

FIRST REGULAR SESSION

# SENATE BILL NO. 337

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1291S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 595.209, RSMo, and to enact in lieu thereof one new section relating to electronic notification to victims of certain crimes.

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

Section A. Section 595.209, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 595.209,  
3 to read as follows:

595.209. 1. The following rights shall automatically  
2 be afforded to victims of dangerous felonies, as defined in  
3 section 556.061, victims of murder in the first degree, as  
4 defined in section 565.020, victims of voluntary  
5 manslaughter, as defined in section 565.023, victims of any  
6 offense under chapter 566, victims of an attempt to commit  
7 one of the preceding crimes, as defined in section 562.012,  
8 and victims of domestic assault, as defined in sections  
9 565.072 to 565.076; and, upon written request, the following  
10 rights shall be afforded to victims of all other crimes and  
11 witnesses of crimes:

12 (1) For victims, the right to be present at all  
13 criminal justice proceedings at which the defendant has such  
14 right, including juvenile proceedings where the offense  
15 would have been a felony if committed by an adult, even if  
16 the victim is called to testify or may be called to testify  
17 as a witness in the case;

18           (2) For victims, the right to information about the  
19 crime, as provided for in subdivision (5) of this subsection;

20           (3) For victims and witnesses, to be informed, in a  
21 timely manner, by the prosecutor's office of the filing of  
22 charges, preliminary hearing dates, trial dates,  
23 continuances and the final disposition of the case. Final  
24 disposition information shall be provided within five days;

25           (4) For victims, the right to confer with and to be  
26 informed by the prosecutor regarding bail hearings, guilty  
27 pleas, pleas under chapter 552 or its successors, hearings,  
28 sentencing and probation revocation hearings and the right  
29 to be heard at such hearings, including juvenile  
30 proceedings, unless in the determination of the court the  
31 interests of justice require otherwise;

32           (5) The right to be informed by local law enforcement  
33 agencies, the appropriate juvenile authorities or the  
34 custodial authority of the following:

35           (a) The status of any case concerning a crime against  
36 the victim, including juvenile offenses;

37           (b) The right to be informed by local law enforcement  
38 agencies or the appropriate juvenile authorities of the  
39 availability of victim compensation assistance, assistance  
40 in obtaining documentation of the victim's losses,  
41 including, but not limited to and subject to existing law  
42 concerning protected information or closed records, access  
43 to copies of complete, unaltered, unedited investigation  
44 reports of motor vehicle, pedestrian, and other similar  
45 accidents upon request to the appropriate law enforcement  
46 agency by the victim or the victim's representative, and  
47 emergency crisis intervention services available in the  
48 community;

49           (c) Any release of such person on bond or for any  
50 other reason;

51           (d) Within twenty-four hours, any escape by such  
52 person from a municipal detention facility, county jail, a  
53 correctional facility operated by the department of  
54 corrections, mental health facility, or the division of  
55 youth services or any agency thereof, and any subsequent  
56 recapture of such person;

57           (6) For victims, the right to be informed by  
58 appropriate juvenile authorities of probation revocation  
59 hearings initiated by the juvenile authority and the right  
60 to be heard at such hearings or to offer a written  
61 statement, video or audio tape, counsel or a representative  
62 designated by the victim in lieu of a personal appearance,  
63 the right to be informed by the board of probation and  
64 parole of probation revocation hearings initiated by the  
65 board and of parole hearings, the right to be present at  
66 each and every phase of parole hearings, the right to be  
67 heard at probation revocation and parole hearings or to  
68 offer a written statement, video or audio tape, counsel or a  
69 representative designated by the victim in lieu of a  
70 personal appearance, and the right to have, upon written  
71 request of the victim, a partition set up in the probation  
72 or parole hearing room in such a way that the victim is  
73 shielded from the view of the probationer or parolee, and  
74 the right to be informed by the custodial mental health  
75 facility or agency thereof of any hearings for the release  
76 of a person committed pursuant to the provisions of chapter  
77 552, the right to be present at such hearings, the right to  
78 be heard at such hearings or to offer a written statement,  
79 video or audio tape, counsel or a representative designated  
80 by the victim in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552 of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, or by a circuit court presiding over releases under section 217.362,

