

FIRST REGULAR SESSION

# SENATE BILL NO. 332

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time January 22, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1540S.011

## AN ACT

To repeal sections 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.036, 595.037, 595.040, 595.045, and 595.060, RSMo, and to enact in lieu thereof thirteen new sections relating to the crime victims' compensation fund, with penalty provisions.

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

Section A. Sections 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.036, 595.037, 595.040, 595.045, and 595.060, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.036, 595.037, 595.040, 595.045, 595.060, and 621.060, to read as follows:

595.010. 1. As used in sections 595.010 to 595.075, unless the context requires otherwise, the following terms shall mean:

(1) "Child", a dependent, unmarried person who is under eighteen years of age and includes a posthumous child, stepchild, or an adopted child;

(2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of a victim eligible for compensation pursuant to sections 595.010 to 595.075;

(3) "Conservator", a person or corporation appointed by a court to have the care and custody of the estate of a minor or a disabled person, including a limited conservator;

(4) "Counseling", problem-solving and support concerning emotional issues that result from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential service provided either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 restore a person's sense of well-being and social functioning after  
16 victimization. Counseling does not include victim advocacy services such as crisis  
17 telephone counseling, attendance at medical procedures, law enforcement  
18 interviews or criminal justice proceedings;

19 (5) "Crime", an act committed in this state which, if committed by a  
20 mentally competent, criminally responsible person who had no legal exemption  
21 or defense, would constitute a crime; provided that, such act involves the  
22 application of force or violence or the threat of force or violence by the offender  
23 upon the victim but shall include the crime of driving while intoxicated, vehicular  
24 manslaughter and hit and run; and provided, further, that no act involving the  
25 operation of a motor vehicle except driving while intoxicated, vehicular  
26 manslaughter and hit and run which results in injury to another shall constitute  
27 a crime for the purpose of sections 595.010 to 595.075, unless such injury was  
28 intentionally inflicted through the use of a motor vehicle. A crime shall also  
29 include an act of terrorism, as defined in 18 U.S.C. section 2331, which has been  
30 committed outside of the United States against a resident of Missouri;

31 (6) "Crisis intervention counseling", helping to reduce psychological  
32 trauma where victimization occurs;

33 (7) "Department", the department of public safety;

34 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father,  
35 child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly  
36 or partially dependent for support upon, and living with, but shall include  
37 children entitled to child support but not living with, the victim at the time of his  
38 injury or death due to a crime alleged in a claim pursuant to sections 595.010 to  
39 595.070;

40 (9) "Direct service", providing physical services to a victim of crime  
41 including, but not limited to, transportation, funeral arrangements, child care,  
42 emergency food, clothing, shelter, notification and information;

43 (10) "Director", the director of public safety of this state or a person  
44 designated by him for the purposes of sections 595.010 to 595.070;

45 (11) "Disabled person", one who is unable by reason of any physical or  
46 mental condition to receive and evaluate information or to communicate decisions  
47 to such an extent that the person lacks ability to manage his financial resources,  
48 including a partially disabled person who lacks the ability, in part, to manage his  
49 financial resources;

50 (12) ["Division", the division of workers' compensation of the state of

51 Missouri;

52           (13)] "Emergency service", those services provided within thirty days to  
53 alleviate the immediate effects of the criminal act or offense, and may include  
54 cash grants of not more than one hundred dollars;

55           [(14)] (13) "Earnings", net income or net wages;

56           [(15)] (14) "Family", the spouse, parent, grandparent, stepmother,  
57 stepfather, child, grandchild, brother, sister, half brother, half sister, adopted  
58 children of parent, or spouse's parents;

59           [(16)] (15) "Funeral expenses", the expenses of the funeral, burial,  
60 cremation or other chosen method of interment, including plot or tomb and other  
61 necessary incidents to the disposition of the remains;

62           [(17)] (16) "Gainful employment", engaging on a regular and continuous  
63 basis, up to the date of the incident upon which the claim is based, in a lawful  
64 activity from which a person derives a livelihood;

65           [(18)] (17) "Guardian", one appointed by a court to have the care and  
66 custody of the person of a minor or of an incapacitated person, including a limited  
67 guardian;

68           [(19)] (18) "Hit and run", the crime of leaving the scene of a motor  
69 vehicle accident as defined in section 577.060, RSMo;

70           [(20)] (19) "Incapacitated person", one who is unable by reason of any  
71 physical or mental condition to receive and evaluate information or to  
72 communicate decisions to such an extent that he lacks capacity to meet essential  
73 requirements for food, clothing, shelter, safety or other care such that serious  
74 physical injury, illness, or disease is likely to occur, including a partially  
75 incapacitated person who lacks the capacity to meet, in part, such essential  
76 requirements;

