

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 2561

98TH GENERAL ASSEMBLY

6496H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 595.030 and 595.209, RSMo, and to enact in lieu thereof three new sections relating to victims of crimes, with penalty provisions.

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

Section A. Sections 595.030 and 595.209, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 595.030, 595.120, and 595.209, to read as follows:

595.030. 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the department of public safety finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of

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.

17 public safety finds that the report to the police was delayed for good cause. If the victim is under  
18 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by  
19 a physician, a nurse, or hospital emergency room personnel; by the children's division personnel;  
20 or by any other member of the victim's family. In the case of a sexual offense, filing a report of  
21 the offense to the proper authorities may include, but not be limited to, the filing of the report  
22 of the forensic examination by the appropriate medical provider, as defined in section 595.220,  
23 with the prosecuting attorney of the county in which the alleged incident occurred.

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

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

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

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

33 (3) Clinical social worker licensed pursuant to chapter 337; [or]

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

35 **(5) Board certified psychiatric-mental health clinical nurse specialist or board**  
36 **certified psychiatric-mental health nurse practitioner licensed under chapter 335 or**  
37 **licensed in the state in which the service is provided.**

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

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

51 7. The method and timing of the payment of any compensation pursuant to sections  
52 595.010 to 595.075 shall be determined by the department.

2           **595.120. 1. Prior to January 1, 2017, the department of public safety shall create**  
3 **a poster that provides information regarding the national human trafficking resource**  
4 **center hotline. The poster shall be no smaller than eight and one-half inches by eleven**  
5 **inches in size and shall include a statement in substantially the following form:**

6           **"If you or someone you know is being forced to engage in any activity and cannot**  
7 **leave – whether it is commercial sex, housework, farm work, or any other activity**  
8 **– call the National Human Trafficking Resource Center Hotline at 1-888-373-7888**  
9 **to access help and services. Victims of human trafficking are protected under U.S.**  
10 **and Missouri law.**

11           **The toll-free hotline is:**

- 12           **- Available 24 hours a day, 7 days a week**
- 13           **- Operated by a non-profit, non-governmental organization**
- 14           **- Anonymous and confidential**
- 15           **- Accessible in 170 languages**
- 16           **- Able to provide help, referral to services, training, and general information."**

17  
18           **The statement shall appear on each poster in English, Spanish, and, for each county, any**  
19 **other language required for voting materials in that county under section 1973 of the**  
20 **"Voting Rights Act of 1965," 42 U.S.C. 1973, as amended. In addition to the national**  
21 **human trafficking resource center hotline, the statement may contain any additional**  
22 **hotlines regarding human trafficking for access to help and services.**

23           **2. Beginning March 1, 2017, the human trafficking hotline poster designed by the**  
24 **department of public safety shall be displayed in a conspicuous place near the entrance of**  
25 **each of the following establishments:**

- 26           **(1) A hotel, motel, or other establishment that has been cited as a public nuisance**  
27 **for prostitution under section 567.080;**
- 28           **(2) A strip club or other sexually oriented business;**
- 29           **(3) A private club that has a liquor permit for on-premises consumption and does**  
30 **not hold itself out to be a food service establishment;**
- 31           **(4) An airport;**
- 32           **(5) A train station that serves passengers;**
- 33           **(6) Emergency rooms within general acute care hospitals;**
- 34           **(7) Urgent care centers;**
- 35           **(8) Privately operated job recruitment centers;**

36           **(9) Businesses or establishments that offer massage or body work services for**  
37 **compensation by individuals who are not licensed under section 324.265;**

38           **(10) Women's health centers;**

39           **(11) Bus stations; and**

40           **(12) Any privately owned and operated facility that provides food, fuel, shower or**  
41 **other sanitary facilities, and overnight parking.**

42           **3. The department of public safety shall make the poster available for print on its**  
43 **public website. To obtain a copy of the poster, the owners or operators of an establishment**  
44 **required to post the human trafficking hotline notice under subsection 2 of this section may**  
45 **print the online poster using the online link or request that the poster be mailed for the cost**  
46 **of printing and first class postage.**

47           **4. Any owner or operator of an establishment required to post the human**  
48 **trafficking hotline notice under subsection 2 of this section who fails to comply with the**  
49 **requirement is guilty of an infraction.**

