

# SENATE BILL NO. 765

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

3697S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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

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

547.500. 1. The Missouri office of prosecution  
2 services may establish a conviction review unit to  
3 investigate claims of actual innocence of any defendant  
4 including those who plead guilty.

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

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

11 (1) Any application for review of a claim of actual  
12 innocence shall not have any excessive fees and fees shall  
13 be waived in cases of indigence;

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

19 court rule 55.03 when signing the application and the  
20 application shall be sworn and signed under penalty of  
21 perjury by the applicant. Any witness statements attached  
22 shall be sworn and signed under penalty of perjury; and

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

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

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

40 (1) The office of the prosecuting attorney or circuit  
41 attorney who prosecuted the defendant's case; the attorney  
42 general's office if it prosecuted the case, or the special  
43 prosecutor who prosecuted the case; or

44 (2) If the review was requested by a prosecuting  
45 attorney's office, the circuit attorney's office, attorney  
46 general, or special prosecutor, the findings and  
47 recommendation shall be presented to the office which  
48 requested the review.

49 6. The circuit attorney, prosecuting attorney of any  
50 county, special prosecutor, attorney general's office if it

51 prosecuted the case, Missouri office of prosecution  
52 services, or other prosecutor who prosecuted the case is not  
53 required to accept or follow the findings and  
54 recommendations of the conviction review unit.

55 7. (1) The application, investigation, reports,  
56 interviews, findings, and recommendations, and any  
57 documents, written, electronic or otherwise, received or  
58 generated by the conviction review unit are closed records.

59 (2) The conviction review unit's findings and  
60 recommendations submitted to the prosecuting attorney,  
61 circuit attorney, the attorney general's office if it  
62 prosecuted the case, or the special prosecutor who  
63 prosecuted the case, shall become open records after the  
64 receiving entity of the submission makes a decision not to  
65 pursue a motion under section 547.031 or, if such a motion  
66 is filed, after the finality of all proceedings under  
67 section 547.031, including appeals authorized therein.

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