

FIRST REGULAR SESSION

SENATE BILL NO. 333

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time January 28, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1727S.011

AN ACT

To repeal sections 595.010 and 595.015, RSMo, and to enact in lieu thereof two new sections relating to crime victims' compensation fund claims.

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

Section A. Sections 595.010 and 595.015, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 595.010 and 595.015, to
3 read as follows:

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

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

5 (2) "Claimant", a victim or a dependent, relative, survivor, or member of
6 the family of a victim eligible for compensation pursuant to sections 595.010 to
7 595.075, **or a funeral home if the victim's family or next of kin**
8 **designates it as such under section 595.015;**

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

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

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

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

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

35 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father,
36 child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly
37 or partially dependent for support upon, and living with, but shall include
38 children entitled to child support but not living with, the victim at the time of his
39 injury or death due to a crime alleged in a claim pursuant to sections 595.010 to
40 595.075;

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

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

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

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

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

55 (14) "Family", the spouse, parent, grandparent, stepmother, stepfather,

56 child, grandchild, brother, sister, half brother, half sister, adopted children of
57 parent, or spouse's parents;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103 2. As used in sections 565.024 and 565.060 and sections 595.010 to
104 595.075, the term "alcohol-related traffic offense" means those offenses defined
105 by sections 577.001, 577.010, and 577.012, and any county or municipal ordinance
106 which prohibits operation of a motor vehicle while under the influence of alcohol.

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

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

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

20 (2) If the claimant is not the victim, the name and address of the claimant
21 and relationship to the victim, the names and addresses of the victim's

22 dependents, if any, and the extent to which each is so dependent;

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

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

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

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

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

35 (8) Releases authorizing the surrender to the department of reports,
36 documents and other information relating to the matters specified under this
37 section; and

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

39 3. In addition to the application, the department may require that the
40 claimant submit materials substantiating the facts stated in the application.

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

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

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

56 7. Any state or local agency, including a prosecuting attorney or law
57 enforcement agency, shall make available without cost to the fund all reports,

58 files and other appropriate information which the department requests in order
59 to make a determination that a claimant is eligible for an award pursuant to
60 sections 595.010 to 595.075.

61 **8. If the victim is deceased, the victim's family or next of kin may**
62 **sign a notarized statement designating the funeral home as a claimant**
63 **eligible for compensation from the crime victims' compensation fund**
64 **provided such funeral home complies with the provisions of this**
65 **section.**

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