

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 338
95TH GENERAL ASSEMBLY

1772L.07C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, and to enact in lieu thereof thirteen new sections relating to crime victims, with a penalty provision.

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

Section A. Sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 217.439, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, 595.209, and 595.220, to read as follows:

217.439. Upon the victim's request, a photograph shall be taken of the incarcerated individual prior to release from incarceration and a copy of the photograph shall be provided to the crime victim.

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 licensed pursuant to section 595.030. Counseling is a confidential

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.

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
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 an act of terrorism, as defined in 18 U.S.C. section 2331, which has been
25 committed outside of the United States against a resident of Missouri;

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

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

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

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

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

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

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

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

47 [(14)] **(13)** "Earnings", net income or net wages;

48 [(15)] **(14)** "Family", the spouse, parent, grandparent, stepmother, stepfather, child,
49 grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's
50 parents;

51 [(16)] **(15)** "Funeral expenses", the expenses of the funeral, burial, cremation or other
52 chosen method of interment, including plot or tomb and other necessary incidents to the
53 disposition of the remains;

54 [(17)] **(16)** "Gainful employment", engaging on a regular and continuous basis, up to the
55 date of the incident upon which the claim is based, in a lawful activity from which a person
56 derives a livelihood;

57 [(18)] **(17)** "Guardian", one appointed by a court to have the care and custody of the
58 person of a minor or of an incapacitated person, including a limited guardian;

59 [(19)] **(18)** "Hit and run", the crime of leaving the scene of a motor vehicle accident as
60 defined in section 577.060, RSMo;

61 [(20)] **(19)** "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 lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care
64 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)] **(20)** "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 [(22)] **(21)** "Law enforcement official", a sheriff and his regular deputies, municipal
75 police officer or member of the Missouri state highway patrol and such other persons as may be
76 designated by law as peace officers;

77 [(23)] **(22)** "Offender", a person who commits a crime;

78 [(24)] **(23)** "Personal physical injury", actual bodily harm only with respect to the victim.
79 Personal physical injury may include mental or nervous shock resulting from the specific
80 incident upon which the claim is based;

81 [(25)] **(24)** "Private agency", a not-for-profit corporation, in good standing in this state,
82 which provides services to victims of crime and their dependents;

83 [(26)] (25) "Public agency", a part of any local or state government organization which
84 provides services to victims of crime;

85 [(27)] (26) "Relative", the spouse of the victim or a person related to the victim within
86 the third degree of consanguinity or affinity as calculated according to civil law;

87 [(28)] (27) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child
88 of the deceased victim of the victim's household at the time of the crime;

89 [(29)] (28) "Victim", a person who suffers personal physical injury or death as a direct
90 result of a crime, as defined in subdivision (5) of this subsection;

91 [(30)] (29) "Victim advocacy", assisting the victim of a crime and his dependents to
92 acquire services from existing community resources.

93 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075,
94 the term "alcohol-related traffic offense" means those offenses defined by sections 577.001,
95 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation
96 of a motor vehicle while under the influence of alcohol.

595.015. 1. The [division of workers' compensation] **department of public safety** shall,
2 pursuant to the provisions of sections 595.010 to 595.075, have jurisdiction to determine and
3 award compensation to, or on behalf of, victims of crimes. **In making such determinations**
4 **and awards, the department shall ensure the compensation sought is reasonable and**
5 **consistent with the limitations described in sections 595.010 to 595.075. Additionally, if**
6 **compensation being sought includes medical expenses, the department shall further ensure**
7 **that such expenses are medically necessary.** The [division of workers' compensation]
8 **department of public safety** may pay directly to the provider of the services compensation for
9 medical or funeral expenses, or expenses for other services as described in section 595.030,
10 incurred by the claimant. The [division] **department** is not required to provide compensation
11 in any case, nor is it required to award the full amount claimed. The [division] **department** shall
12 make its award of compensation based upon independent verification obtained during its
13 investigation.

