

FIRST REGULAR SESSION

HOUSE BILL NO. 415

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor), WALSH, ROORDA, YAEGER,
WILSON (130), FUNDERBURK, MUNZLINGER, SCHAD, RUESTMAN,
GRISAMORE AND JONES (117) (Co-sponsors).

0970L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.040, 595.045,
and 595.065, RSMo, and to enact in lieu thereof nine new sections relating to the crime
victims' compensation fund, with penalty provisions.

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

Section A. Sections 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.040,
2 595.045, and 595.065, RSMo, are repealed and nine new sections enacted in lieu thereof, to be
3 known as sections 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.040, 595.045,
4 and 595.065, to read as follows:

595.010. 1. As used in sections 595.010 to 595.075, unless the context requires
2 otherwise, the following terms shall mean:

3 (1) "Child", a dependent, unmarried person who is under eighteen years of age and
4 includes a posthumous child, stepchild, or an adopted child;

5 (2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of
6 a victim eligible for compensation pursuant to sections 595.010 to 595.075;

7 (3) "Conservator", a person or corporation appointed by a court to have the care and
8 custody of the estate of a minor or a disabled person, including a limited conservator;

9 (4) "Counseling", problem-solving and support concerning emotional issues that result
10 from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential
11 service provided either on an individual basis or in a group. Counseling has as a primary purpose
12 to enhance, protect and restore a person's sense of well-being and social functioning after

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.

13 victimization. Counseling does not include victim advocacy services such as crisis telephone
14 counseling, attendance at medical procedures, law enforcement interviews or criminal justice
15 proceedings;

16 (5) "Crime", an act committed in this state which, if committed by a mentally competent,
17 criminally responsible person who had no legal exemption or defense, would constitute a crime;
18 provided that, such act involves the application of force or violence or the threat of force or
19 violence by the offender upon the victim but shall include the crime of driving while intoxicated,
20 vehicular manslaughter and hit and run; and provided, further, that no act involving the operation
21 of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run
22 which results in injury to another shall constitute a crime for the purpose of sections 595.010 to
23 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A
24 crime shall also include **property damage and** an act of terrorism, as defined in 18 U.S.C.
25 section 2331, which has been committed outside of the United States against a resident of
26 Missouri;

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

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

30 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
31 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
32 dependent for support upon, and living with, but shall include children entitled to child support
33 but not living with, the victim at the time of his **or her** injury or death due to a crime alleged in
34 a claim pursuant to sections 595.010 to [595.070] **595.075**;

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

38 (10) "Director", the director of public safety of this state or a person designated by [him]
39 **the director** for the purposes of sections 595.010 to [595.070] **595.075**;

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

44 (12) "Division", the division of workers' compensation of the state of Missouri;

45 (13) "Emergency service", those services provided within thirty days to alleviate the
46 immediate effects of the criminal act or offense, and may include cash grants of not more than
47 one hundred dollars;

48 (14) "Earnings", net income or net wages;

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

51 (16) "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen
52 method of interment, including plot or tomb and other necessary incidents to the disposition of
53 the remains;

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

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

59 (19) "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined
60 in section 577.060, RSMo;

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

66 (21) "Injured victim", a person:

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

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

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

74 **(d) Receiving damage to his or her property as a result of another person's**
75 **commission of or attempt to commit any dangerous felony;**

76 (22) "Law enforcement official", a sheriff and his **or her** regular deputies, municipal
77 police officer or member of the Missouri state highway patrol and such other persons as may be
78 designated by law as peace officers;

79 (23) "Offender", a person who commits a crime;

80 (24) "Personal physical injury", actual bodily harm only with respect to the victim.
81 Personal physical injury may include mental or nervous shock resulting from the specific
82 incident upon which the claim is based;

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

85 (26) "Public agency", a part of any local or state government organization which
86 provides services to victims of crime;

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

89 (28) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the
90 deceased victim of the victim's household at the time of the crime;

91 (29) "Victim", a person who suffers personal physical injury or death as a direct result
92 of a crime, as defined in subdivision (5) of this subsection **or a person who suffers damage to**
93 **his or her property as a direct result of a dangerous felony**;

94 (30) "Victim advocacy", assisting the victim of a crime and his **or her** dependents to
95 acquire services from existing community resources.

96 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075,
97 the term "alcohol-related traffic offense" means those offenses defined by sections 577.001,
98 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation
99 of a motor vehicle while under the influence of alcohol.

