

FIRST REGULAR SESSION

# SENATE BILL NO. 100

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHILDERS.

Pre-filed December 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0320S.011

## AN ACT

To repeal section 595.200, RSMo 2000, relating to rights of crime victims and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 595.200, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 595.200 and 595.225, to read as follows:

595.200. The following words as used in sections 595.200 to [595.215] **595.225** shall have the following meanings, unless the context otherwise requires:

(1) "Crime", an act which would constitute a violation of any criminal statute including any act which may result in an adjudication of delinquency;

(2) "Custodial authority", the chief administrative officer or official in charge of a municipal detention facility, a county jail, a correctional facility operated by the department of corrections, a mental health facility or the division of youth services or any agency thereof;

(3) "Disposition", the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;

(4) "Family member", a spouse, child, sibling, parent, grandparent or legal guardian of a victim;

(5) "Restitution", money or services which a court orders a defendant to pay or render to a victim as part of the disposition;

(6) "Victim", a natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. The term

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

"victim" also includes the family members of a minor, incompetent or a homicide victim;

(7) "Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced. The term "witness" shall include persons employed in the administration of criminal justice who are testifying in the course of their employment, except that such persons shall not be entitled to any witness fees.

**595.225. 1. As used in this section, the following terms mean:**

(1) **"Certified evidence", a document or documents properly certified or authenticated by a person authorized to certify or authenticate business records of a municipal, state or federal court and properly admitted and received into evidence;**

(2) **"Conviction", any conviction for a crime, including, but not limited to:**

(a) **A judgment entered based upon a plea of guilty, a jury verdict of guilty, or a judicial finding of guilty, whether or not any such judgment is stayed or executed;**

(b) **An adjudication as a delinquent minor;**

(c) **An admission to any charge in a juvenile delinquency petition which would constitute a criminal act if committed by an adult;**

(d) **A disposition as an extended jurisdiction juvenile;**

(3) **"Course of criminal conduct", any act or succession of acts, whether continuous or interrupted, which include all elements of any criminal offense, including, but not limited to, inchoate offenses as defined in chapter 564, RSMo;**

(4) **"Good Samaritan", a person present at or near the scene of a crime or emergency who voluntarily, and while under no legal duty or obligation, provides or attempts to provide reasonable assistance to another person who is exposed to or has suffered physical harm;**

(5) **"Perpetrator", a person engaged in a course of criminal conduct;**

(6) **"Unjustifiable force", force which exceeds that level of force which is declared justifiable pursuant to application of chapter 563, RSMo;**

(7) **"Violent crime", any of the following offenses: murder in the first degree, murder in the second degree, voluntary manslaughter, assault in the first degree, assault in the second degree, assault in the third degree, assault of a law enforcement officer in the first degree, assault of a law enforcement officer in the second degree, kidnapping, felonious restraint, forcible rape, sexual assault, forcible sodomy, robbery in the first degree, arson in the first degree, burglary in the first degree, armed criminal action or an attempt to commit any of these offenses. "Violent crime" includes crimes committed in other states or jurisdictions which would have been within the definition set forth in this subdivision if committed in this state.**

**2. A perpetrator assumes the risk of personal injury, death, and other economic or noneconomic loss arising from his or her participation in a course of criminal**

**conduct involving a violent crime. Victims and Good Samaritans are immune from suit by any such perpetrator and shall not be held liable for their negligent acts or omissions which may cause personal injury, death or other economic or noneconomic loss to such perpetrator. The immunity from liability and suit authorized by this section is expressly waived for victims or Good Samaritans whose acts or omissions constitute unjustifiable force.**

**3. In any civil action brought by a perpetrator against a victim or Good Samaritan, certified evidence of the perpetrator's conviction for a violent crime involving the course of criminal conduct claimed as the basis for immunity shall be found to establish a conclusive, irrebuttable presumption of the perpetrator's participation in the related course of criminal conduct.**

**4. In the event a perpetrator does not obtain a judgment against the defendant in any civil action brought by him or her against a victim or Good Samaritan, the court may award court costs and reasonable attorneys fees and expenses to the defendant.**

**5. Except to the extent needed to preserve evidence, any civil action in which the defense set forth in subsection 2 or 3 of this section is raised shall be stayed by the court on the motion of the defendant during the pendency of any criminal action against the plaintiff based on the alleged violent crime.**

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