

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1188

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), GOODMAN, KINGERY, PORTWOOD,  
DUSENBERG, BYRD, MAYER AND JETTON (Co-sponsors).

Read 1<sup>st</sup> time January 21, 2004, and copies ordered printed.

Read 2<sup>nd</sup> time January 22, 2004 and referred to the Committee on Judiciary January 29, 2004.

Reported from the Committee on Judiciary March 9, 2004, with recommendation that the bill Do Pass

Perfectured by Consent March 17, 2004.

STEPHEN S. DAVIS, Chief Clerk

4094L.01P

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### AN ACT

To repeal sections 221.070, 488.4014, 488.5320, and 595.045, RSMo, and to enact in lieu thereof four new sections relating to the criminal justice system.

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

Section A. Sections 221.070, 488.4014, 488.5320, and 595.045, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 221.070, 488.4014, 488.5320,  
3 and 595.045, to read as follows:

221.070. Every person who shall be committed to the common jail within any county  
2 in this state, by lawful authority, for any offense or misdemeanor, [if he shall be convicted  
3 thereof] **upon a plea of guilty or a finding of guilt for such offense**, shall bear the expense of  
4 carrying him or her to said jail, and also his or her support while in jail, before he or she shall be  
5 discharged; and the property of such person shall be subjected to the payment of such expenses,  
6 and shall be bound therefor, from the time of his commitment, and may be levied on and sold,  
7 from time to time, under the order of the court having criminal jurisdiction in the county, to  
8 satisfy such expenses.

488.4014. 1. A fee of ten dollars shall be assessed in all cases in which the defendant  
2 [is convicted] **pleads guilty or is found guilty** of [violating] **a nonfelony violation of** any  
3 provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise

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

4 provided by law, **a fee of twenty-five dollars shall be assessed** in all misdemeanor cases  
5 otherwise provided by law **in which the defendant pleads guilty or is found guilty**, and **a fee**  
6 **of seventy-five dollars shall be assessed** in all felony cases **in which the defendant pleads**  
7 **guilty or is found guilty**, in criminal cases including violations of any county ordinance or any  
8 violation of a criminal or traffic law of the state, except that no such fees shall be collected in any  
9 proceeding in any court when the proceeding or the defendant has been dismissed by the court  
10 or when costs are to be paid by the state, county or municipality. All fees collected under the  
11 provisions of this section shall be collected and disbursed in the manner provided by sections  
12 488.010 to 488.020 and payable to the county treasurer who shall deposit those funds in the  
13 county treasury.

14 2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all  
15 sums collected, pursuant to this section, on recognizances given to the state in criminal cases,  
16 which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of  
17 all sums over five hundred dollars, to be paid out of the amount collected.

488.5320. 1. Sheriffs, county marshals or other officers shall be allowed a charge for  
2 their services rendered in criminal cases and in all proceedings for contempt or attachment, as  
3 required by law, the sum of seventy-five dollars for each felony case or contempt or attachment  
4 proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction, excluding  
5 cases disposed of by a traffic violations bureau established pursuant to law or supreme court rule.  
6 Such charges shall be charged and collected in the manner provided by sections 488.010 to  
7 488.020 and shall be payable to the county treasury.

8 2. The sheriff receiving any charge pursuant to subsection 1 of this section shall  
9 reimburse the sheriff of any other county or the city of St. Louis the sum of three dollars for each  
10 pleading, writ, summons, order of court or other document served in connection with the case  
11 or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum  
12 amount of the total charge received pursuant to subsection 1 of this section.

13 3. The charges provided in subsection 1 of this section shall be taxed as other costs in  
14 criminal proceedings immediately [after conviction] **upon a plea of guilty or a finding of guilt**  
15 of any defendant in any criminal procedure. The clerk shall tax all the costs in the case against  
16 such defendant, which shall be collected and disbursed as provided by sections 488.010 to  
17 488.020; provided, that no such charge shall be collected in any proceeding in any court when  
18 the proceeding or the defendant has been dismissed by the court; provided further, that all costs,  
19 incident to the issuing and serving of writs of scire facias and of writs of fieri facias, and of  
20 attachments for witnesses of defendant, shall in no case be paid by the state, but such costs  
21 incurred under writs of fieri facias and scire facias shall be paid by the defendant and such  
22 defendant's sureties, and costs for attachments for witnesses shall be paid by such witnesses.