14 2. Such claims shall be made by filing an application for compensation with the [division
15 of workers' compensation] **department of public safety**. The application form shall be
16 furnished by the [division] **department** and the signature shall be notarized. The application
17 shall include:

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

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

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

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

26 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
27 of those giving medical and hospital treatment to the victim and whether death resulted;

28 (6) The loss to the claimant or a dependent resulting from the injury or death;

29 (7) The amount of benefits, payments or awards, if any, payable from any source which
30 the claimant or dependent has received or for which the claimant or dependent is eligible as a
31 result of the injury or death;

32 (8) Releases authorizing the surrender to the [division] **department** of reports,
33 documents and other information relating to the matters specified under this section; and

34 (9) Such other information as the [division] **department** determines is necessary.

35 3. In addition to the application, the [division] **department** may require that the claimant
36 submit materials substantiating the facts stated in the application.

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

44 5. The claimant may file an amended application or additional substantiating materials
45 to correct inadvertent errors or omissions at any time before the [division] **department** has
46 completed its consideration of the original application.

47 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
48 the apprehension and prosecution of the offender in order to be eligible, or the [division]
49 **department** has found that the failure to cooperate was for good cause.

50 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
51 shall make available without cost to the fund, all reports, files and other appropriate information
52 which the [division] **department** requests in order to make a determination that a claimant is
53 eligible for an 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 his
6 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 is a relative of the offender or was living with the
16 offender as a family or household member at the time of the injury or death. However, the
17 [division] **department** may award compensation to a victim or dependent who is a relative,
18 family or household member of the offender only if the [division] **department** can reasonably
19 determine the offender will receive no substantial economic benefit or unjust enrichment from
20 the compensation.

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

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

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

33 (1) The [division] **department** shall suspend all proceedings and payments until such
34 time as the claimant is released from incarceration;

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

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

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

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

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

52 (2) The place that the crime occurred is a state, possession or territory of the United
53 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
54 2331, that does not have a crime victims' compensation program for which the victim is eligible
55 and which provides at least the same compensation that the victim would have received if he had
56 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'
7 compensation] **department of public safety** shall investigate such claim, prior to the opening
8 of formal proceedings. The claimant shall be notified of the date and time of any hearing on such
9 claim. In determining the amount of compensation for which a claimant is eligible, the [division]
10 **department** shall consider the facts stated on the application filed pursuant to section 595.015,
11 and:

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

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

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

20 4. The claimant may present evidence and testimony on his own behalf or may retain
21 counsel. The [division of workers' compensation] **department of public safety** may, as part of
22 any award entered under sections 595.010 to 595.075, determine and allow reasonable attorney's
23 fees, which shall not exceed fifteen percent of the amount awarded as compensation under
24 sections 595.010 to 595.075, which fee shall be paid out of, but not in addition to, the amount
25 of compensation, to the attorney representing the claimant. No attorney for the claimant shall
26 ask for, contract for or receive any larger sum than the amount so allowed.

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

34 6. Each and every payment shall be exempt from attachment, garnishment or any other
35 remedy available to creditors for the collection of a debt.

36 7. Payments of compensation shall not be made directly to any person legally
37 incompetent to receive them but shall be made to the parent, guardian or conservator for the
38 benefit of such minor, disabled or incapacitated person.

595.030. 1. No compensation shall be paid unless the claimant has incurred an
2 out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support
3 from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable
4 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 unless the [division of workers' compensation]
13 **department of public safety** finds that a crime was committed, that such crime directly resulted
14 in personal physical injury to, or the death of, the victim, and that police records show that such
15 crime was promptly reported to the proper authorities. In no case may compensation be paid if

16 the police records show that such report was made more than forty-eight hours after the
17 occurrence of such crime, unless the [division of workers' compensation] **department of public**
18 **safety** finds that the report to the police was delayed for good cause. If the victim is under
19 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by
20 a physician, a nurse, or hospital emergency room personnel; by the division of family services
21 personnel; or by any other member of the victim's family. In the case of a sexual offense, filing
22 a report of the offense to the proper authorities may include, but not be limited to, the filing of
23 the report of the forensic examination by the appropriate medical provider, as defined in section
24 [191.225, RSMo] **595.220**, with the prosecuting attorney of the county in which the alleged
25 incident occurred.

