

HOUSE COMMITTEE

AMENDMENT NO. ___

Offered by

of

1 AMEND Senate Bill No. 141, Page 1, Section A, Line 2, by
2 inserting after all of said line the following:

3 "595.010. 1. As used in sections 595.010 to 595.075,
4 unless the context requires otherwise, the following terms shall
5 mean:

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

9 (2) "Claimant", a victim or a dependent, relative,
10 survivor, or member of the family of a victim eligible for
11 compensation pursuant to sections 595.010 to 595.075, or a
12 funeral home if the victim's family or next of kin designates it
13 as such under section 595.015;

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

17 (4) "Counseling", problem-solving and support concerning
18 emotional issues that result from criminal victimization licensed
19 pursuant to section 595.030. Counseling is a confidential service
20 provided either on an individual basis or in a group. Counseling
21 has as a primary purpose to enhance, protect and restore a
22 person's sense of well-being and social functioning after
23 victimization. Counseling does not include victim advocacy
24 services such as crisis telephone counseling, attendance at
25 medical procedures, law enforcement interviews or criminal
26 justice proceedings;

27 (5) "Crime", an act committed in this state which, if
28 committed by a mentally competent, criminally responsible person

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1 who had no legal exemption or defense, would constitute a crime;
2 provided that, such act involves the application of force or
3 violence or the threat of force or violence by the offender upon
4 the victim but shall include the crime of driving while
5 intoxicated, vehicular manslaughter and hit and run; and
6 provided, further, that no act involving the operation of a motor
7 vehicle except driving while intoxicated, vehicular manslaughter
8 and hit and run which results in injury to another shall
9 constitute a crime for the purpose of sections 595.010 to
10 595.075, unless such injury was intentionally inflicted through
11 the use of a motor vehicle. A crime shall also include an act of
12 terrorism, as defined in 18 U.S.C. Section 2331, which has been
13 committed outside of the United States against a resident of
14 Missouri;

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

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

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

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

29 (10) "Director", the director of public safety of this
30 state or a person designated by him for the purposes of sections
31 595.010 to 595.075;

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

1 (12) "Emergency service", those services provided within
2 thirty days to alleviate the immediate effects of the criminal
3 act or offense, and may include cash grants of not more than one
4 hundred dollars;

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

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

9 (15) "Funeral expenses", the expenses of the funeral,
10 burial, cremation or other chosen method of interment, including
11 plot or tomb and other necessary incidents to the disposition of
12 the remains;

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

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

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

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

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

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

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

37 (c) Killed or receiving a personal physical injury in this

1 state while assisting a law enforcement officer in the
2 apprehension of a person who the officer has reason to believe
3 has perpetrated or attempted a crime;

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

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

9 (23) "Personal physical injury", actual bodily harm only
10 with respect to the victim. Personal physical injury may include
11 mental or nervous shock resulting from the specific incident upon
12 which the claim is based;

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

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

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

22 (27) "Survivor", the spouse, parent, legal guardian,
23 grandparent, sibling or child of the deceased victim of the
24 victim's household at the time of the crime;

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

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

31 2. As used in sections 565.024 and 565.060 and sections
32 595.010 to 595.075, the term "alcohol-related traffic offense"
33 means those offenses defined by sections 577.001, 577.010, and
34 577.012, and any county or municipal ordinance which prohibits
35 operation of a motor vehicle while under the influence of
36 alcohol.

37 595.015. 1. The department of public safety shall,

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

16 2. Such claims shall be made by filing an application for
17 compensation with the department of public safety. The
18 application form shall be furnished by the department and the
19 signature shall be notarized. The application shall include:

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

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

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

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

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

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

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

1 (8) Releases authorizing the surrender to the department of
2 reports, documents and other information relating to the matters
3 specified under this section; and

4 (9) Such other information as the department determines is
5 necessary.

6 3. In addition to the application, the department may
7 require that the claimant submit materials substantiating the
8 facts stated in the application.

9 4. If the department finds that an application does not
10 contain the required information or that the facts stated therein
11 have not been substantiated, it shall notify the claimant in
12 writing of the specific additional items of information or
13 materials required and that the claimant has thirty days from the
14 date of mailing in which to furnish those items to the
15 department. Unless a claimant requests and is granted an
16 extension of time by the department, the department shall reject
17 with prejudice the claim of the claimant for failure to file the
18 additional information or materials within the specified time.

19 5. The claimant may file an amended application or
20 additional substantiating materials to correct inadvertent errors
21 or omissions at any time before the department has completed its
22 consideration of the original application.

23 6. The claimant, victim or dependent shall cooperate with
24 law enforcement officials in the apprehension and prosecution of
25 the offender in order to be eligible, or the department has found
26 that the failure to cooperate was for good cause.

27 7. Any state or local agency, including a prosecuting
28 attorney or law enforcement agency, shall make available without
29 cost to the fund all reports, files and other appropriate
30 information which the department requests in order to make a
31 determination that a claimant is eligible for an award pursuant
32 to sections 595.010 to 595.075.

33 8. If the victim is deceased, the victim's family or next
34 of kin may sign a notarized statement designating the funeral
35 home as a claimant eligible for compensation from the crime
36 victims' compensation fund provided such funeral home complies
37 with the provisions of this section.

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

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

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

18 2. No compensation shall be paid unless the department of
19 public safety finds that a crime was committed, that such crime
20 directly resulted in personal physical injury to, or the death
21 of, the victim, and that police records show that such crime was
22 promptly reported to the proper authorities. In no case may
23 compensation be paid if the police records show that such report
24 was made more than forty-eight hours after the occurrence of such
25 crime, unless the department of public safety finds that the
26 report to the police was delayed for good cause. If the victim
27 is under eighteen years of age such report may be made by the
28 victim's parent, guardian or custodian; by a physician, a nurse,
29 or hospital emergency room personnel; by the children's division
30 personnel; or by any other member of the victim's family. In the
31 case of a sexual offense, filing a report of the offense to the
32 proper authorities may include, but not be limited to, the filing
33 of the report of the forensic examination by the appropriate
34 medical provider, as defined in section 595.220, with the
35 prosecuting attorney of the county in which the alleged incident
36 occurred.

37 3. No compensation shall be paid for medical care if the

1 service provider is not a medical provider as that term is
2 defined in section 595.027, and the individual providing the
3 medical care is not licensed by the state of Missouri or the
4 state in which the medical care is provided.

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

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

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

14 (3) Clinical social worker licensed pursuant to chapter
15 337; or

16 (4) Professional counselor licensed pursuant to chapter
17 337.

18 5. Any compensation paid pursuant to sections 595.010 to
19 595.075 for death or personal injury shall be in an amount not
20 exceeding out-of-pocket loss, together with loss of earnings or
21 support from gainful employment, not to exceed two hundred
22 dollars per week, resulting from such injury or death. In the
23 event of death of the victim, an award may be made for reasonable
24 and necessary expenses actually incurred for preparation and
25 burial not to exceed five thousand dollars.

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

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

1 the department; except that, if a funeral home has been
2 designated as a claimant under subsection 8 of section 595.015,
3 the payment of any compensation under sections 595.010 to 595.075
4 shall be made within one year of the filing of such claim."; and
5

6 Further amend said title, enacting clause and intersectional
7 references accordingly.