77           [(21)] (20) "Injured victim", a person:

78           (a) Killed or receiving a personal physical injury in this state as a result  
79 of another person's commission of or attempt to commit any crime;

80           (b) Killed or receiving a personal physical injury in this state while in a  
81 good faith attempt to assist a person against whom a crime is being perpetrated  
82 or attempted;

83           (c) Killed or receiving a personal physical injury in this state while  
84 assisting a law enforcement officer in the apprehension of a person who the  
85 officer has reason to believe has perpetrated or attempted a crime;

86           [(22)] (21) "Law enforcement official", a sheriff and his regular deputies,

87 municipal police officer or member of the Missouri state highway patrol and such  
88 other persons as may be designated by law as peace officers;

89 [(23)] (22) "Offender", a person who commits a crime;

90 [(24)] (23) "Personal physical injury", actual bodily harm only with  
91 respect to the victim. Personal physical injury may include mental or nervous  
92 shock resulting from the specific incident upon which the claim is based;

93 [(25)] (24) "Private agency", a not-for-profit corporation, in good standing  
94 in this state, which provides services to victims of crime and their dependents;

95 [(26)] (25) "Public agency", a part of any local or state government  
96 organization which provides services to victims of crime;

97 [(27)] (26) "Relative", the spouse of the victim or a person related to the  
98 victim within the third degree of consanguinity or affinity as calculated according  
99 to civil law;

100 [(28)] (27) "Survivor", the spouse, parent, legal guardian, grandparent,  
101 sibling or child of the deceased victim of the victim's household at the time of the  
102 crime;

103 [(29)] (28) "Victim", a person who suffers personal physical injury or  
104 death as a direct result of a crime, as defined in subdivision (5) of this subsection;

105 [(30)] (29) "Victim advocacy", assisting the victim of a crime and his  
106 dependents to acquire services from existing community resources.

107 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010  
108 to 595.075, the term "alcohol-related traffic offense" means those offenses defined  
109 by sections 577.001, 577.010, and 577.012, RSMo, and any county or municipal  
110 ordinance which prohibits operation of a motor vehicle while under the influence  
111 of alcohol.

595.015. 1. The [division of workers' compensation] **department of**  
2 **public safety** shall, pursuant to the provisions of sections 595.010 to 595.075,  
3 have jurisdiction to determine and award compensation to, or on behalf of, victims  
4 of crimes. The [division of workers' compensation] **department of public**  
5 **safety** may pay directly to the provider of the services compensation for medical  
6 or funeral expenses, or expenses for other services as described in section  
7 595.030, incurred by the claimant. The [division] **department** is not required  
8 to provide compensation in any case, nor is it required to award the full amount  
9 claimed. The [division] **department** shall make its award of compensation based  
10 upon independent verification obtained during its investigation.

11 2. Such claims shall be made by filing an application for compensation

12 with the [division of workers' compensation] **department of public safety**. The  
13 application form shall be furnished by the [division] **department** and the  
14 signature shall be notarized. The application shall include:

- 15 (1) The name and address of the victim;
- 16 (2) If the claimant is not the victim, the name and address of the claimant  
17 and relationship to the victim, the names and addresses of the victim's  
18 dependents, if any, and the extent to which each is so dependent;
- 19 (3) The date and nature of the crime or attempted crime on which the  
20 application for compensation is based;
- 21 (4) The date and place where, and the law enforcement officials to whom,  
22 notification of the crime was given;
- 23 (5) The nature and extent of the injuries sustained by the victim, the  
24 names and addresses of those giving medical and hospital treatment to the victim  
25 and whether death resulted;
- 26 (6) The loss to the claimant or a dependent resulting from the injury or  
27 death;
- 28 (7) The amount of benefits, payments or awards, if any, payable from any  
29 source which the claimant or dependent has received or for which the claimant  
30 or dependent is eligible as a result of the injury or death;
- 31 (8) Releases authorizing the surrender to the [division] **department** of  
32 reports, documents and other information relating to the matters specified under  
33 this section; and
- 34 (9) Such other information as the [division] **department** determines is  
35 necessary.

36 3. In addition to the application, the [division] **department** may require  
37 that the claimant submit materials substantiating the facts stated in the  
38 application.

39 4. If the [division] **department** finds that an application does not contain  
40 the required information or that the facts stated therein have not been  
41 substantiated, it shall notify the claimant in writing of the specific additional  
42 items of information or materials required and that the claimant has thirty days  
43 from the date of mailing in which to furnish those items to the [division]  
44 **department**. Unless a claimant requests and is granted an extension of time by  
45 the [division] **department**, the [division] **department** shall reject with  
46 prejudice the claim of the claimant for failure to file the additional information  
47 or materials within the specified time.