          595.209. 1. The following rights shall automatically be afforded to victims of dangerous  
2 felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section  
3 565.020, victims of voluntary manslaughter, as defined in section 565.023, [and] victims of an  
4 attempt to commit one of the preceding crimes, as defined in section 564.011, **and victims of**  
5 **domestic assault, as defined in sections 565.072 to 565.074;** and, upon written request, the  
6 following rights shall be afforded to victims of all other crimes and witnesses of crimes:

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

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

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

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

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

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

24 (b) The right to be informed by local law enforcement agencies or the appropriate  
25 juvenile authorities of the availability of victim compensation assistance, assistance in obtaining  
26 documentation of the victim's losses, including, but not limited to and subject to existing law  
27 concerning protected information or closed records, access to copies of complete, unaltered,  
28 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon  
29 request to the appropriate law enforcement agency by the victim or the victim's representative,  
30 and emergency crisis intervention services available in the community;

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

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

36 (6) For victims, the right to be informed by appropriate juvenile authorities of probation  
37 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings  
38 or to offer a written statement, video or audio tape, counsel or a representative designated by the  
39 victim in lieu of a personal appearance, the right to be informed by the board of probation and  
40 parole of probation revocation hearings initiated by the board and of parole hearings, the right  
41 to be present at each and every phase of parole hearings, the right to be heard at probation  
42 revocation and parole hearings or to offer a written statement, video or audio tape, counsel or a  
43 representative designated by the victim in lieu of a personal appearance, and the right to have,  
44 upon written request of the victim, a partition set up in the probation or parole hearing room in  
45 such a way that the victim is shielded from the view of the probationer or parolee, and the right  
46 to be informed by the custodial mental health facility or agency thereof of any hearings for the  
47 release of a person committed pursuant to the provisions of chapter 552, the right to be present  
48 at such hearings, the right to be heard at such hearings or to offer a written statement, video or  
49 audio tape, counsel or a representative designated by the victim in lieu of personal appearance;

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

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

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

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

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

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

68 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court  
69 presiding over releases pursuant to the provisions of chapter 552, or by a circuit court presiding  
70 over releases under section 217.362, to release such person or any decision by the governor to  
71 commute the sentence of such person or pardon such person;

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

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

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

79 (10) For victims and witnesses, on charged cases or submitted cases where no charge  
80 decision has yet been made, to be informed by the prosecuting attorney of the status of the case  
81 and of the availability of victim compensation assistance and of financial assistance and  
82 emergency and crisis intervention services available within the community and information  
83 relative to applying for such assistance or services, and of any final decision by the prosecuting  
84 attorney not to file charges;

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

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

91 (13) When a victim's property is no longer needed for evidentiary reasons or needs to be  
92 retained pending an appeal, the prosecuting attorney or any law enforcement agency having  
93 possession of the property shall, upon request of the victim, return such property to the victim

94 within five working days unless the property is contraband or subject to forfeiture proceedings,  
95 or provide written explanation of the reason why such property shall not be returned;

96 (14) An employer may not discharge or discipline any witness, victim or member of a  
97 victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending  
98 a criminal proceeding, or for participating in the preparation of a criminal proceeding, or require  
99 any witness, victim, or member of a victim's immediate family to use vacation time, personal  
100 time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a  
101 criminal proceeding, or participating in the preparation of a criminal proceeding;

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

104 (16) For victims and witnesses, the right to speedy disposition of their cases, and for  
105 victims, the right to speedy appellate review of their cases, provided that nothing in this  
106 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's  
107 defense. The attorney general shall provide victims, upon their written request, case status  
108 information throughout the appellate process of their cases. The provisions of this subdivision  
109 shall apply only to proceedings involving the particular case to which the person is a victim or  
110 witness;

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

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

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

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

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

130           5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution  
131 or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced  
132 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor  
133 of the defendant to exclude victims or prevent their full participation in each and every phase of  
134 parole hearings or probation revocation hearings. The rights of the victims granted in this section  
135 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's  
136 rights. The victim has an absolute right to be present at any hearing in which the defendant is  
137 present before a probation and parole hearing officer.

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