

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 921

AN ACT

To repeal sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, and to enact in lieu thereof seven new sections relating to victims of crime.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 9.172, 43.545, 173.2050, 455.543, 455.545, 595.030, and 595.209, to read as follows:

9.172. The month of February is hereby designated as "Teen Dating Violence Awareness Month" in the state of Missouri. One in three teens in the United States will experience physical, sexual, or emotional abuse by someone with whom they are in a relationship before they become adults. The citizens of this state are encouraged to observe the month with appropriate activities and events to raise awareness of abuse in teen relationships.

43.545. The state highway patrol shall include [in its voluntary system of reporting for compilation in the "Crime in Missouri"] all reported incidents of domestic violence as defined in section 455.010, whether or not an arrest is made, in its system of reporting for compilation in the annual crime report

1 published under section 43.505. All incidents shall be reported  
2 on forms provided by the highway patrol and in a manner  
3 prescribed by the patrol.

4 173.2050. 1. The governing board of each public  
5 institution of higher education in this state shall engage in  
6 discussions with law enforcement agencies with jurisdiction over  
7 the premises of an institution to develop and enter into a  
8 memorandum of understanding concerning sexual assault, domestic  
9 violence, dating violence, and stalking, as defined in the  
10 federal Higher Education Act of 1965, 20 U.S.C. Section 1092(f),  
11 involving students both on and off campus.

12 2. The memorandum of understanding shall contain detailed  
13 policies and protocols regarding sexual assault, domestic  
14 violence, dating violence, and stalking involving a student that  
15 comport with best practices and current professional practices.  
16 At a minimum, the memorandum shall set out procedural  
17 requirements for the reporting of an offense, protocol for  
18 establishing who has jurisdiction over an offense, and criteria  
19 for determining when an offense is to be reported to law  
20 enforcement.

21 3. The department of public safety in cooperation with the  
22 department of higher education shall promulgate rules and  
23 regulations to facilitate the implementation of this section.  
24 Any rule or portion of a rule, as that term is defined in section  
25 536.010, that is created under the authority delegated in this  
26 section shall become effective only if it complies with and is  
27 subject to all of the provisions of chapter 536 and, if  
28 applicable, section 536.028. This section and chapter 536 are

1 nonseverable, and if any of the powers vested with the general  
2 assembly pursuant to chapter 536 to review, to delay the  
3 effective date, or to disapprove and annul a rule are  
4 subsequently held unconstitutional, then the grant of rulemaking  
5 authority and any rule proposed or adopted after August 28, 2016,  
6 shall be invalid and void.

7 455.543. 1. In any incident investigated by a law  
8 enforcement agency involving a homicide or suicide, the law  
9 enforcement agency shall make a determination as to whether the  
10 homicide or suicide is related to domestic violence.

11 2. In making such determination, the local law enforcement  
12 agency may consider a number of factors including, but not  
13 limited to, the following:

14 (1) If the relationship between the perpetrator and the  
15 victim is or was that of a family or household member;

16 (2) Whether the victim or perpetrator had previously filed  
17 for an order of protection;

18 (3) Whether any of the subjects involved in the incident  
19 had previously been investigated for incidents of domestic  
20 violence; and

21 (4) Any other evidence regarding the homicide or suicide  
22 that assists the agency in making its determination.

23 3. After making a determination as to whether the homicide  
24 or suicide is related to domestic violence, the law enforcement  
25 agency shall forward the information required [within fifteen  
26 days] to the Missouri state highway patrol on a form or format  
27 approved by the patrol. The required information shall include  
28 the gender and age of the victim, the type of incident

1 investigated, the disposition of the incident and the  
2 relationship of the victim to the perpetrator. The state highway  
3 patrol shall develop a form for this purpose which shall be  
4 distributed by the department of public safety to all law  
5 enforcement agencies by October 1, 2000. [Completed forms shall  
6 be forwarded to the highway patrol without undue delay as  
7 required by section 43.500; except that all such reports shall be  
8 forwarded no later than seven days after an incident is  
9 determined or identified as a homicide or suicide involving  
10 domestic violence.]

11 455.545. The highway patrol shall compile an annual report  
12 of homicides and suicides related to domestic violence. Such  
13 report shall be presented by [February] March first of the  
14 subsequent year to the governor, speaker of the house of  
15 representatives, and president pro tempore of the senate.

16 595.030. 1. No compensation shall be paid unless the  
17 claimant has incurred an out-of-pocket loss of at least fifty  
18 dollars or has lost two continuous weeks of earnings or support  
19 from gainful employment. "Out-of-pocket loss" shall mean  
20 unreimbursed or unreimbursable expenses or indebtedness  
21 reasonably incurred:

22 (1) For medical care or other services, including  
23 psychiatric, psychological or counseling expenses, necessary as a  
24 result of the crime upon which the claim is based, except that  
25 the amount paid for psychiatric, psychological or counseling  
26 expenses per eligible claim shall not exceed two thousand five  
27 hundred dollars; or

28 (2) As a result of personal property being seized in an

1 investigation by law enforcement.

