

SECOND REGULAR SESSION

HOUSE BILL NO. 1595

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLAND MANLOVE.

3270H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 595.010, 595.020, and 595.030, RSMo, and to enact in lieu thereof three new sections relating to compensation for victims of crime.

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

Section A. Sections 595.010, 595.020, and 595.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 595.010, 595.020, and 595.030, to read as follows: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 **provided by a licensed [pursuant to] service provider as listed in** 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 restore a person's sense of well-being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings;

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.

16 (5) "Crime", an act committed in this state which, regardless of whether it is adjudicated,
17 involves the application of force or violence or the threat of force or violence by the offender
18 upon the victim but shall include the crime of driving while intoxicated, vehicular manslaughter
19 and hit and run; and provided, further, that no act involving the operation of a motor vehicle
20 except driving while intoxicated, vehicular manslaughter and hit and run which results in injury
21 to another shall constitute a crime for the purpose of sections 595.010 to 595.075, unless such
22 injury was intentionally inflicted through the use of a motor vehicle. A crime shall also include
23 an act of terrorism, as defined in 18 U.S.C. Section 2331, which has been committed outside of
24 the United States against a resident of Missouri;

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

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

28 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
29 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
30 dependent for support upon, and living with, but shall include children entitled to child support
31 but not living with, the victim at the time of his injury or death due to a crime alleged in a claim
32 pursuant to sections 595.010 to 595.075;

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

36 (10) "Director", the director of public safety of this state or a person designated by him
37 for the purposes of sections 595.010 to 595.075;

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

42 (12) "Emergency service", those services provided to alleviate the immediate effects of
43 the criminal act or offense, and may include cash grants of not more than one hundred dollars;

44 (13) "Earnings", net income or net wages;

45 (14) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild,
46 brother, sister, half brother, half sister, adopted children of parent, or spouse's parents;

47 (15) "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen
48 method of interment, including plot or tomb and other necessary incidents to the disposition of
49 the remains;

50 (16) "Gainful employment", engaging on a regular and continuous basis, up to the date
51 of the incident upon which the claim is based, in a lawful activity from which a person derives
52 a livelihood;

53 (17) "Guardian", one appointed by a court to have the care and custody of the person of
54 a minor or of an incapacitated person, including a limited guardian;

55 (18) "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined
56 in section 577.060;

57 (19) "Incapacitated person", one who is unable by reason of any physical or mental
58 condition to receive and evaluate information or to communicate decisions to such an extent that
59 he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care
60 such that serious physical injury, illness, or disease is likely to occur, including a partially
61 incapacitated person who lacks the capacity to meet, in part, such essential requirements;

62 (20) "Injured victim", a person:

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

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

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

70 (21) "Law enforcement official", a sheriff and his regular deputies, municipal police
71 officer or member of the Missouri state highway patrol and such other persons as may be
72 designated by law as peace officers;

73 (22) "Offender", a person who commits a crime;

74 (23) "Personal injury", physical, emotional, or mental harm or trauma resulting from the
75 crime upon which the claim is based;

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

78 (25) "Public agency", a part of any local or state government organization which
79 provides services to victims of crime;

80 (26) "Relative", the spouse of the victim or a person related to the victim within the third
81 degree of consanguinity or affinity as calculated according to civil law;

82 (27) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the
83 deceased victim [~~of the victim's household~~] at the time of the crime;

84 (28) "Victim", a person who suffers personal injury or death as a direct result of a crime,
85 as defined in subdivision (5) of this subsection;

86 (29) "Victim advocacy", assisting the victim of a crime and his dependents to acquire
87 services from existing community resources.

88 2. As used in sections 595.010 to 595.075, the term "alcohol-related traffic offense"
89 means those offenses defined by sections 577.001, 577.010, and 577.012, and any county or
90 municipal ordinance which prohibits operation of a motor vehicle while under the influence of
91 alcohol.

595.020. 1. Except as hereinafter provided, the following persons shall be eligible for
2 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, a relative of the victim requiring counseling
5 in order to better assist the victim in his recovery; and

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

7 (a) A dependent of the victim;

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

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

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

19 3. No compensation of any kind may be made to a victim or intervenor injured while
20 confined in any federal, state, county, or municipal jail, prison or other correctional facility,
21 including house arrest or electronic monitoring.

