

# HOUSE BILL NO. 2439

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BOSLEY.

2997H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 547, RSMo, by adding thereto one new section relating to a conviction review unit.

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

Section A. Chapter 547, RSMo, is amended by adding thereto one new section, to be known as section 547.500, to read as follows:

**547.500. 1. The Missouri office of prosecution services may establish a conviction review unit to investigate claims of actual innocence of any defendant, including one who has pled guilty.**

**2. The Missouri office of prosecution services shall have the power to promulgate rules and regulations to receive and investigate claims of actual innocence.**

**3. The Missouri office of prosecution services shall create an application process that at a minimum shall include that:**

**(1) Any application for review of a claim of actual innocence shall not have a fee that exceeds the following:**

**(a) Ten dollars for review of a misdemeanor conviction;**

**(b) Twenty-five dollars for review of a felony conviction;**

**(c) Thirty-five dollars for review of a noncapital murder conviction;**

**(d) Thirty-five dollars for review of a civil commitment case; or**

**(e) Fifty dollars for review of a capital murder conviction;**

**(2) No application shall be accepted if there is any pending motion, writ, appeal, or other matter pending regarding the defendant's conviction. Any application filed shall be considered a pleading under the Missouri rules of civil procedure, and all**

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.

18 attorneys shall comply with supreme court rule 55.03 when signing the application. The  
19 application shall be sworn and signed under penalty of perjury by the applicant. Any  
20 witness statements attached shall be sworn and signed under penalty of perjury; and

21 (3) Any review and investigation shall be based on newly discovered and  
22 verifiable evidence of actual innocence not presented at a trial. Such newly discovered  
23 and verifiable evidence shall establish by clear and convincing evidence the actual  
24 innocence of the defendant.

25 4. The conviction review unit shall consist of two attorneys, hired by the  
26 executive director of the Missouri office of prosecution services, who have extensive  
27 experience prosecuting and defending criminal matters, an investigator, a paralegal, and  
28 such administrative staff as is needed to efficiently and effectively process all  
29 applications and claims. The executive director of the Missouri office of prosecution  
30 services shall coordinate the activities and budget of the conviction review unit and act  
31 as an ex officio member of the unit.

32 5. Once the review is complete, the conviction review unit shall present its  
33 findings and recommendations to:

34 (1) The office of the prosecuting attorney or circuit attorney who prosecuted the  
35 defendant's case, the attorney general's office if it prosecuted the case, or the special  
36 prosecutor who prosecuted the case; or

37 (2) If the review was requested by a prosecuting attorney's office, the circuit  
38 attorney's office, the attorney general, or a special prosecutor, the findings and  
39 recommendations shall be presented to the office that requested the review.

40 6. The circuit attorney, prosecuting attorney, special prosecutor, attorney  
41 general's office if it prosecuted the case, Missouri office of prosecution services, or other  
42 prosecutor who prosecuted the case is not required to accept or follow the findings and  
43 recommendations of the conviction review unit.

44 7. (1) The application, investigation, reports, interviews, findings, and  
45 recommendations, and any documents, written, electronic, or otherwise, received or  
46 generated by the conviction review unit are closed records.

47 (2) The conviction review unit's findings and recommendations submitted to the  
48 prosecuting attorney, circuit attorney, the attorney general's office if it prosecuted the  
49 case, or the special prosecutor who prosecuted the case shall become open records after  
50 the receiving entity of the submission makes a decision not to pursue a motion under  
51 section 547.031 or, if such a motion is filed, after the finality of all proceedings under  
52 section 547.031, including appeals authorized therein.