23           4. Mileage shall be reimbursed to sheriffs, county marshals and guards for all services  
24 rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for  
25 allowable expenses for motor vehicle use expressed as an amount per mile.

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

11           2. Notwithstanding any other provision of law to the contrary, the moneys collected by  
12 clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected  
13 and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to  
14 the director of the department of revenue.

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

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

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

33           (2) Beginning on October 1, 1996, and on the first of each month, if the balance of the

34 funds available exceeds one million dollars plus one hundred percent of the previous twelve  
35 months' actual expenditures, excluding the immediate past calendar month's expenditures, paid  
36 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the  
37 director of revenue or the director's designee shall deposit fifty percent to the credit of the crime  
38 victims' compensation fund and fifty percent to the services to victims' fund established in  
39 section 595.100;

40 (3) Beginning on October 1, 1996, and on the first of each month, if the balance of the  
41 funds available is less than one million dollars plus one hundred percent of the previous twelve  
42 months' actual expenditures, excluding the immediate past calendar month's expenditures, paid  
43 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the  
44 director of revenue or the director's designee shall deposit seventy-five percent to the credit of  
45 the crime victims' compensation fund and twenty-five percent to the services to victims' fund  
46 established in section 595.100.

47 5. The director of revenue or such director's designee shall at least monthly report the  
48 moneys paid pursuant to this section into the crime victims' compensation fund and the services  
49 to victims fund to the division of workers' compensation and the department of public safety,  
50 respectively.

51 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this  
52 section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo.  
53 Five percent of such moneys shall be payable to the city treasury of the city from which such  
54 funds were collected. The remaining ninety-five percent of such moneys shall be payable to the  
55 director of revenue. The funds received by the director of revenue pursuant to this subsection  
56 shall be distributed as follows:

57 (1) On the first of every month, the director of revenue or the director's designee shall  
58 determine the balance of the funds in the crime victims' compensation fund available to satisfy  
59 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections  
60 595.050 and 595.055;

61 (2) Beginning on October 1, 1996, and on the first of each month, if the balance of the  
62 funds available exceeds one million dollars plus one hundred percent of the previous twelve  
63 months' actual expenditures, excluding the immediate past calendar month's expenditures, paid  
64 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the  
65 director of revenue or the director's designee shall deposit fifty percent to the credit of the crime  
66 victims' compensation fund and fifty percent to the services to victims' fund established in  
67 section 595.100;

68 (3) Beginning on October 1, 1996, and on the first of each month, if the balance of the  
69 funds available is less than one million dollars plus one hundred percent of the previous twelve

70 months' actual expenditures, excluding the immediate past calendar month's expenditures, paid  
71 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the  
72 director of revenue or the director's designee shall deposit seventy-five percent to the credit of  
73 the crime victims' compensation fund and twenty-five percent to the services to victims' fund  
74 established in section 595.100.

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

78         8. In addition to the moneys collected pursuant to subsection 1 of this section, the court  
79 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'  
80 compensation fund, of sixty-eight dollars [if the conviction is] **upon a plea of guilty or finding**  
81 **of guilt** for a class A or B felony; forty-six dollars [if the conviction is] **upon a plea of guilty**  
82 **or finding of guilt** for a class C or D felony; and ten dollars [if the conviction is] **upon a plea**  
83 **of guilty or finding of guilt** for any misdemeanor under [the following] Missouri [laws:

84         (1) Chapter 195, RSMo, relating to drug regulations;

85         (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed  
86 by persons not duly licensed by the supervisor of liquor control;

87         (3) Chapter 491, RSMo, relating to witnesses;

88         (4) Chapter 565, RSMo, relating to offenses against the person;

