

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 727, Page 151, Section 452.375, Line 263,

2 by inserting after all of said line the following:

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

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

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

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

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

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

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

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

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

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

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

83 (7) For victims and witnesses, upon their written
84 request, the right to be informed by the appropriate
85 custodial authority, including any municipal detention
86 facility, juvenile detention facility, county jail,
87 correctional facility operated by the department of
88 corrections, mental health facility, division of youth
89 services or agency thereof if the offense would have been a
90 felony if committed by an adult, postconviction or

91 commitment pursuant to the provisions of chapter 552 of the
92 following:

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

95 (b) Any release of such person on bond;

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

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

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

111 (f) Any decision by a parole board, by a juvenile
112 releasing authority or by a circuit court presiding over
113 releases pursuant to the provisions of chapter 552, or by a
114 circuit court presiding over releases under section 217.362,
115 to release such person or any decision by the governor to
116 commute the sentence of such person or pardon such person;

117 (g) Notification within thirty days of the death of
118 such person;

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

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

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

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

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

145 (13) When a victim's property is no longer needed for
146 evidentiary reasons or needs to be retained pending an
147 appeal, the prosecuting attorney or any law enforcement
148 agency having possession of the property shall, upon request
149 of the victim, return such property to the victim within
150 five working days unless the property is contraband or
151 subject to forfeiture proceedings, or provide written
152 explanation of the reason why such property shall not be
153 returned;

154 (14) An employer may not discharge or discipline any
155 witness, victim or member of a victim's immediate family for

156 honoring a subpoena to testify in a criminal proceeding,
157 attending a criminal proceeding, or for participating in the
158 preparation of a criminal proceeding, or require any
159 witness, victim, or member of a victim's immediate family to
160 use vacation time, personal time, or sick leave for honoring
161 a subpoena to testify in a criminal proceeding, attending a
162 criminal proceeding, or participating in the preparation of
163 a criminal proceeding. A public school district, public
164 school, or charter school shall not discipline a child for
165 failure to comply with the district's or school's attendance
166 policy, and the parent or legal guardian shall not be deemed
167 to be in violation of the provisions of section 167.061, and
168 the district or school shall not otherwise discipline a
169 child, based on such child's honoring a subpoena to testify
170 in a criminal proceeding, attending a criminal proceeding,
171 or for participating in the preparation of a criminal
172 proceeding;

173 (15) For victims, to be provided with creditor
174 intercession services by the prosecuting attorney if the
175 victim is unable, as a result of the crime, temporarily to
176 meet financial obligations;

177 (16) For victims and witnesses, the right to speedy
178 disposition of their cases, and for victims, the right to
179 speedy appellate review of their cases, provided that
180 nothing in this subdivision shall prevent the defendant from
181 having sufficient time to prepare such defendant's defense.
182 The attorney general shall provide victims, upon their
183 written request, case status information throughout the
184 appellate process of their cases. The provisions of this
185 subdivision shall apply only to proceedings involving the
186 particular case to which the person is a victim or witness;

187 (17) For victims and witnesses, to be provided by the
188 court, a secure waiting area during court proceedings and to

189 receive notification of the date, time and location of any
190 hearing conducted by the court for reconsideration of any
191 sentence imposed, modification of such sentence or recall
192 and release of any defendant from incarceration;

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

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

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

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

218 5. Victims' rights as established in Section 32 of
219 Article I of the Missouri Constitution or the laws of this
220 state pertaining to the rights of victims of crime shall be
221 granted and enforced regardless of the desires of a

222 defendant and no privileges of confidentiality shall exist
223 in favor of the defendant to exclude victims or prevent
224 their full participation in each and every phase of parole
225 hearings or probation revocation hearings. The rights of
226 the victims granted in this section are absolute and the
227 policy of this state is that the victim's rights are
228 paramount to the defendant's rights. The victim has an
229 absolute right to be present at any hearing in which the
230 defendant is present before a probation and parole hearing
231 officer."; and

232 Further amend the title and enacting clause accordingly.