48           5. The claimant may file an amended application or additional  
49 substantiating materials to correct inadvertent errors or omissions at any time  
50 before the [division] **department** has completed its consideration of the original  
51 application.

52           6. The claimant, victim or dependent shall cooperate with law enforcement  
53 officials in the apprehension and prosecution of the offender in order to be  
54 eligible, or the [division] **department** has found that the failure to cooperate was  
55 for good cause.

56           7. Any state or local agency, including a prosecuting attorney or law  
57 enforcement agency, shall make available without cost to the fund, all reports,  
58 files and other appropriate information which the [division] **department**  
59 requests in order to make a determination that a claimant is eligible for an award  
60 pursuant to sections 595.010 to 595.075.

          595.020. 1. Except as hereinafter provided, the following persons shall  
2 be eligible for compensation pursuant to sections 595.010 to 595.075:

3           (1) A victim of a crime;

4           (2) In the case of a sexual assault victim:

5           (a) A relative of the victim requiring counseling in order to better assist  
6 the victim in his recovery; and

7           (3) In the case of the death of the victim as a direct result of the crime:

8           (a) A dependent of the victim;

9           (b) Any member of the family who legally assumes the obligation, or who  
10 pays the medical or burial expenses incurred as a direct result thereof; and

11           (c) A survivor of the victim requiring counseling as a direct result of the  
12 death of the victim.

13           2. An offender or an accomplice of an offender shall in no case be eligible  
14 to receive compensation with respect to a crime committed by the offender. No  
15 victim or dependent shall be denied compensation solely because he is a relative  
16 of the offender or was living with the offender as a family or household member  
17 at the time of the injury or death. However, the [division] **department** may  
18 award compensation to a victim or dependent who is a relative, family or  
19 household member of the offender only if the [division] **department** can  
20 reasonably determine the offender will receive no substantial economic benefit or  
21 unjust enrichment from the compensation.

22           3. No compensation of any kind may be made to a victim or intervenor  
23 injured while confined in any federal, state, county, or municipal jail, prison or

24 other correctional facility, including house arrest.

25           4. No compensation of any kind may be made to a victim who has been  
26 finally adjudicated and found guilty, in a criminal prosecution under the laws of  
27 this state, of two felonies within the past ten years, of which one or both involves  
28 illegal drugs or violence. The [division] **department** may waive this restriction  
29 if it determines that the interest of justice would be served otherwise.

30           5. In the case of a claimant who is not otherwise ineligible pursuant to  
31 subsection 4 of this section, who is incarcerated as a result of a conviction of a  
32 crime not related to the incident upon which the claim is based at the time of  
33 application, or at any time following the filing of the application:

34           (1) The [division] **department** shall suspend all proceedings and  
35 payments until such time as the claimant is released from incarceration;

36           (2) The [division] **department** shall notify the applicant at the time the  
37 proceedings are suspended of the right to reactivate the claim within six months  
38 of release from incarceration. The notice shall be deemed sufficient if mailed to  
39 the applicant at the applicant's last known address;

40           (3) The claimant shall file an application to request that the case be  
41 reactivated not later than six months after the date the claimant is released from  
42 incarceration. Failure to file such request within the six-month period shall serve  
43 as a bar to any recovery.

44           6. Victims of crime who are not residents of the state of Missouri may be  
45 compensated only when federal funds are available for that  
46 purpose. Compensation for nonresident victims shall terminate when federal  
47 funds for that purpose are no longer available.

48           7. A Missouri resident who suffers personal physical injury or, in the case  
49 of death, a dependent of the victim or any member of the family who legally  
50 assumes the obligation, or who pays the medical or burial expenses incurred as  
51 a direct result thereof, in another state, possession or territory of the United  
52 States may make application for compensation in Missouri if:

53           (1) The victim of the crime would be compensated if the crime had  
54 occurred in the state of Missouri;

55           (2) The place that the crime occurred is a state, possession or territory of  
56 the United States, or location outside of the United States that is covered and  
57 defined in 18 U.S.C. section 2331, that does not have a crime victims'  
58 compensation program for which the victim is eligible and which provides at least  
59 the same compensation that the victim would have received if he had been

60 injured in Missouri.

595.025. 1. A claim for compensation may be filed by a person eligible for  
2 compensation or, if the person is an incapacitated or disabled person, or a minor,  
3 by the person's spouse, parent, conservator, or guardian.

4 2. A claim shall be filed not later than two years after the occurrence of  
5 the crime or the discovery of the crime upon which it is based.