22 4. In the case of a claimant who is incarcerated as a result of a conviction of a crime not
23 related to the incident upon which the claim is based at the time of application, or at any time
24 following the filing of the application:

25 (1) The department shall suspend all proceedings and payments until such time as the
26 claimant is released from incarceration;

27 (2) The department shall notify the applicant at the time the proceedings are suspended
28 of the right to reactivate the claim within six months of release from incarceration. The notice
29 shall be deemed sufficient if mailed to the applicant at the applicant's last known address;

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

33 5. A Missouri resident who suffers personal injury or, in the case of death, **a survivor**
34 **of the victim requiring counseling as a direct result of the death of the victim**, a dependent
35 of the victim or any member of the family who legally assumes the obligation, or who pays the
36 medical or burial expenses incurred as a direct result thereof, in another state, possession or
37 territory of the United States may make application for compensation in Missouri if:

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

40 (2) The place that the crime occurred is a state, possession or territory of the United
41 States, or location outside of the United States that is covered and defined in 18 U.S.C. Section
42 2331, that does not have a crime victims' compensation program for which the victim is eligible
43 and which provides at least the same compensation that the victim would have received if he **or**
44 **she** had been injured in Missouri.

595.030. 1. No compensation shall be paid unless the department of public safety finds
2 that a crime was committed, that such crime directly resulted in personal injury to, or the death
3 of, the victim, and that police, court, or other official records show that such crime was reported
4 to the proper authorities. In lieu of other records the claimant may provide a sworn statement
5 by the applicant under paragraph (c) of subdivision (2) of section 589.663 that the applicant has
6 good reason to believe that he or she is a victim of domestic violence, rape, sexual assault,
7 human trafficking, or stalking, and fears further violent acts from his or her assailant. If the
8 victim is under eighteen years of age such report may be made by the victim's parent, guardian
9 or custodian; by a physician, a nurse, or hospital emergency room personnel; by the children's
10 division personnel; or by any other member of the victim's family. In the case of a sexual
11 offense, filing a report of the offense to the proper authorities may include, but not be limited to,
12 the filing of the report of the forensic examination by the appropriate medical provider, as
13 defined in section 595.220, with the prosecuting attorney of the county in which the alleged
14 incident occurred, receiving a forensic examination, or securing an order of protection.

15 2. No compensation shall be paid for medical care if the service provider is not a medical
16 provider as that term is defined in section 595.027, and the individual providing the medical care
17 is not licensed by the state of Missouri or the state in which the medical care is provided.

18 3. No compensation shall be paid for psychiatric treatment or other counseling services,
19 including psychotherapy, unless the service provider is a:

20 (1) Physician licensed pursuant to chapter 334 or licensed to practice medicine in the
21 state in which the service is provided;

22 (2) Psychologist licensed pursuant to chapter 337 or licensed to practice psychology in
23 the state in which the service is provided;

24 (3) Clinical social worker licensed pursuant to chapter 337;

25 (4) Professional counselor licensed pursuant to chapter 337; or

26 (5) Board-certified psychiatric-mental health clinical nurse specialist or board certified
27 psychiatric-mental health nurse practitioner licensed under chapter 335 or licensed in the state
28 in which the service is provided.

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

35 5. Any compensation for loss of earnings or support from gainful employment shall be
36 in an amount equal to the actual loss sustained not to exceed ~~four~~ **five** hundred dollars per
37 week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
38 ~~twenty-five~~ **thirty** thousand dollars. If two or more persons are entitled to compensation as a
39 result of the death of a person which is the direct result of a crime or in the case of a sexual
40 assault, the compensation shall be apportioned by the department of public safety among the
41 claimants in proportion to their loss.

42 6. The method and timing of the payment of any compensation pursuant to sections
43 595.010 to 595.075 shall be determined by the department.

44 7. The department shall have the authority to negotiate the costs of medical care or other
45 services directly with the providers of the care or services on behalf of any victim receiving
46 compensation pursuant to sections 595.010 to 595.075.

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