocent, such order shall, for purposes of this section only, be conclusive evidence that
22 the person's probation or parole was revoked in connection with the offense for which
23 the person has been exonerated; and

24 (4) The evidentiary method demonstrates the person's innocence of the offense
25 for which the person is in custody.

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27 Any individual who receives restitution under this section shall not also receive
28 restitution under section 650.058 and shall be prohibited from seeking any civil redress
29 from the state, its departments and agencies, or any employee thereof, or any political
30 subdivision or its employees. This section shall not be construed as a waiver of
31 sovereign immunity for any purposes other than the restitution provided for herein.
32 The department of corrections shall determine the aggregate amount of restitution owed
33 during a fiscal year. If insufficient moneys are appropriated each fiscal year to pay
34 restitution to such persons, the department shall pay each individual who has received
35 an order awarding restitution a pro rata share of the amount appropriated. Provided
36 sufficient moneys are appropriated to the department, the amounts owed to such
37 individual shall be paid on June thirtieth of each subsequent fiscal year, until such time
38 as the restitution to the individual has been paid in full. No individual awarded
39 restitution under this subsection shall receive more than fifty-one thousand one hundred
40 dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the
41 individual. No individual who has been determined by the court to be actually innocent
42 shall be responsible for the costs of care under section 217.831.

43 2. (1) In addition to restitution paid under subsection 1 of this section, an
44 individual shall be entitled to receive tuition assistance under section 506.403.

45 (2) In addition to restitution paid under subsection 1 of this section, an
46 individual may also be awarded other nonmonetary relief including, but not limited to,
47 counseling, housing assistance, and personal financial literacy assistance, as
48 appropriate.

49 3. A petition for payment of restitution under this section may be filed only by
50 the individual determined to be actually innocent or the individual's legal guardian. No
51 claim or petition for restitution under this section may be filed by the individual's heirs
52 or assigns. An individual may designate an immediate relative as a beneficiary to
53 continue to receive restitution under this section upon the individual's death.

54 4. (1) An individual who is determined to be actually innocent of an offense
55 under this section shall automatically be granted an order of expungement from the

56 court in which he or she pled guilty or was sentenced to expunge from all official records
57 all recordations of his or her arrest, plea, trial, or conviction and all associated biological
58 samples and biometric data. Upon the court's granting the order of expungement, the
59 records and files maintained in any administrative or court proceeding in an associate
60 or circuit division of the court shall be destroyed. The effect of such order shall be to
61 restore such person to the status he or she occupied prior to such arrest, plea, or
62 conviction and as if such event had never taken place. No person as to whom such order
63 has been entered shall be held thereafter under any provision of any law to be guilty of
64 perjury or otherwise giving a false statement by reason of his or her failure to recite or
65 acknowledge such arrest, plea, trial, conviction, or expungement in response to any
66 inquiry made of him or her for any purpose whatsoever, and no such inquiry shall be
67 made for information relating to an expungement under this section.

68 (2) The court shall direct the Missouri state highway patrol to destroy such
69 records, samples, and data. The Missouri state highway patrol shall carry out such
70 order and shall notify the Federal Bureau of Investigation, the department of
71 corrections, and any other criminal justice agency that may have a record of the
72 conviction and arrest.

506.403. 1. Any individual awarded tuition assistance under section 490.800 or
2 650.058 shall receive a waiver of tuition and required fees for attendance at a public
3 institution of higher education for up to one hundred twenty credit hours. Such
4 individual may attend a public institution of higher education either full-time or part-
5 time.

6 2. (1) Subject to appropriations, the department of higher education may make
7 expenditures to reimburse each individual awarded tuition assistance under section
8 490.800 or 650.058 who is enrolled in a public institution of higher education for
9 additional fees including, but not limited to, fees for room and board, technical
10 equipment, and course-required books.

11 (2) No public institution of higher education shall delay enrollment of an
12 individual who is awarded tuition assistance under section 490.800 or 650.058 because
13 appropriations are not available for any additional fees provided to such individual.