6 3. Each claim shall be filed in person or by mail. The [division of workers'  
7 compensation] **department of public safety** shall investigate such claim, prior  
8 to the opening of formal proceedings. The claimant shall be notified of the date  
9 and time of any hearing on such claim. In determining the amount of  
10 compensation for which a claimant is eligible, the [division] **department** shall  
11 consider the facts stated on the application filed pursuant to section 595.015, and:

12 (1) Need not consider whether or not the alleged assailant has been  
13 apprehended or brought to trial or the result of any criminal proceedings against  
14 that person; however, if any person is convicted of the crime which is the basis  
15 for an application for compensation, proof of the conviction shall be conclusive  
16 evidence that the crime was committed;

17 (2) Shall determine the amount of the loss to the claimant, or the victim's  
18 survivors or dependents;

19 (3) Shall determine the degree or extent to which the victim's acts or  
20 conduct provoked, incited, or contributed to the injuries or death of the victim.

21 4. The claimant may present evidence and testimony on his own behalf  
22 or may retain counsel. The [division of workers' compensation] **department of**  
23 **public safety** may, as part of any award entered under sections 595.010 to  
24 595.075, determine and allow reasonable attorney's fees, which shall not exceed  
25 fifteen percent of the amount awarded as compensation under sections 595.010  
26 to 595.075, which fee shall be paid out of, but not in addition to, the amount of  
27 compensation, to the attorney representing the claimant. No attorney for the  
28 claimant shall ask for, contract for or receive any larger sum than the amount so  
29 allowed.

30 5. The person filing a claim shall, prior to any hearing thereon, submit  
31 reports, if available, from all hospitals, physicians or surgeons who treated or  
32 examined the victim for the injury for which compensation is sought. If, in the  
33 opinion of the [division of workers' compensation] **department of public**  
34 **safety**, an examination of the injured victim and a report thereon, or a report on  
35 the cause of death of the victim, would be of material aid, the [division of



36 workers' compensation] **department of public safety** may appoint a duly  
37 qualified, impartial physician to make such examination and report.

38         6. Each and every payment shall be exempt from attachment,  
39 garnishment or any other remedy available to creditors for the collection of a  
40 debt.

41         7. Payments of compensation shall not be made directly to any person  
42 legally incompetent to receive them but shall be made to the parent, guardian or  
43 conservator for the benefit of such minor, disabled or incapacitated person.

595.027. 1. Upon request by the [division] **department** for verification  
2 of injuries of victims, medical providers shall submit the information requested  
3 by the [division] **department** within twenty working days of the request at no  
4 cost to the fund.

5         2. For purposes of this section, "medical providers" means physicians,  
6 dentists, clinical psychologists, optometrists, podiatrists, registered nurses,  
7 physician's assistants, chiropractors, physical therapists, hospitals, ambulatory  
8 surgical centers, and nursing homes.

9         3. Failure to submit the information as required by this section shall be  
10 an infraction.

595.030. 1. No compensation shall be paid unless the claimant has  
2 incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous  
3 weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall  
4 mean unreimbursed or unreimbursable expenses or indebtedness reasonably  
5 incurred for medical care or other services, including psychiatric, psychological  
6 or counseling expenses, necessary as a result of the crime upon which the claim  
7 is based, except that the amount paid for psychiatric, psychological or counseling  
8 expenses per eligible claim shall not exceed two thousand five hundred dollars.

9         2. No compensation shall be paid unless the [division of workers'  
10 compensation] **department of public safety** finds that a crime was committed,  
11 that such crime directly resulted in personal physical injury to, or the death of,  
12 the victim, and that police records show that such crime was promptly reported  
13 to the proper authorities. In no case may compensation be paid if the police  
14 records show that such report was made more than forty-eight hours after the  
15 occurrence of such crime, unless the [division of workers' compensation]  
16 **department of public safety** finds that the report to the police was delayed for  
17 good cause. If the victim is under eighteen years of age such report may be made  
18 by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital

19 emergency room personnel; by the division of family services personnel; or by any  
20 other member of the victim's family.

21           3. No compensation shall be paid for medical care if the service provider  
22 is not a medical provider as that term is defined in section 595.027, and the  
23 individual providing the medical care is not licensed by the state of Missouri or  
24 the state in which the medical care is provided.

25           4. No compensation shall be paid for psychiatric treatment or other  
26 counseling services, including psychotherapy, unless the service provider is a:

27           (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to  
28 practice medicine in the state in which the service is provided;

29           (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to  
30 practice psychology in the state in which the service is provided;

31           (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

32           (4) Professional counselor licensed pursuant to chapter 337, RSMo.

33           5. Any compensation paid pursuant to sections 595.010 to 595.075 for  
34 death or personal injury shall be in an amount not exceeding out-of-pocket loss,  
35 together with loss of earnings or support from gainful employment, not to exceed  
36 two hundred dollars per week, resulting from such injury or death. In the event  
37 of death of the victim, an award may be made for reasonable and necessary  
38 expenses actually incurred for preparation and burial not to exceed five thousand  
39 dollars.