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

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

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

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

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

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

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

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

50 7. The method and timing of the payment of any compensation pursuant to sections
51 595.010 to 595.075 shall be determined by the [division] **department**.

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

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

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

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

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

28 3. In determining the amount of compensation payable, the [division of workers'
29 compensation] **department of public safety** shall determine whether, because of the victim's
30 consent, provocation, incitement or negligence, the victim contributed to the infliction of the
31 victim's injury or death, and shall reduce the amount of the compensation or deny the claim
32 altogether, in accordance with such determination; provided, however, that the [division of
33 workers' compensation] **department of public safety** may disregard the responsibility of the
34 victim for his or her own injury where such responsibility was attributable to efforts by the
35 victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her
36 presence, or to apprehend a person who had committed a crime in his or her presence or had in
37 fact committed a felony.

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

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

 595.037. 1. All information submitted to the **department or division of workers'**
2 **compensation** and any hearing of the division **of workers' compensation** on a claim filed
3 pursuant to sections 595.010 to [595.070] **595.075** shall be open to the public except for the
4 following claims which shall be deemed closed and confidential:

5 (1) A claim in which the alleged assailant has not been brought to trial and disclosure
6 of the information or a public hearing would adversely affect either the apprehension, or the trial,
7 of the alleged assailant;

8 (2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy
9 or sexual abuse and it is determined by the **department or division of workers' compensation**
10 to be in the best interest of the victim or of the victim's dependents that the information be kept
11 confidential or that the public be excluded from the hearing;

12 (3) A claim in which the victim or alleged assailant is a minor; or

13 (4) A claim in which any record or report obtained by the **department or division of**
14 **workers' compensation**, the confidentiality of which is protected by any other law, shall remain
15 confidential subject to such law.

16 2. The **department and division of workers' compensation**, by separate order, may
17 close any record, report or hearing if it determines that the interest of justice would be frustrated
18 rather than furthered if such record or report was disclosed or if the hearing was open to the
19 public.

 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] **department** shall have a lien on any compensation received by the
10 claimant, in addition to compensation received under provisions of sections 595.010 to 595.075,
11 for injuries or death resulting from the incident upon which the claim is based. The claimant

12 shall retain, as trustee for the [division] **department**, so much of the recovered funds as
13 necessary to reimburse the Missouri crime victims' compensation fund to the extent that
14 compensation was 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] **department** written notice within fifteen days of the filing of the action
19 or entering into negotiations. The [division] **department** may intervene in the proceeding of a
20 complainant to recover the compensation awarded. If a claimant fails to give such written notice
21 to the [division] **department** within the stated time period, or prior to any attempt by claimant
22 to reach a negotiated settlement of claims for recovery of damages related to the crime upon
23 which the claim is based, the [division's] **department's** right of subrogation to receive or recover
24 funds from claimant, to the extent that compensation was awarded by the [division] **department**,
25 shall not be reduced in any amount or percentage by the costs incurred by claimant attributable
26 to such legal proceedings or settlement, including, but not limited to, attorney's fees,
27 investigative cost or cost of court. If such notice is given, attorney fees may be awarded in an
28 amount not to exceed fifteen percent of the amount subrogated to the [division] **department**.