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

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

20 **5. The department of higher education shall adopt rules and regulations to**
21 **administer the provisions of this section. Any rule or portion of a rule, as that term is**
22 **defined in section 536.010, that is created under the authority delegated in this section**
23 **shall become effective only if it complies with and is subject to all of the provisions of**
24 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
25 **nonseverable, and if any of the powers vested with the general assembly pursuant to**
26 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
27 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
28 **proposed or adopted after August 28, 2022, shall be invalid and void.**

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

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

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

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

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

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27 Any individual who receives restitution under this section shall be prohibited from seeking
28 any civil redress from the state, its departments and agencies, or any employee thereof, or any

29 political subdivision or its employees. This section shall not be construed as a waiver of
30 sovereign immunity for any purposes other than the restitution provided for herein. The
31 department of corrections shall determine the aggregate amount of restitution owed during a
32 fiscal year. If insufficient moneys are appropriated each fiscal year to pay restitution to such
33 persons, the department shall pay each individual who has received an order awarding
34 restitution a pro rata share of the amount appropriated. Provided sufficient moneys are
35 appropriated to the department, the amounts owed to such individual shall be paid on June
36 thirtieth of each subsequent fiscal year, until such time as the restitution to the individual has
37 been paid in full. However, no individual awarded restitution under this subsection shall
38 receive more than ~~[thirty-six thousand five]~~ **fifty-one thousand one** hundred dollars during
39 each fiscal year. No interest on unpaid restitution shall be awarded to the individual. No
40 individual who has been determined by the court to be actually innocent shall be responsible
41 for the costs of care under section 217.831.

42 **2. (1) In addition to restitution paid under subsection 1 of this section, an**
43 **individual shall be entitled to receive tuition assistance under section 506.403.**

44 **(2) In addition to restitution paid under subsection 1 of this section, an**
45 **individual may also be awarded other nonmonetary relief including, but not limited to,**
46 **counseling, housing assistance, and personal financial literacy assistance, as**
47 **appropriate.**

48 ~~[2-]~~ **3.** If the results of the DNA testing confirm the person's guilt, then the person
49 filing for DNA testing under section 547.035, shall:

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

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

54 ~~[3-]~~ **4.** A petition for payment of restitution under this section may ~~[only]~~ be filed
55 **only** by the individual determined to be actually innocent or the individual's legal guardian.
56 No claim or petition for restitution under this section may be filed by the individual's heirs or
57 assigns. ~~[An individual's right to receive restitution under this section is not assignable or~~
58 ~~otherwise transferrable. The state's obligation to pay restitution under this section shall cease~~
59 ~~upon the individual's death. Any beneficiary designation that purports to bequeath, assign, or~~
60 ~~otherwise convey the right to receive such restitution shall be void and unenforceable.]~~ **An**
61 **individual may designate an immediate relative as a beneficiary to continue to receive**
62 **restitution under this section upon the individual's death.**

63 ~~[4-]~~ **5. (1)** An individual who is determined to be actually innocent of a crime under
64 this chapter shall automatically be granted an order of expungement from the court in which
65 he or she pled guilty or was sentenced to expunge from all official records all recordations of

66 his or her arrest, plea, trial or conviction **and all associated biological samples and**
67 **biometric data.** Upon **the court's** granting of the order of expungement, the records and
68 files maintained in any administrative or court proceeding in an associate or circuit division of
69 the court shall be ~~[confidential and only available to the parties or by order of the court for~~
70 ~~good cause shown]~~ **destroyed.** The effect of such order shall be to restore such person to the
71 status he or she occupied prior to such arrest, plea or conviction and as if such event had never
72 taken place. No person as to whom such order has been entered shall be held thereafter under
73 any provision of any law to be guilty of perjury or otherwise giving a false statement by
74 reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or
75 expungement in response to any inquiry made of him or her for any purpose whatsoever, and
76 no such inquiry shall be made for information relating to an expungement under this section.

77 **(2) The court shall direct the Missouri state highway patrol to destroy such**
78 **records, samples, and data. The Missouri state highway patrol shall carry out such**
79 **order and shall notify the Federal Bureau of Investigation, the department of**
80 **corrections, and any other criminal justice agency that may have a record of the**
81 **conviction and arrest.**

82 **6. Any individual who receives restitution under section 490.800 shall not also**
83 **receive restitution under this section.**

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