40           6. Any compensation for loss of earnings or support from gainful  
41 employment shall be in an amount equal to the actual loss sustained not to  
42 exceed two hundred dollars per week; provided, however, that no award pursuant  
43 to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two  
44 or more persons are entitled to compensation as a result of the death of a person  
45 which is the direct result of a crime or in the case of a sexual assault, the  
46 compensation shall be apportioned by the [division of workers' compensation]  
47 **department of public safety** among the claimants in proportion to their loss.

48           7. The method and timing of the payment of any compensation pursuant  
49 to sections 595.010 to 595.075 shall be determined by the [division] **department**.

595.035. 1. For the purpose of determining the amount of compensation  
2 payable pursuant to sections 595.010 to 595.075, the [division of workers'  
3 compensation] **department of public safety** shall, insofar as practicable,  
4 formulate standards for the uniform application of sections 595.010 to 595.075,  
5 taking into consideration the provisions of sections 595.010 to 595.075, the rates

6 and amounts of compensation payable for injuries and death pursuant to other  
7 laws of this state and of the United States, excluding pain and suffering, and the  
8 availability of funds appropriated for the purpose of sections 595.010 to 595.075. All  
9 decisions of the [division of workers' compensation] **department of public**  
10 **safety** on claims heard pursuant to sections 595.010 to 595.075 shall be in  
11 writing, setting forth the name of the claimant, the amount of compensation and  
12 the reasons for the decision. The [division of workers' compensation]  
13 **department of public safety** shall immediately notify the claimant in writing  
14 of the decision and shall forward to the state treasurer a certified copy of the  
15 decision and a warrant for the amount of the claim. The state treasurer, upon  
16 certification by the commissioner of administration, shall, if there are sufficient  
17 funds in the crime victims' compensation fund, pay to or on behalf of the claimant  
18 the amount determined by the [division] **department**.

19 2. The crime victims' compensation fund is not a state health program and  
20 is not intended to be used as a primary payor to other health care assistance  
21 programs, but is a public, quasi-charitable fund whose fundamental purpose is  
22 to assist victims of violent crimes through a period of financial hardship, as a  
23 payor of last resort. Accordingly, any compensation paid pursuant to sections  
24 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or  
25 awards received or to be received as a result of the injury or death:

26 (1) From or on behalf of the offender;

27 (2) Under private or public insurance programs, including champus,  
28 Medicare, Medicaid and other state or federal programs, but not including any  
29 life insurance proceeds; or

30 (3) From any other public or private funds, including an award payable  
31 pursuant to the workers' compensation laws of this state.

32 3. In determining the amount of compensation payable, the [division of  
33 workers' compensation] **department of public safety** shall determine whether,  
34 because of the victim's consent, provocation, incitement or negligence, the victim  
35 contributed to the infliction of the victim's injury or death, and shall reduce the  
36 amount of the compensation or deny the claim altogether, in accordance with such  
37 determination; provided, however, that the [division of workers' compensation]  
38 **department of public safety** may disregard the responsibility of the victim for  
39 his or her own injury where such responsibility was attributable to efforts by the  
40 victim to aid a victim, or to prevent a crime or an attempted crime from occurring  
41 in his or her presence, or to apprehend a person who had committed a crime in

42 his or her presence or had in fact committed a felony.

43 4. In determining the amount of compensation payable pursuant to  
44 sections 595.010 to 595.070, monthly Social Security disability or retirement  
45 benefits received by the victim shall not be considered by the [division]  
46 **department** as a factor for reduction of benefits.

47 5. The [division] **department** shall not be liable for payment of  
48 compensation for any out-of-pocket expenses incurred more than three years  
49 following the date of the occurrence of the crime upon which the claim is based.

595.036. [1.] Any [of the parties] **party** to a decision of the [division of  
2 workers' compensation] **department of public safety** on a claim heard under  
3 the provisions of sections 595.010 to 595.070 may, within thirty days following the  
4 date of notification or mailing of such decision, file a petition with the [labor and  
5 industrial relations commission] **administrative hearing commission under**  
6 **the provisions of section 621.060, RSMo**, to have such decision reviewed by  
7 the commission. [The commission may allow or deny a petition for review. If a  
8 petition is allowed, the commission may affirm, reverse, or set aside the decision  
9 of the division of workers' compensation on the basis of the evidence previously  
10 submitted in such case or may take additional evidence or may remand the  
11 matter to the division of workers' compensation with directions. The commission  
12 shall promptly notify the parties of its decision and the reasons therefor.

13 2. Any petition for review filed pursuant to subsection 1 of this section  
14 shall be deemed to be filed as of the date endorsed by the United States Postal  
15 Service on the envelope or container in which such petition is received.

