

FIRST REGULAR SESSION

# HOUSE BILL NO. 932

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BLAND MANLOVE.

2059H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 595.010, 595.020, and 595.030, RSMo, and to enact in lieu thereof three new sections relating to compensation for victims of crime.

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

Section A. Sections 595.010, 595.020, and 595.030, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 595.010, 595.020, and 595.030,  
3 to read as follows:

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

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

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

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

9 (4) "Counseling", problem-solving and support concerning emotional issues that  
10 result from criminal victimization **provided by a licensed [pursuant to] service provider as**  
11 **listed in** section 595.030. Counseling is a confidential service provided either on an  
12 individual basis or in a group. Counseling has as a primary purpose to enhance, protect and  
13 restore a person's sense of well-being and social functioning after victimization. Counseling  
14 does not include victim advocacy services such as crisis telephone counseling, attendance at  
15 medical procedures, law enforcement interviews or criminal justice proceedings;

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.

16 (5) "Crime", an act committed in this state which, regardless of whether it is  
17 adjudicated, involves the application of force or violence or the threat of force or violence by  
18 the offender upon the victim but shall include the crime of driving while intoxicated,  
19 vehicular manslaughter and hit and run; and provided, further, that no act involving the  
20 operation of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit  
21 and run which results in injury to another shall constitute a crime for the purpose of sections  
22 595.010 to 595.075, unless such injury was intentionally inflicted through the use of a motor  
23 vehicle. A crime shall also include an act of terrorism, as defined in 18 U.S.C. Section 2331,  
24 which has been committed outside of the United States against a resident of Missouri;

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

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

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

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

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

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

42 (12) "Emergency service", those services provided to alleviate the immediate effects  
43 of the criminal act or offense, and may include cash grants of not more than one hundred  
44 dollars;

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

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

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

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

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

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

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

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

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

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

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

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

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

76 (23) "Personal injury", physical, emotional, or mental harm or trauma resulting from  
77 the crime upon which the claim is based;

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

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

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

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

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

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

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

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, a relative of the victim requiring counseling  
5 in order to better assist the victim in his recovery; and

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

7 (a) A dependent of the victim;

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

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

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

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

23 4. In the case of a claimant who is incarcerated as a result of a conviction of a crime  
24 not related to the incident upon which the claim is based at the time of application, or at any  
25 time following the filing of the application:

26 (1) The department shall suspend all proceedings and payments until such time as the  
27 claimant is released from incarceration;

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

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

35 5. A Missouri resident who suffers personal injury or, in the case of death, **a survivor**  
36 **of the victim requiring counseling as a direct result of the death of the victim**, a  
37 dependent of the victim or any member of the family who legally assumes the obligation, or  
38 who pays the medical or burial expenses incurred as a direct result thereof, in another state,  
39 possession or territory of the United States may make application for compensation in  
40 Missouri if:

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

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

595.030. 1. No compensation shall be paid unless the department of public safety  
2 finds that a crime was committed, that such crime directly resulted in personal injury to, or the  
3 death of, the victim, and that police, court, or other official records show that such crime was  
4 reported to the proper authorities. In lieu of other records the claimant may provide a sworn  
5 statement by the applicant under paragraph (c) of subdivision (2) of section 589.663 that the  
6 applicant has good reason to believe that he or she is a victim of domestic violence, rape,  
7 sexual assault, human trafficking, or stalking, and fears further violent acts from his or her  
8 assailant. If the victim is under eighteen years of age such report may be made by the victim's  
9 parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel;  
10 by the children's division personnel; or by any other member of the victim's family. In the  
11 case of a sexual offense, filing a report of the offense to the proper authorities may include,  
12 but not be limited to, the filing of the report of the forensic examination by the appropriate  
13 medical provider, as defined in section 595.220, with the prosecuting attorney of the county in  
14 which the alleged incident occurred, receiving a forensic examination, or securing an order of  
15 protection.

16 2. No compensation shall be paid for medical care if the service provider is not a  
17 medical provider as that term is defined in section 595.027, and the individual providing the  
18 medical care is not licensed by the state of Missouri or the state in which the medical care is  
19 provided.

20 3. No compensation shall be paid for psychiatric treatment or other counseling  
21 services, including psychotherapy, unless the service provider is a:

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

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

26 (3) Clinical social worker licensed pursuant to chapter 337;

27 (4) Professional counselor licensed pursuant to chapter 337; or

28 (5) Board-certified psychiatric-mental health clinical nurse specialist or board  
29 certified psychiatric-mental health nurse practitioner licensed under chapter 335 or licensed in  
30 the state in which the service is provided.

31 4. Any compensation paid pursuant to sections 595.010 to 595.075 for death or  
32 personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of  
33 earnings or support from gainful employment, not to exceed ~~four~~ **five** hundred dollars per  
34 week, resulting from such injury or death. In the event of death of the victim, an award may  
35 be made for reasonable and necessary expenses actually incurred for preparation and burial  
36 not to exceed five thousand dollars.

37 5. Any compensation for loss of earnings or support from gainful employment shall  
38 be in an amount equal to the actual loss sustained not to exceed ~~four~~ **five** hundred dollars per  
39 week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed  
40 ~~twenty-five~~ **thirty** thousand dollars. If two or more persons are entitled to compensation as  
41 a result of the death of a person which is the direct result of a crime or in the case of a sexual  
42 assault, the compensation shall be apportioned by the department of public safety among the  
43 claimants in proportion to their loss.

44 6. The method and timing of the payment of any compensation pursuant to sections  
45 595.010 to 595.075 shall be determined by the department.

46 7. The department shall have the authority to negotiate the costs of medical care or  
47 other services directly with the providers of the care or services on behalf of any victim  
48 receiving compensation pursuant to sections 595.010 to 595.075.

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