89         (5) Chapter 566, RSMo, relating to sexual offenses;

90         (6) Chapter 567, RSMo, relating to prostitution;

91         (7) Chapter 568, RSMo, relating to offenses against the family;

92         (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;

93         (9) Chapter 570, RSMo, relating to stealing and related offenses;

94         (10) Chapter 571, RSMo, relating to weapons offenses;

95         (11) Chapter 572, RSMo, relating to gambling;

96         (12) Chapter 573, RSMo, relating to pornography and related offenses;

97         (13) Chapter 574, RSMo, relating to offenses against public order;

98         (14) Chapter 575, RSMo, relating to offenses against the administration of justice;

99         (15) Chapter 577, RSMo, relating to public safety offenses] **law except for those in**  
100 **chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and**  
101 **commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial**  
102 **responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo,**  
103 **relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle**  
104 **equipment regulations.** Any clerk of the court receiving moneys pursuant to such judgments  
105 shall collect and disburse such crime victims' compensation judgments in the manner provided

106 by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and  
107 deposited to the credit of the crime victims' compensation fund.

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

116 10. The clerks of the court shall report all delinquent payments to the department of  
117 revenue by October first of each year for the preceding fiscal year, and such sums may be  
118 withheld pursuant to subsection 15 of this section.

119 11.] The department of revenue shall maintain records of funds transmitted to the crime  
120 victims' compensation fund by each reporting court and collections pursuant to subsection [18]  
121 **15** of this section and shall maintain separate records of collection for alcohol-related offenses.

122 [12. Notwithstanding any other provision of law to the contrary, the provisions of  
123 subsections 9 and 10 of this section shall expire and be of no force and effect upon the effective  
124 date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

125 13.] **10.** The state courts administrator shall include in the annual report required by  
126 section 476.350, RSMo, the circuit court caseloads and the number of crime victims'  
127 compensation judgments entered.

128 [14.] **11.** All awards made to injured victims under sections 595.010 to 595.105 and all  
129 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and  
130 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance  
131 remaining in the crime victims' compensation fund at the end of each biennium shall not be  
132 subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended  
133 balance to the ordinary revenue fund of the state, but shall remain in the crime victims'  
134 compensation fund. In the event that there are insufficient funds in the crime victims'  
135 compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there  
136 are no funds in the crime victims' compensation fund, then no claim shall be paid until funds  
137 have again accumulated in the crime victims' compensation fund. When sufficient funds become  
138 available from the fund, awards which have not been paid shall be paid in chronological order  
139 with the oldest paid first. In the event an award was to be paid in installments and some  
140 remaining installments have not been paid due to a lack of funds, then when funds do become  
141 available that award shall be paid in full. All such awards on which installments remain due

142 shall be paid in full in chronological order before any other postdated award shall be paid. Any  
143 award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid  
144 due to a lack of funds in the crime victims' compensation fund.

145 [15.] **12.** When judgment is entered against a defendant as provided in this section and  
146 such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,  
147 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to  
148 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be  
149 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall  
150 be entered on the court record. Under no circumstances shall the general revenue fund be used  
151 to reimburse court costs or pay for such judgment. The director of the department of corrections  
152 shall have the authority to pay into the crime victims' compensation fund from an offender's  
153 compensation or account the amount owed by the offender to the crime victims' compensation  
154 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering  
155 a correctional facility of the department of corrections.

156 [16.] **13.** All interest earned as a result of investing funds in the crime victims'  
157 compensation fund shall be paid into the crime victims' compensation fund and not into the  
158 general revenue of this state.

159 [17.] **14.** Any person who knowingly makes a fraudulent claim or false statement in  
160 connection with any claim hereunder is guilty of a class A misdemeanor.

161 [18.] **15.** Any gifts, contributions, grants or federal funds specifically given to the  
162 division for the benefit of victims of crime shall be credited to the crime victims' compensation  
163 fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal  
164 crime victims' compensation laws, rules, regulations or other applicable federal guidelines.