16 3. Any party who is aggrieved by a final decision of the labor and  
17 industrial relations commission pursuant to the provisions of subsections 1 and  
18 2 of this section may seek judicial review thereof, as provided in sections 536.100  
19 to 536.140, RSMo.]

595.037. 1. All information submitted to the [division] **department** and  
2 any hearing of the [division] **department** on a claim filed pursuant to sections  
3 595.010 to 595.070 shall be open to the public except for the following claims  
4 which shall be deemed closed and confidential:

5 (1) A claim in which the alleged assailant has not been brought to trial  
6 and disclosure of the information or a public hearing would adversely affect either  
7 the apprehension, or the trial, of the alleged assailant;

8 (2) A claim in which the offense allegedly perpetrated against the victim  
9 is rape, sodomy or sexual abuse and it is determined by the [division]

10 **department** to be in the best interest of the victim or of the victim's dependents  
11 that the information be kept confidential or that the public be excluded from the  
12 hearing;

13 (3) A claim in which the victim or alleged assailant is a minor; or

14 (4) A claim in which any record or report obtained by the [division]  
15 **department**, the confidentiality of which is protected by any other law, shall  
16 remain confidential subject to such law.

17 2. The [division] **department**, by separate order, may close any record,  
18 report or hearing if it determines that the interest of justice would be frustrated  
19 rather than furthered if such record or report was disclosed or if the hearing was  
20 open to the public.

595.040. 1. Acceptance of any compensation under sections 595.010 to  
2 595.075 shall subrogate this state, to the extent of such compensation paid, to any  
3 right or right of action accruing to the claimant or to the victim to recover  
4 payments on account of losses resulting from the crime with respect to which the  
5 compensation has been paid. The attorney general may enforce the subrogation,  
6 and he shall bring suit to recover from any person to whom compensation is paid,  
7 to the extent of the compensation actually paid under sections 595.010 to 595.075,  
8 any amount received by the claimant from any source exceeding the actual loss  
9 to the victim.

10 2. The [division] **department** shall have a lien on any compensation  
11 received by the claimant, in addition to compensation received under provisions  
12 of sections 595.010 to 595.075, for injuries or death resulting from the incident  
13 upon which the claim is based. The claimant shall retain, as trustee for the  
14 [division] **department**, so much of the recovered funds as necessary to reimburse  
15 the Missouri crime victims' compensation fund to the extent that compensation  
16 was awarded to the claimant from that fund.

17 3. If a claimant initiates any legal proceeding to recover restitution or  
18 damages related to the crime upon which the claim is based, or if the claimant  
19 enters into negotiations to receive any proceeds in settlement of a claim for  
20 restitution or damages related to the crime, the claimant shall give the [division]  
21 **department** written notice within fifteen days of the filing of the action or  
22 entering into negotiations. The [division] **department** may intervene in the  
23 proceeding of a complainant to recover the compensation awarded. If a claimant  
24 fails to give such written notice to the [division] **department** within the stated  
25 time period, or prior to any attempt by claimant to reach a negotiated settlement

26 of claims for recovery of damages related to the crime upon which the claim is  
27 based, the [division's] **department's** right of subrogation to receive or recover  
28 funds from claimant, to the extent that compensation was awarded by the  
29 [division] **department**, shall not be reduced in any amount or percentage by the  
30 costs incurred by claimant attributable to such legal proceedings or settlement,  
31 including, but not limited to, attorney's fees, investigative cost or cost of court. If  
32 such notice is given, attorney fees may be awarded in an amount not to exceed  
33 fifteen percent of the amount subrogated to the [division] **department**.

34 4. Whenever compensation is awarded to a claimant who is entitled to  
35 restitution from a criminal defendant, the [division] **department** may initiate  
36 restitution hearings in such criminal proceedings or intervene in the same. The  
37 [division] **department** shall be entitled to receive restitution in such proceedings  
38 to the extent compensation was awarded; provided, however, the [division]  
39 **department** shall be exempt from the payment of any fees or other charges for  
40 the recording of restitution orders in the offices of the judges of probate. The  
41 claimant shall notify this [division] **department** when restitution is  
42 ordered. Failure to notify the [division] **department** will result in possible  
43 forfeiture of any amount already received from the [division] **department**.

44 5. Whenever the [division] **department** shall deem it necessary to  
45 protect, maintain or enforce the [division's] **department's** right to subrogation  
46 or to exercise any of its powers or to carry out any of its duties or responsibilities,  
47 the attorney general may initiate legal proceedings or intervene in legal  
48 proceedings as the [division's] **department's** legal representative.