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

38 5. Whenever the [division] **department** shall deem it necessary to protect, maintain or
39 enforce the [division's] **department's** right to subrogation or to exercise any of its powers or to
40 carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings
41 or intervene in legal proceedings as the [division's] **department'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 under sections 595.010 to 595.105 and all
86 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
87 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
88 remaining in the crime victims' compensation fund at the end of each biennium shall not be
89 subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended
90 balance to the ordinary revenue fund of the state, but shall remain in the crime victims'
91 compensation fund. In the event that there are insufficient funds in the crime victims'
92 compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there
93 are no funds in the crime victims' compensation fund, then no claim shall be paid until funds
94 have again accumulated in the crime victims' compensation fund. When sufficient funds become
95 available from the fund, awards which have not been paid shall be paid in chronological order
96 with the oldest paid first. In the event an award was to be paid in installments and some
97 remaining installments have not been paid due to a lack of funds, then when funds do become
98 available that award shall be paid in full. All such awards on which installments remain due
99 shall be paid in full in chronological order before any other postdated award shall be paid. Any
100 award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid
101 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
119 for 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] **The**
122 **department may receive gifts and contributions for the benefit of crime victims. Such gifts**
123 **and contributions shall be credited to the crime victims' compensation fund as used solely**
124 **for compensating victims under the provisions of sections 595.010 to 595.075.**

 595.060. The director shall promulgate rules and regulations necessary to implement the
2 provisions of sections 595.010 to [595.070] **595.220** as provided in this section and chapter 536,
3 RSMo. In the performance of its functions under [sections 595.010 to 595.070] **section 595.036**,
4 the division **of workers' compensation** is authorized to promulgate rules pursuant to chapter
5 536, RSMo, prescribing the procedures to be followed in the [filing of applications and the]
6 proceedings under [sections 595.010 to 595.070] **section 595.036**. [No rule or portion of a rule
7 promulgated under the authority of this chapter shall become effective unless it has been
8 promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a**
9 **rule, as that term is defined in section 536.010, RSMo, that is created under the authority**
10 **delegated in this section shall become effective only if it complies with and is subject to all**
11 **of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**
12 **section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the**
13 **general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or**
14 **to disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
15 **rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be**
16 **invalid and void.**

 595.209. 1. The following rights shall automatically be afforded to victims of dangerous
2 felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined
3 in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023,
4 RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section
5 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of
6 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, RSMo, or its successors, hearings, sentencing
18 and 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 [statement by counsel or a]
39 representative designated by the victim [on behalf of the victim] in lieu of a personal appearance,
40 the right to be informed by the board of probation and parole of probation revocation hearings
41 initiated by the board and of parole hearings, the right to be present at each and every phase of
42 parole hearings, the right to be heard at probation revocation and parole hearings or to offer a
43 written statement, video or audio tape, **counsel or a representative designated by the victim**
44 in lieu of a personal appearance, and the right to have, upon written request of the victim, a

45 partition set up in the probation or parole hearing room in such a way that the victim is shielded
46 from the view of the probationer or parolee, and the right to be informed by the custodial mental
47 health facility or agency thereof of any hearings for the release of a person committed pursuant
48 to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be
49 heard at such hearings or to offer a written statement, video or audio tape, **counsel** or a
50 [statement by counsel or a] representative designated by the victim in lieu of personal
51 appearance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

595.220. 1. The department of public safety shall make payments to appropriate
2 **medical providers, out of appropriations made for that purpose, to cover the reasonable**
3 **charges of the forensic examination of persons who may be a victim of a sexual offense if:**

4 **(1) The victim or the victim's guardian consents in writing to the examination; and**

5 **(2) The report of the examination is made on a form approved by the attorney**
6 **general with the advice of the department of public safety.**

7 2. A minor may consent to examination under this section. Such consent is not
8 subject to disaffirmance because of minority, and consent of parent or guardian of the
9 minor is not required for such examination. The appropriate medical provider making the
10 examination shall give written notice to the parent or guardian of a minor that such an
11 examination has taken place.

12 3. The attorney general, with the advice of the department of public safety, shall
13 develop the forms and procedures for gathering evidence during the forensic examination

14 under the provisions of this section. The department of health and senior services shall
15 develop a checklist, protocols, and procedures for appropriate medical providers to refer
16 to while providing medical treatment to victims of a sexual offense, including those specific
17 to victims who are minors.