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3 Compensation paid for an out-of-pocket loss under this  
4 subdivision shall be in an amount equal to the loss sustained,  
5 but shall not exceed two hundred fifty dollars.

6 2. No compensation shall be paid unless the department of  
7 public safety finds that a crime was committed, that such crime  
8 directly resulted in personal physical injury to, or the death  
9 of, the victim, and that police records show that such crime was  
10 promptly reported to the proper authorities. In no case may  
11 compensation be paid if the police records show that such report  
12 was made more than forty-eight hours after the occurrence of such  
13 crime, unless the department of public safety finds that the  
14 report to the police was delayed for good cause. If the victim  
15 is under eighteen years of age such report may be made by the  
16 victim's parent, guardian or custodian; by a physician, a nurse,  
17 or hospital emergency room personnel; by the children's division  
18 personnel; or by any other member of the victim's family. In the  
19 case of a sexual offense, filing a report of the offense to the  
20 proper authorities may include, but not be limited to, the filing  
21 of the report of the forensic examination by the appropriate  
22 medical provider, as defined in section 595.220, with the  
23 prosecuting attorney of the county in which the alleged incident  
24 occurred.

25 3. No compensation shall be paid for medical care if the  
26 service provider is not a medical provider as that term is  
27 defined in section 595.027, and the individual providing the  
28 medical care is not licensed by the state of Missouri or the

1 state in which the medical care is provided.

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

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

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

11 (3) Clinical social worker licensed pursuant to chapter  
12 337; [or]

13 (4) Professional counselor licensed pursuant to chapter  
14 337; or

15 (5) Board certified psychiatric-mental health clinical  
16 nurse specialist or board certified psychiatric-mental health  
17 nurse practitioner licensed under chapter 335 or licensed in the  
18 state in which the service is provided.

19 5. Any compensation paid pursuant to sections 595.010 to  
20 595.075 for death or personal injury shall be in an amount not  
21 exceeding out-of-pocket loss, together with loss of earnings or  
22 support from gainful employment, not to exceed four hundred  
23 dollars per week, resulting from such injury or death. In the  
24 event of death of the victim, an award may be made for reasonable  
25 and necessary expenses actually incurred for preparation and  
26 burial not to exceed five thousand dollars.

27 6. Any compensation for loss of earnings or support from  
28 gainful employment shall be in an amount equal to the actual loss

1 sustained not to exceed four hundred dollars per week; provided,  
2 however, that no award pursuant to sections 595.010 to 595.075  
3 shall exceed twenty-five thousand dollars. If two or more  
4 persons are entitled to compensation as a result of the death of  
5 a person which is the direct result of a crime or in the case of  
6 a sexual assault, the compensation shall be apportioned by the  
7 department of public safety among the claimants in proportion to  
8 their loss.

9 7. The method and timing of the payment of any compensation  
10 pursuant to sections 595.010 to 595.075 shall be determined by  
11 the department.

12 8. The department shall have the authority to negotiate the  
13 costs of medical care or other services directly with the  
14 providers of the care or services on behalf of any victim  
15 receiving compensation pursuant to sections 595.010 to 595.075.

16 595.209. 1. The following rights shall automatically be  
17 afforded to victims of dangerous felonies, as defined in section  
18 556.061, victims of murder in the first degree, as defined in  
19 section 565.020, victims of voluntary manslaughter, as defined in  
20 section 565.023, [and] victims of any offense under chapter 566,  
21 victims of an attempt to commit one of the preceding crimes, as  
22 defined in section 564.011, and victims of domestic assault, as  
23 defined in sections 565.072 to 565.076; and, upon written  
24 request, the following rights shall be afforded to victims of all  
25 other crimes and witnesses of crimes:

26 (1) For victims, the right to be present at all criminal  
27 justice proceedings at which the defendant has such right,  
28 including juvenile proceedings where the offense would have been

1 a felony if committed by an adult, even if the victim is called  
2 to testify or may be called to testify as a witness in the case;

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

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

10 (4) For victims, the right to confer with and to be  
11 informed by the prosecutor regarding bail hearings, guilty pleas,  
12 pleas under chapter 552 or its successors, hearings, sentencing  
13 and probation revocation hearings and the right to be heard at  
14 such hearings, including juvenile proceedings, unless in the  
15 determination of the court the interests of justice require  
16 otherwise;

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

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

22 (b) The right to be informed by local law enforcement  
23 agencies or the appropriate juvenile authorities of the  
24 availability of victim compensation assistance, assistance in  
25 obtaining documentation of the victim's losses, including, but  
26 not limited to and subject to existing law concerning protected  
27 information or closed records, access to copies of complete,  
28 unaltered, unedited investigation reports of motor vehicle,



1 pedestrian, and other similar accidents upon request to the  
2 appropriate law enforcement agency by the victim or the victim's  
3 representative, and emergency crisis intervention services  
4 available in the community;