595.045. 1. There is established in the state treasury the "Crime Victims'  
2 Compensation Fund". A surcharge of seven dollars and fifty cents shall be  
3 assessed as costs in each court proceeding filed in any court in the state in all  
4 criminal cases including violations of any county ordinance or any violation of  
5 criminal or traffic laws of the state, including an infraction and violation of a  
6 municipal ordinance; except that no such fee shall be collected in any proceeding  
7 in any court when the proceeding or the defendant has been dismissed by the  
8 court or when costs are to be paid by the state, county, or municipality. A  
9 surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile  
10 court proceeding in which a child is found by the court to come within the  
11 applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

12 2. Notwithstanding any other provision of law to the contrary, the moneys  
13 collected by clerks of the courts pursuant to the provisions of subsection 1 of this

14 section shall be collected and disbursed in accordance with sections 488.010 to  
15 488.020, RSMo, and shall be payable to the director of the department of revenue.

16 3. The director of revenue shall deposit annually the amount of two  
17 hundred fifty thousand dollars to the state forensic laboratory account  
18 administered by the department of public safety to provide financial assistance  
19 to defray expenses of crime laboratories if such analytical laboratories are  
20 registered with the federal Drug Enforcement Agency or the Missouri department  
21 of health and senior services. Subject to appropriations made therefor, such  
22 funds shall be distributed by the department of public safety to the crime  
23 laboratories serving the courts of this state making analysis of a controlled  
24 substance or analysis of blood, breath or urine in relation to a court proceeding.

25 4. The remaining funds collected under subsection 1 of this section shall  
26 be denoted to the payment of an annual appropriation for the administrative and  
27 operational costs of the office for victims of crime and, if a statewide automated  
28 crime victim notification system is established pursuant to section 650.310,  
29 RSMo, to the monthly payment of expenditures actually incurred in the operation  
30 of such system. Additional remaining funds shall be subject to the following  
31 provisions:

32 (1) On the first of every month, the director of revenue or the director's  
33 designee shall determine the balance of the funds in the crime victims'  
34 compensation fund available to satisfy the amount of compensation payable  
35 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

36 (2) Beginning on September 1, 2004, and on the first of each month, the  
37 director of revenue or the director's designee shall deposit fifty percent of the  
38 balance of funds available to the credit of the crime victims' compensation fund  
39 and fifty percent to the services to victims' fund established in section 595.100.

40 5. The director of revenue or such director's designee shall at least  
41 monthly report the moneys paid pursuant to this section into the crime victims'  
42 compensation fund and the services to victims fund to the [division of workers'  
43 compensation and the] department of public safety[, respectively].

44 6. The moneys collected by clerks of municipal courts pursuant to  
45 subsection 1 of this section shall be collected and disbursed as provided by  
46 sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable  
47 to the city treasury of the city from which such funds were collected. The  
48 remaining ninety-five percent of such moneys shall be payable to the director of  
49 revenue. The funds received by the director of revenue pursuant to this

50 subsection shall be distributed as follows:

51 (1) On the first of every month, the director of revenue or the director's  
52 designee shall determine the balance of the funds in the crime victims'  
53 compensation fund available to satisfy the amount of compensation payable  
54 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

55 (2) Beginning on September 1, 2004, and on the first of each month the  
56 director of revenue or the director's designee shall deposit fifty percent of the  
57 balance of funds available to the credit of the crime victims' compensation fund  
58 and fifty percent to the services to victims' fund established in section 595.100.

59 7. These funds shall be subject to a biennial audit by the Missouri state  
60 auditor. Such audit shall include all records associated with crime victims'  
61 compensation funds collected, held or disbursed by any state agency.

62 8. In addition to the moneys collected pursuant to subsection 1 of this  
63 section, the court shall enter a judgment in favor of the state of Missouri, payable  
64 to the crime victims' compensation fund, of sixty-eight dollars upon a plea of  
65 guilty or a finding of guilt for a class A or B felony; forty-six dollars upon a plea  
66 of guilty or finding of guilt for a class C or D felony; and ten dollars upon a plea  
67 of guilty or a finding of guilt for any misdemeanor under Missouri law except for  
68 those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo,  
69 relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating  
70 to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic  
71 regulations, chapter 306, RSMo, relating to watercraft regulation and licensing,  
72 and chapter 307, RSMo, relating to vehicle equipment regulations. Any clerk of  
73 the court receiving moneys pursuant to such judgments shall collect and disburse  
74 such crime victims' compensation judgments in the manner provided by sections  
75 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and  
76 deposited to the credit of the crime victims' compensation fund.

77 9. The clerk of the court processing such funds shall maintain records of  
78 all dispositions described in subsection 1 of this section and all dispositions where  
79 a judgment has been entered against a defendant in favor of the state of Missouri  
80 in accordance with this section; all payments made on judgments for  
81 alcohol-related traffic offenses; and any judgment or portion of a judgment  
82 entered but not collected. These records shall be subject to audit by the state  
83 auditor. The clerk of each court transmitting such funds shall report separately  
84 the amount of dollars collected on judgments entered for alcohol-related traffic  
85 offenses from other crime victims' compensation collections or services to victims



86 collections.