18 4. Evidentiary collection kits shall be developed and made available, subject to
19 appropriation, to appropriate medical providers by the highway patrol or its designees and
20 eligible crime laboratories. Such kits shall be distributed with the forms and procedures
21 for gathering evidence during forensic examinations of victims of a sexual offense to
22 appropriate medical providers upon request of the provider, in the amount requested, and
23 at no charge to the medical provider. All appropriate medical providers shall, with the
24 written consent of the victim, perform a forensic examination using the evidentiary
25 collection kit, or other collection procedures developed for victims who are minors, and
26 forms and procedures for gathering evidence following the checklist for any person
27 presenting as a victim of a sexual offense.

28 5. In reviewing claims submitted under this section, the department shall first
29 determine if the claim was submitted within ninety days of the examination. If the claim
30 is submitted within ninety days, the department shall, at a minimum, use the following
31 criteria in reviewing the claim: examination charges submitted shall be itemized and fall
32 within the definition of "forensic examination" as defined in subdivision (3) of subsection
33 7 of this section.

34 6. All appropriate medical provider charges for eligible forensic examinations shall
35 be billed to and paid by the department of public safety. No appropriate medical provider
36 conducting forensic examinations and providing medical treatment to victims of sexual
37 offenses shall charge the victim for the forensic examination. For appropriate medical
38 provider charges related to the medical treatment of victims of sexual offenses, if the victim
39 is an eligible claimant under the crime victims' compensation fund, the victim shall seek
40 compensation under sections 595.010 to 595.075.

41 7. For purposes of this section, the following terms mean:

42 (1) "Appropriate medical provider", any licensed nurse, physician, or physician
43 assistant, and any institution employing licensed nurses, physicians, or physician assistants,
44 provided that such licensed professionals are the only persons at such institution to
45 perform tasks under the provisions of this section;

46 (2) "Evidentiary collection kit", a kit used during a forensic examination that
47 includes materials necessary for appropriate medical providers to gather evidence in
48 accordance with the forms and procedures developed by the attorney general for forensic
49 examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

8. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

[191.225. 1. The department of health and senior services shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination;

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of health and senior services; and

(3) The report of the examination is filed with the prosecuting attorney of the county in which the alleged incident occurred.

The appropriate medical provider shall file the report of the examination within three business days of completion of the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of health and senior services, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense.

25 4. Evidentiary collection kits shall be developed and made available,
26 subject to appropriation, to appropriate medical providers by the highway patrol
27 or its designees and eligible crime laboratories. Such kits shall be distributed
28 with the forms and procedures for gathering evidence during forensic
29 examinations of victims of a sexual offense to appropriate medical providers
30 upon request of the provider, in the amount requested, and at no charge to the
31 medical provider. All appropriate medical providers shall, with the written
32 consent of the victim, perform a forensic examination using the evidentiary
33 collection kit and forms and procedures for gathering evidence following the
34 checklist for any person presenting as a victim of a sexual offense.

35 5. All appropriate medical provider charges for eligible forensic
36 examinations shall be billed to and paid by the department of health and senior
37 services. No appropriate medical provider conducting forensic examinations and
38 providing medical treatment to victims of sexual offenses shall charge the victim
39 for the forensic examination. For appropriate medical provider charges related
40 to the medical treatment of victims of sexual offenses, if the victim is an eligible
41 claimant under the crime victims' compensation fund, the appropriate medical
42 provider shall seek compensation under sections 595.010 to 595.075, RSMo.

43 6. For purposes of this section, the following terms mean:

44 (1) "Appropriate medical provider", any licensed nurse, physician, or
45 physician assistant, and any institution employing licensed nurses, physicians, or
46 physician assistants; provided that such licensed professionals are the only
47 persons at such institution to perform tasks under the provisions of this section;

48 (2) "Evidentiary collection kit", a kit used during a forensic examination
49 that includes materials necessary for appropriate medical providers to gather
50 evidence in accordance with the forms and procedures developed by the attorney
51 general for forensic examinations;

52 (3) "Forensic examination", an examination performed by an appropriate
53 medical provider on a victim of an alleged sexual offense to gather evidence for
54 the evidentiary collection kit;

55 (4) "Medical treatment", the treatment of all injuries and health concerns
56 resulting directly from a patient's sexual assault or victimization.]

✓