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

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

12 (6) For victims, the right to be informed by appropriate  
13 juvenile authorities of probation revocation hearings initiated  
14 by the juvenile authority and the right to be heard at such  
15 hearings or to offer a written statement, video or audio tape,  
16 counsel or a representative designated by the victim in lieu of a  
17 personal appearance, the right to be informed by the board of  
18 probation and parole of probation revocation hearings initiated  
19 by the board and of parole hearings, the right to be present at  
20 each and every phase of parole hearings, the right to be heard at  
21 probation revocation and parole hearings or to offer a written  
22 statement, video or audio tape, counsel or a representative  
23 designated by the victim in lieu of a personal appearance, and  
24 the right to have, upon written request of the victim, a  
25 partition set up in the probation or parole hearing room in such  
26 a way that the victim is shielded from the view of the  
27 probationer or parolee, and the right to be informed by the  
28 custodial mental health facility or agency thereof of any

1 hearings for the release of a person committed pursuant to the  
2 provisions of chapter 552, the right to be present at such  
3 hearings, the right to be heard at such hearings or to offer a  
4 written statement, video or audio tape, counsel or a  
5 representative designated by the victim in lieu of personal  
6 appearance;

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

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

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

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

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

26 (e) Within twenty-four hours, any escape by such person  
27 from a municipal detention facility, county jail, a correctional  
28 facility operated by the department of corrections, mental health

1 facility, or the division of youth services or any agency  
2 thereof, and any subsequent recapture of such person;

3 (f) Any decision by a parole board, by a juvenile releasing  
4 authority or by a circuit court presiding over releases pursuant  
5 to the provisions of chapter 552, or by a circuit court presiding  
6 over releases under section 217.362, to release such person or  
7 any decision by the governor to commute the sentence of such  
8 person or pardon such person;

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

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

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

19 (10) For victims and witnesses, on charged cases or  
20 submitted cases where no charge decision has yet been made, to be  
21 informed by the prosecuting attorney of the status of the case  
22 and of the availability of victim compensation assistance and of  
23 financial assistance and emergency and crisis intervention  
24 services available within the community and information relative  
25 to applying for such assistance or services, and of any final  
26 decision by the prosecuting attorney not to file charges;

27 (11) For victims, to be informed by the prosecuting  
28 attorney of the right to restitution which shall be enforceable

1 in the same manner as any other cause of action as otherwise  
2 provided by law;

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

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

15 (14) An employer may not discharge or discipline any  
16 witness, victim or member of a victim's immediate family for  
17 honoring a subpoena to testify in a criminal proceeding,  
18 attending a criminal proceeding, or for participating in the  
19 preparation of a criminal proceeding, or require any witness,  
20 victim, or member of a victim's immediate family to use vacation  
21 time, personal time, or sick leave for honoring a subpoena to  
22 testify in a criminal proceeding, attending a criminal  
23 proceeding, or participating in the preparation of a criminal  
24 proceeding;

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

28 (16) For victims and witnesses, the right to speedy

1 disposition of their cases, and for victims, the right to speedy  
2 appellate review of their cases, provided that nothing in this  
3 subdivision shall prevent the defendant from having sufficient  
4 time to prepare such defendant's defense. The attorney general  
5 shall provide victims, upon their written request, case status  
6 information throughout the appellate process of their cases. The  
7 provisions of this subdivision shall apply only to proceedings  
8 involving the particular case to which the person is a victim or  
9 witness;

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

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

19 2. The provisions of subsection 1 of this section shall not  
20 be construed to imply any victim who is incarcerated by the  
21 department of corrections or any local law enforcement agency has  
22 a right to be released to attend any hearing or that the  
23 department of corrections or the local law enforcement agency has  
24 any duty to transport such incarcerated victim to any hearing.

25 3. Those persons entitled to notice of events pursuant to  
26 the provisions of subsection 1 of this section shall provide the  
27 appropriate person or agency with their current addresses and  
28 telephone numbers or the addresses or telephone numbers at which

1 they wish notification to be given.

2 4. Notification by the appropriate person or agency  
3 utilizing the statewide automated crime victim notification  
4 system as established in section 650.310 shall constitute  
5 compliance with the victim notification requirement of this  
6 section. If notification utilizing the statewide automated crime  
7 victim notification system cannot be used, then written  
8 notification shall be sent by certified mail to the most current  
9 address provided by the victim.

10 5. Victims' rights as established in Section 32 of Article  
11 I of the Missouri Constitution or the laws of this state  
12 pertaining to the rights of victims of crime shall be granted and  
13 enforced regardless of the desires of a defendant and no  
14 privileges of confidentiality shall exist in favor of the  
15 defendant to exclude victims or prevent their full participation  
16 in each and every phase of parole hearings or probation  
17 revocation hearings. The rights of the victims granted in this  
18 section are absolute and the policy of this state is that the  
19 victim's rights are paramount to the defendant's rights. The  
20 victim has an absolute right to be present at any hearing in  
21 which the defendant is present before a probation and parole  
22 hearing officer.

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29 Jeanie Riddle

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