595.015. 1. The division of workers' compensation shall, pursuant to the provisions of
2 sections 595.010 to 595.075, have jurisdiction to determine and award compensation to, or on
3 behalf of, victims of crimes. The division of workers' compensation may pay directly to the
4 provider of the services compensation for medical or funeral expenses, or expenses for other
5 services as described in section 595.030, incurred by the claimant. The division is not required
6 to provide compensation in any case, nor is it required to award the full amount claimed. The
7 division shall make its award of compensation based upon independent verification obtained
8 during its investigation.

9 2. Such claims shall be made by filing an application for compensation with the division
10 of workers' compensation. The application form shall be furnished by the division and the
11 signature shall be notarized. The application shall include:

12 (1) The name and address of the victim;

13 (2) If the claimant is not the victim, the name and address of the claimant and
14 relationship to the victim, the names and addresses of the victim's dependents, if any, and the
15 extent to which each is so dependent;

16 (3) The date and nature of the crime or attempted crime on which the application for
17 compensation is based;

18 (4) The date and place where, and the law enforcement officials to whom, notification
19 of the crime was given;

20 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
21 of those giving medical and hospital treatment to the victim and whether death resulted **or the**
22 **nature and extent of the property damage sustained by the victim;**

23 (6) The loss to the claimant or a dependent resulting from the injury [or], death, **or**
24 **property damage;**

25 (7) The amount of benefits, payments or awards, if any, payable from any source which
26 the claimant or dependent has received or for which the claimant or dependent is eligible as a
27 result of the injury [or] , death, **or property damage;**

28 (8) Releases authorizing the surrender to the division of reports, documents and other
29 information relating to the matters specified under this section; and

30 (9) Such other information as the division determines is necessary.

31 3. In addition to the application, the division may require that the claimant submit
32 materials substantiating the facts stated in the application.

33 4. If the division finds that an application does not contain the required information or
34 that the facts stated therein have not been substantiated, it shall notify the claimant in writing of
35 the specific additional items of information or materials required and that the claimant has thirty
36 days from the date of mailing in which to furnish those items to the division. Unless a claimant
37 requests and is granted an extension of time by the division, the division shall reject with
38 prejudice the claim of the claimant for failure to file the additional information or materials
39 within the specified time.

40 5. The claimant may file an amended application or additional substantiating materials
41 to correct inadvertent errors or omissions at any time before the division has completed its
42 consideration of the original application.

43 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
44 the apprehension and prosecution of the offender in order to be eligible, or the division has found
45 that the failure to cooperate was for good cause.

46 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
47 shall make available without cost to the fund, all reports, files and other appropriate information
48 which the division requests in order to make a determination that a claimant is eligible for an
49 award pursuant to sections 595.010 to 595.075.

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[:

5 (a)] , a relative of the victim requiring counseling in order to better assist the victim in
6 his **or her** recovery; and

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

8 (a) A dependent of the victim;

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

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

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

20 3. No compensation of any kind may be made to a victim or intervenor **who is** injured
21 **or who sustains property damage** while confined in any federal, state, county, or municipal
22 jail, prison or other correctional facility, including house arrest.

23 4. No compensation of any kind may be made to a victim who has been finally
24 adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two
25 felonies within the past ten years, of which one or both involves illegal drugs or violence. The
26 division may waive this restriction if it determines that the interest of justice would be served
27 otherwise.

28 5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of
29 this section, who is incarcerated as a result of a conviction of a crime not related to the incident
30 upon which the claim is based at the time of application, or at any time following the filing of
31 the application:

32 (1) The division shall suspend all proceedings and payments until such time as the
33 claimant is released from incarceration;

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

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

40 6. Victims of crime who are not residents of the state of Missouri may be compensated
41 only when federal funds are available for that purpose. Compensation for nonresident victims
42 shall terminate when federal funds for that purpose are no longer available.

43 7. A Missouri resident who suffers personal physical injury, **property damage**, or, in
44 the case of death, a dependent of the victim or any member of the family who legally assumes
45 the obligation, or who pays the medical or burial expenses incurred as a direct result thereof, in
46 another state, possession or territory of the United States may make application for compensation
47 in Missouri if:

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

50 (2) The place that the crime occurred is a state, possession or territory of the United
51 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
52 2331, that does not have a crime victims' compensation program for which the victim is eligible
53 and which provides at least the same compensation that the victim would have received if he **or**
54 **she** had been injured in Missouri.

595.025. 1. A claim for compensation may be filed by a person eligible for
2 compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's
3 spouse, parent, conservator, or guardian.

4 2. A claim shall be filed not later than two years after the occurrence of the crime or the
5 discovery of the crime upon which it is based.