113 to release such person or any decision by the governor to  
114 commute the sentence of such person or pardon such person;

115 (g) Notification within thirty days of the death of  
116 such person;

117 (8) For witnesses who have been summoned by the  
118 prosecuting attorney and for victims, to be notified by the  
119 prosecuting attorney in a timely manner when a court  
120 proceeding will not go on as scheduled;

121 (9) For victims and witnesses, the right to reasonable  
122 protection from the defendant or any person acting on behalf  
123 of the defendant from harm and threats of harm arising out  
124 of their cooperation with law enforcement and prosecution  
125 efforts;

126 (10) For victims and witnesses, on charged cases or  
127 submitted cases where no charge decision has yet been made,  
128 to be informed by the prosecuting attorney of the status of  
129 the case and of the availability of victim compensation  
130 assistance and of financial assistance and emergency and  
131 crisis intervention services available within the community  
132 and information relative to applying for such assistance or  
133 services, and of any final decision by the prosecuting  
134 attorney not to file charges;

135 (11) For victims, to be informed by the prosecuting  
136 attorney of the right to restitution which shall be  
137 enforceable in the same manner as any other cause of action  
138 as otherwise provided by law;

139 (12) For victims and witnesses, to be informed by the  
140 court and the prosecuting attorney of procedures to be  
141 followed in order to apply for and receive any witness fee  
142 to which they are entitled;

143 (13) When a victim's property is no longer needed for  
144 evidentiary reasons or needs to be retained pending an

145 appeal, the prosecuting attorney or any law enforcement  
146 agency having possession of the property shall, upon request  
147 of the victim, return such property to the victim within  
148 five working days unless the property is contraband or  
149 subject to forfeiture proceedings, or provide written  
150 explanation of the reason why such property shall not be  
151 returned;

152       (14) An employer may not discharge or discipline any  
153 witness, victim or member of a victim's immediate family for  
154 honoring a subpoena to testify in a criminal proceeding,  
155 attending a criminal proceeding, or for participating in the  
156 preparation of a criminal proceeding, or require any  
157 witness, victim, or member of a victim's immediate family to  
158 use vacation time, personal time, or sick leave for honoring  
159 a subpoena to testify in a criminal proceeding, attending a  
160 criminal proceeding, or participating in the preparation of  
161 a criminal proceeding;

162       (15) For victims, to be provided with creditor  
163 intercession services by the prosecuting attorney if the  
164 victim is unable, as a result of the crime, temporarily to  
165 meet financial obligations;

166       (16) For victims and witnesses, the right to speedy  
167 disposition of their cases, and for victims, the right to  
168 speedy appellate review of their cases, provided that  
169 nothing in this subdivision shall prevent the defendant from  
170 having sufficient time to prepare such defendant's defense.  
171 The attorney general shall provide victims, upon their  
172 written request, case status information throughout the  
173 appellate process of their cases. The provisions of this  
174 subdivision shall apply only to proceedings involving the  
175 particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration;

(18) For victims, the right to receive upon request from the department of corrections a photograph taken of the defendant prior to release from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses, **electronic mail address**, and telephone numbers or the addresses, **electronic mail address**, or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310 shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail **or electronic mail** to the most current address **or electronic mail address** provided by the victim.

207           5. Victims' rights as established in Section 32 of  
208 Article I of the Missouri Constitution or the laws of this  
209 state pertaining to the rights of victims of crime shall be  
210 granted and enforced regardless of the desires of a  
211 defendant and no privileges of confidentiality shall exist  
212 in favor of the defendant to exclude victims or prevent  
213 their full participation in each and every phase of parole  
214 hearings or probation revocation hearings. The rights of  
215 the victims granted in this section are absolute and the  
216 policy of this state is that the victim's rights are  
217 paramount to the defendant's rights. The victim has an  
218 absolute right to be present at any hearing in which the  
219 defendant is present before a probation and parole hearing  
220 officer.

✓