

FIRST REGULAR SESSION

# HOUSE BILL NO. 196

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HENDERSON.

1019H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 595.209, RSMo, and to enact in lieu thereof one new section relating to notifications to victims and witnesses.

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

Section A. Section 595.209, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.209, to read as follows:

595.209. 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, victims of any offense under chapter 566, victims of an attempt to commit one of the preceding crimes, as defined in section 562.012, and victims of domestic assault, as defined in sections 565.072 to 565.076; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 (d) Any scheduled parole or release hearings, including hearings under section  
66 217.362, regarding such person and any changes in the scheduling of such hearings. No such  
67 hearing shall be conducted without thirty days' advance notice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

124 2. The provisions of subsection 1 of this section shall not be construed to imply any  
125 victim who is incarcerated by the department of corrections or any local law enforcement

126 agency has a right to be released to attend any hearing or that the department of corrections or  
127 the local law enforcement agency has any duty to transport such incarcerated victim to any  
128 hearing.

129         3. Those persons entitled to notice of events pursuant to the provisions of subsection  
130 1 of this section shall provide the appropriate person or agency with their current addresses,  
131 **electronic mail addresses**, and telephone numbers or the addresses, **electronic mail**  
132 **addresses**, or telephone numbers at which they wish notification to be given.

133         4. Notification by the appropriate person or agency utilizing the statewide automated  
134 crime victim notification system as established in section 650.310 shall constitute compliance  
135 with the victim notification requirement of this section. If notification utilizing the statewide  
136 automated crime victim notification system cannot be used, then written notification shall be  
137 sent by certified mail **or electronic mail** to the most current address **or electronic mail**  
138 **address** provided by the victim.

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

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