6 3. Each claim shall be filed in person or by mail. The division of workers' compensation
7 shall investigate such claim, prior to the opening of formal proceedings. The claimant shall be
8 notified of the date and time of any hearing on such claim. In determining the amount of
9 compensation for which a claimant is eligible, the division shall consider the facts stated on the
10 application filed pursuant to section 595.015, and:

11 (1) Need not consider whether or not the alleged assailant has been apprehended or
12 brought to trial or the result of any criminal proceedings against that person; however, if any
13 person is convicted of the crime which is the basis for an application for compensation, proof
14 of the conviction shall be conclusive evidence that the crime was committed;

15 (2) Shall determine the amount of the loss to the claimant, or the victim's survivors or
16 dependents;

17 (3) Shall determine the degree or extent to which the victim's acts or conduct provoked,
18 incited, or contributed to the **property damage**, injuries, or death of the victim.

19 4. The claimant may present evidence and testimony on his **or her** own behalf or may
20 retain counsel. The division of workers' compensation may, as part of any award entered under
21 sections 595.010 to 595.075, determine and allow reasonable attorney's fees, which shall not
22 exceed fifteen percent of the amount awarded as compensation under sections 595.010 to
23 595.075, which fee shall be paid out of, but not in addition to, the amount of compensation, to

24 the attorney representing the claimant. No attorney for the claimant shall ask for, contract for
25 or receive any larger sum than the amount so allowed.

26 **5. In the case of injury or death of the victim,** the person filing a claim shall, prior to
27 any hearing thereon, submit reports, if available, from all hospitals, physicians or surgeons who
28 treated or examined the victim for the injury for which compensation is sought. If, in the opinion
29 of the division of workers' compensation, an examination of the injured victim and a report
30 thereon, or a report on the cause of death of the victim, would be of material aid, the division of
31 workers' compensation may appoint a duly qualified, impartial physician to make such
32 examination and report.

33 **6. In the case of a victim suffering property damage the person filing a claim shall,**
34 **prior to any hearing thereon, submit any receipts, estimates, or any other evidence which**
35 **demonstrates the value of the property damaged and the extent of the loss. If, in the**
36 **opinion of the division of workers' compensation, an independent expert would be of**
37 **material aid in determining the amount of the loss sustained, the division of workers'**
38 **compensation may appoint such a duly qualified expert to make such determination.**

39 **7.** Each and every payment shall be exempt from attachment, garnishment or any other
40 remedy available to creditors for the collection of a debt.

41 [7.] **8.** Payments of compensation shall not be made directly to any person legally
42 incompetent to receive them but shall be made to the parent, guardian or conservator for the
43 benefit of such minor, disabled or incapacitated person.

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

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

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

12 **2. No compensation shall be paid in the case of property damage unless the**
13 **claimant has incurred an out-of-pocket loss of at least fifty dollars for the repair or**
14 **replacement of the damaged property.**

15 **3.** No compensation shall be paid unless the division of workers' compensation finds that
16 a crime was committed, that such crime directly resulted in **property damage or** personal

17 physical injury to, or the death of, the victim, and that police records show that such crime was
18 promptly reported to the proper authorities. In no case may compensation be paid if the police
19 records show that such report was made more than forty-eight hours after the occurrence of such
20 crime, unless the division of workers' compensation finds that the report to the police was
21 delayed for good cause. If the victim is under eighteen years of age such report may be made by
22 the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room
23 personnel; by the division of family services personnel; or by any other member of the victim's
24 family. In the case of a sexual offense, filing a report of the offense to the proper authorities may
25 include, but not be limited to, the filing of the report of the forensic examination by the
26 appropriate medical provider, as defined in section 191.225, RSMo, with the prosecuting
27 attorney of the county in which the alleged incident occurred.

28 [3.] 4. No compensation shall be paid for medical care if the service provider is not a
29 medical provider as that term is defined in section 595.027, and the individual providing the
30 medical care is not licensed by the state of Missouri or the state in which the medical care is
31 provided.

32 [4.] 5. No compensation shall be paid for psychiatric treatment or other counseling
33 services, including psychotherapy, unless the service provider is a:

34 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
35 in the state in which the service is provided;

36 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
37 psychology in the state in which the service is provided;

38 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

39 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

40 [5.] 6. Any compensation paid pursuant to sections 595.010 to 595.075 for death or
41 personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of
42 earnings or support from gainful employment, not to exceed two hundred dollars per week,
43 resulting from such injury or death. In the event of death of the victim, an award may be made
44 for reasonable and necessary expenses actually incurred for preparation and burial not to exceed
45 five thousand dollars.