87           10. The department of revenue shall maintain records of funds  
88 transmitted to the crime victims' compensation fund by each reporting court and  
89 collections pursuant to subsection 16 of this section and shall maintain separate  
90 records of collection for alcohol-related offenses.

91           11. The state courts administrator shall include in the annual report  
92 required by section 476.350, RSMo, the circuit court caseloads and the number  
93 of crime victims' compensation judgments entered.

94           12. All awards made to injured victims under sections 595.010 to 595.105  
95 and all appropriations for administration of sections 595.010 to 595.105, except  
96 sections 595.050 and 595.055, shall be made from the crime victims' compensation  
97 fund. Any unexpended balance remaining in the crime victims' compensation  
98 fund at the end of each biennium shall not be subject to the provision of section  
99 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary  
100 revenue fund of the state, but shall remain in the crime victims' compensation  
101 fund. In the event that there are insufficient funds in the crime victims'  
102 compensation fund to pay all claims in full, all claims shall be paid on a pro rata  
103 basis. If there are no funds in the crime victims' compensation fund, then no  
104 claim shall be paid until funds have again accumulated in the crime victims'  
105 compensation fund. When sufficient funds become available from the fund,  
106 awards which have not been paid shall be paid in chronological order with the  
107 oldest paid first. In the event an award was to be paid in installments and some  
108 remaining installments have not been paid due to a lack of funds, then when  
109 funds do become available that award shall be paid in full. All such awards on  
110 which installments remain due shall be paid in full in chronological order before  
111 any other postdated award shall be paid. Any award pursuant to this subsection  
112 is specifically not a claim against the state, if it cannot be paid due to a lack of  
113 funds in the crime victims' compensation fund.

114           13. When judgment is entered against a defendant as provided in this  
115 section and such sum, or any part thereof, remains unpaid, there shall be  
116 withheld from any disbursement, payment, benefit, compensation, salary, or other  
117 transfer of money from the state of Missouri to such defendant an amount equal  
118 to the unpaid amount of such judgment. Such amount shall be paid forthwith to  
119 the crime victims' compensation fund and satisfaction of such judgment shall be  
120 entered on the court record. Under no circumstances shall the general revenue  
121 fund be used to reimburse court costs or pay for such judgment. The director of

122 the department of corrections shall have the authority to pay into the crime  
123 victims' compensation fund from an offender's compensation or account the  
124 amount owed by the offender to the crime victims' compensation fund, provided  
125 that the offender has failed to pay the amount owed to the fund prior to entering  
126 a correctional facility of the department of corrections.

127 14. All interest earned as a result of investing funds in the crime victims'  
128 compensation fund shall be paid into the crime victims' compensation fund and  
129 not into the general revenue of this state.

130 15. Any person who knowingly makes a fraudulent claim or false  
131 statement in connection with any claim hereunder is guilty of a class A  
132 misdemeanor.

133 16. [Any gifts, contributions, grants or federal funds specifically given to  
134 the division for the benefit of victims of crime shall be credited to the crime  
135 victims' compensation fund. Payment or expenditure of moneys in such funds  
136 shall comply with any applicable federal crime victims' compensation laws, rules,  
137 regulations or other applicable federal guidelines.] **The department may  
138 receive gifts and contributions for the benefit of crime victims. Such  
139 gifts and contributions shall be credited to the crime victims'  
140 compensation fund and used solely for compensating victims under the  
141 provisions of sections 595.010 to 595.075.**

595.060. The director shall promulgate rules and regulations necessary  
2 to implement the provisions of sections 595.010 to 595.070 as provided in this  
3 section and chapter 536, RSMo. In the performance of its functions under  
4 sections 595.010 to 595.070, the [division] **department** is authorized to  
5 promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to  
6 be followed in the filing of applications and the proceedings under sections  
7 595.010 to 595.070. No rule or portion of a rule promulgated under the authority  
8 of this chapter shall become effective unless it has been promulgated pursuant  
9 to the provisions of section 536.024, RSMo.

**621.060. 1. Any person seeking compensation under the  
2 provisions of sections 595.010 to 595.070, RSMo, who is aggrieved by the  
3 decision of the department of public safety regarding his or her  
4 compensation claim, may seek review by the administrative hearing  
5 commission of the department's decision.**

**6 2. The procedures applicable to the processing of such hearings  
7 and determinations shall be those established by chapter 536,**

8 **RSMo. Decisions of the administrative hearing commission under this**  
9 **section shall be binding, subject to appeal by either party.**

✓

Unofficial

Bill

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