

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 787
95TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, March 4, 2010, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4148S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 595.036, 595.037, and 595.060, RSMo, and to enact in lieu thereof four 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Section A. Sections 595.036, 595.037, and 595.060, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 595.036,
3 595.037, 595.060, and 621.275, to read as follows:

595.036. 1. **For any claim filed on or after August 28, 2010**, any
2 party aggrieved by a decision of the department **of public safety** on a claim
3 under the provisions of sections 595.010 to [595.070] **595.075** may, within thirty
4 days following the date of notification [of mailing] of such decision, file a petition
5 with the [division of workers' compensation of the] department [of labor and
6 industrial relations] to have such decision heard de novo by [an administrative
7 law judge] **the director**. The [administrative law judge] **director** may affirm[,]
8 **or reverse**[, or set aside] the **department's** decision [of the department of public
9 safety] on the basis of the evidence previously submitted in such case or may take
10 additional evidence [or may remand the matter to the department of public safety
11 with directions]. The [division of workers' compensation] **department** shall
12 promptly notify the [parties] **party** of its decision and the reasons therefor.

13 2. Any [of the parties to a] **party aggrieved by the director's** decision
14 [of an administrative law judge of the division of workers' compensation, as
15 provided by subsection 1 of this section, on a claim heard under the provisions of
16 sections 595.010 to 595.070] may, within thirty days following the date of
17 notification [or mailing] of such decision, file a petition with the [labor and

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

18 industrial relations] **administrative hearing** commission to [have] **appeal**
19 such decision [reviewed by the commission] **as provided in section**
20 **621.275**. [The commission may allow or deny a petition for review. If a petition
21 is allowed, the commission may affirm, reverse, or set aside the decision of the
22 division of workers' compensation on the basis of the evidence previously
23 submitted in such case or may take additional evidence or may remand the
24 matter to the division of workers' compensation with directions. The commission
25 shall promptly notify the parties of its decision and the reasons therefor.

26 3. Any petition for review filed pursuant to subsection 1 of this section
27 shall be deemed to be filed as of the date endorsed by the United States Postal
28 Service on the envelope or container in which such petition is received.

29 4. Any party who is aggrieved by a final decision of the labor and
30 industrial relations commission pursuant to the provisions of subsections 2 and
31 3 of this section shall within thirty days from the date of the final decision appeal
32 the decision to the court of appeals. Such appeal may be taken by filing notice
33 of appeal with commission, whereupon the commission shall, under its certificate,
34 return to the court all documents and papers on file in the matter, together with
35 a transcript of the evidence, the findings and award, which shall thereupon
36 become the record of the cause. Upon appeal no additional evidence shall be
37 heard and, in the absence of fraud, the findings of fact made by the commission
38 within its powers shall be conclusive and binding. The court, on appeal, shall
39 review only questions of law and may modify, reverse, remand for rehearing, or
40 set aside the award upon any of the following grounds and no other:

- 41 (1) That the commission acted without or in excess of its powers;
42 (2) That the award was procured by fraud;
43 (3) That the facts found by the commission do not support the award;
44 (4) That there was not sufficient competent evidence in the record to
45 warrant the making of the award.]

595.037. 1. All information submitted to the department [or division of
2 workers' compensation] and any hearing of the [division of workers'
3 compensation] **department** on a claim filed pursuant to sections 595.010 to
4 595.075 shall be open to the public except for the following claims which shall be
5 deemed closed and confidential:

- 6 (1) A claim in which the alleged assailant has not been brought to trial
7 and disclosure of the information or a public hearing would adversely affect either
8 the apprehension, or the trial, of the alleged assailant;

9 (2) A claim in which the offense allegedly perpetrated against the victim
10 is rape, sodomy or sexual abuse and it is determined by the department [or
11 division of workers' compensation] to be in the best interest of the victim or of the
12 victim's dependents that the information be kept confidential or that the public
13 be excluded from the hearing;

14 (3) A claim in which the victim or alleged assailant is a minor; or

15 (4) A claim in which any record or report obtained by the department [or
16 division of workers' compensation], the confidentiality of which is protected by
17 any other law, shall remain confidential subject to such law.

18 2. The department [and division of workers' compensation, by separate
19 order,] may close any record, report or hearing if it determines that the interest
20 of justice would be frustrated rather than furthered if such record or report was
21 disclosed or if the hearing was open to the public.

595.060. The director shall promulgate rules and regulations necessary
2 to implement the provisions of sections 595.010 to 595.220 as provided in this
3 section and chapter 536, RSMo. [In the performance of its functions under
4 section 595.036, the division of workers' compensation is authorized to
5 promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to
6 be followed in the proceedings under section 595.036.] Any rule or portion of a
7 rule, as that term is defined in section 536.010, RSMo, that is created under the
8 authority delegated in this section shall become effective only if it complies with
9 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
10 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
11 and if any of the powers vested with the general assembly pursuant to chapter
12 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
13 rule are subsequently held unconstitutional, then the grant of rulemaking
14 authority and any rule proposed or adopted after August 28, 2009, shall be
15 invalid and void.

**621.275. 1. Any person shall have the right to appeal to the
2 administrative hearing commission from any decision made by the
3 director of the department of public safety under section 595.036
4 regarding that person's claim for compensation as provided in sections
5 595.010 to 595.075.**

**2. Any person filing an appeal with the administrative hearing
6 commission shall be entitled to a hearing before the commission. The
7 person shall file a petition with the commission within thirty days after
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9 the decision of the director of the department of public safety is sent
10 in the United States mail or within thirty days after the decision is
11 delivered, whichever is earlier. The director's decision shall contain
12 a notice of the person's right to appeal:

13 "If you were adversely affected by this decision, you may
14 appeal to the administrative hearing commission. To
15 appeal, you must file a petition with the administrative
16 hearing commission within thirty days after the date this
17 decision was delivered or sent in the United States mail,
18 whichever is earlier. If your petition is sent by registered
19 or certified mail, it will be deemed filed on the date it is
20 mailed; if it is sent by any method other than registered
21 mail, it will be deemed filed on the date it is received by
22 the commission."

23 3. Decisions of the administrative hearing commission under this
24 section shall be binding, subject to appeal by either party. The
25 procedures established by chapter 536 shall apply to any hearings and
26 determinations under this section.

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