46 [6.] 7. Any compensation for loss of earnings or support from gainful employment shall
47 be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
48 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
49 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
50 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
51 compensation shall be apportioned by the division of workers' compensation among the
52 claimants in proportion to their loss.

53 [7.] 8. The method and timing of the payment of any compensation pursuant to sections
54 595.010 to 595.075 shall be determined by the division.

595.035. 1. For the purpose of determining the amount of compensation payable
2 pursuant to sections 595.010 to 595.075, the division of workers' compensation shall, insofar as
3 practicable, formulate standards for the uniform application of sections 595.010 to 595.075,
4 taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts
5 of compensation payable for **property damage**, injuries and death pursuant to other laws of this
6 state and of the United States, excluding pain and suffering, and the availability of funds
7 appropriated for the purpose of sections 595.010 to 595.075. All decisions of the division of
8 workers' compensation on claims heard pursuant to sections 595.010 to 595.075 shall be in
9 writing, setting forth the name of the claimant, the amount of compensation and the reasons for
10 the decision. The division of workers' compensation shall immediately notify the claimant in
11 writing of the decision and shall forward to the state treasurer a certified copy of the decision and
12 a warrant for the amount of the claim. The state treasurer, upon certification by the
13 commissioner of administration, shall, if there are sufficient funds in the crime victims'
14 compensation fund, pay to or on behalf of the claimant the amount determined by the division.

15 2. **In the case of injury to or death of the victim**, the crime victims' compensation fund
16 is not a state health program and is not intended to be used as a primary payor to other health
17 care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is
18 to assist victims of violent crimes through a period of financial hardship, as a payor of last resort.
19 Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced
20 by the amount of any payments, benefits or awards received or to be received as a result of the
21 injury or death:

22 (1) From or on behalf of the offender;

23 (2) Under private or public insurance programs, including champus, Medicare, Medicaid
24 and other state or federal programs, but not including any life insurance proceeds; or

25 (3) From any other public or private funds, including an award payable pursuant to the
26 workers' compensation laws of this state.

27 3. In determining the amount of compensation payable, the division of workers'
28 compensation shall determine whether, because of the victim's consent, provocation, incitement
29 or negligence, the victim contributed to the infliction of the **property damage**, victim's injury,
30 or death, and shall reduce the amount of the compensation or deny the claim altogether, in
31 accordance with such determination; provided, however, that the division of workers'
32 compensation may disregard the responsibility of the victim for his or her own **property damage**
33 **or** injury where such responsibility was attributable to efforts by the victim to aid a victim, or

34 to prevent a crime or an attempted crime from occurring in his or her presence, or to apprehend
35 a person who had committed a crime in his or her presence or had in fact committed a felony.

36 4. In determining the amount of compensation payable pursuant to sections 595.010 to
37 [595.070] **595.075**, monthly Social Security disability or retirement benefits received by the
38 victim shall not be considered by the division as a factor for reduction of benefits.

39 5. The division shall not be liable for payment of compensation for any out-of-pocket
40 expenses incurred more than three years following the date of the occurrence of the crime upon
41 which the claim is based.

595.040. 1. Acceptance of any compensation under sections 595.010 to 595.075 shall
2 subrogate this state, to the extent of such compensation paid, to any right or right of action
3 accruing to the claimant or to the victim to recover payments on account of losses resulting from
4 the crime with respect to which the compensation has been paid. The attorney general may
5 enforce the subrogation, and he shall bring suit to recover from any person to whom
6 compensation is paid, to the extent of the compensation actually paid under sections 595.010 to
7 595.075, any amount received by the claimant from any source exceeding the actual loss to the
8 victim.

9 2. The division shall have a lien on any compensation received by the claimant, in
10 addition to compensation received under provisions of sections 595.010 to 595.075, for **property**
11 **damage**, injuries, or death resulting from the incident upon which the claim is based. The
12 claimant shall retain, as trustee for the division, so much of the recovered funds as necessary to
13 reimburse the Missouri crime victims' compensation fund to the extent that compensation was
14 awarded to the claimant from that fund.

15 3. If a claimant initiates any legal proceeding to recover restitution or damages related
16 to the crime upon which the claim is based, or if the claimant enters into negotiations to receive
17 any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant
18 shall give the division written notice within fifteen days of the filing of the action or entering into
19 negotiations. The division may intervene in the proceeding of a complainant to recover the
20 compensation awarded. If a claimant fails to give such written notice to the division within the
21 stated time period, or prior to any attempt by claimant to reach a negotiated settlement of claims
22 for recovery of damages related to the crime upon which the claim is based, the division's right
23 of subrogation to receive or recover funds from claimant, to the extent that compensation was
24 awarded by the division, shall not be reduced in any amount or percentage by the costs incurred
25 by claimant attributable to such legal proceedings or settlement, including, but not limited to,
26 attorney's fees, investigative cost or cost of court. If such notice is given, attorney fees may be
27 awarded in an amount not to exceed fifteen percent of the amount subrogated to the division.

28 4. Whenever compensation is awarded to a claimant who is entitled to restitution from
29 a criminal defendant, the division may initiate restitution hearings in such criminal proceedings
30 or intervene in the same. The division shall be entitled to receive restitution in such proceedings
31 to the extent compensation was awarded; provided, however, the division shall be exempt from
32 the payment of any fees or other charges for the recording of restitution orders in the offices of
33 the judges of probate. The claimant shall notify this division when restitution is ordered. Failure
34 to notify the division will result in possible forfeiture of any amount already received from the
35 division.

36 5. Whenever the division shall deem it necessary to protect, maintain or enforce the
37 division's right to subrogation or to exercise any of its powers or to carry out any of its duties or
38 responsibilities, the attorney general may initiate legal proceedings or intervene in legal
39 proceedings as the division's legal representative.

 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 September 1, 2004, and on the first of each month, the director of
34 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
35 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
36 fund established in section 595.100.

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

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

47 (1) On the first of every month, the director of revenue or the director's designee shall
48 determine the balance of the funds in the crime victims' compensation fund available to satisfy
49 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
50 595.050 and 595.055;

51 (2) Beginning on September 1, 2004, and on the first of each month the director of
52 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
53 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
54 fund established in section 595.100.

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

58 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
59 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
60 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class

61 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony;
62 and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri
63 law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo,
64 relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle
65 financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo,
66 relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle
67 equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments
68 shall collect and disburse such crime victims' compensation judgments in the manner provided
69 by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and
70 deposited to the credit of the crime victims' compensation fund.

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

79 10. The department of revenue shall maintain records of funds transmitted to the crime
80 victims' compensation fund by each reporting court and collections pursuant to subsection 16 of
81 this section and shall maintain separate records of collection for alcohol-related offenses.

82 11. The state courts administrator shall include in the annual report required by section
83 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation
84 judgments entered.

85 12. All awards made to [injured] victims **who suffered property damage, injury, or**
86 **death** under sections 595.010 to 595.105 and all appropriations for administration of sections
87 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims'
88 compensation fund. Any unexpended balance remaining in the crime victims' compensation
89 fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo,
90 requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but
91 shall remain in the crime victims' compensation fund. In the event that there are insufficient
92 funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid
93 on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim
94 shall be paid until funds have again accumulated in the crime victims' compensation fund. When
95 sufficient funds become available from the fund, awards which have not been paid shall be paid
96 in chronological order with the oldest paid first. In the event an award was to be paid in

97 installments and some remaining installments have not been paid due to a lack of funds, then
98 when funds do become available that award shall be paid in full. All such awards on which
99 installments remain due shall be paid in full in chronological order before any other postdated
100 award shall be paid. Any award pursuant to this subsection is specifically not a claim against the
101 state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

102 13. When judgment is entered against a defendant as provided in this section and such
103 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
104 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
105 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
106 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall
107 be entered on the court record. Under no circumstances shall the general revenue fund be used
108 to reimburse court costs or pay for such judgment. The director of the department of corrections
109 shall have the authority to pay into the crime victims' compensation fund from an offender's
110 compensation or account the amount owed by the offender to the crime victims' compensation
111 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
112 a correctional facility of the department of corrections.

113 14. All interest earned as a result of investing funds in the crime victims' compensation
114 fund shall be paid into the crime victims' compensation fund and not into the general revenue of
115 this state.

116 15. Any person who knowingly makes a fraudulent claim or false statement in
117 connection with any claim hereunder is guilty of a class A misdemeanor.

118 16. Any gifts, contributions, grants or federal funds specifically given to the division for
119 the benefit of victims of crime shall be credited to the crime victims' compensation fund.
120 Payment or expenditure of moneys in such funds shall comply with any applicable federal crime
121 victims' compensation laws, rules, regulations or other applicable federal guidelines.

595.065. Orders for payment of compensation pursuant to section 595.045 shall be made
2 only as to **property damage**, injuries, or death resulting from offenses occurring on or after
3 July 1, 1982.

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