

SENATE BILL NO. 1223

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ARTHUR.

3928S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 595.209, RSMo, and to enact in lieu thereof one new section relating to rights of certain crime victims.

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

Section A. Section 595.209, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 595.209,
3 to read as follows:

595.209. 1. The following rights shall automatically
2 be afforded to victims **and family members of victims** of
3 dangerous felonies, as defined in section 556.061, victims
4 **and family members of victims** of murder in the first degree,
5 as defined in section 565.020, victims **and family members of**
6 **victims** of voluntary manslaughter, as defined in section
7 565.023, victims **and family members of victims** of any
8 offense under chapter 566, victims **and family members of**
9 **victims** of an attempt to commit one of the preceding crimes,
10 as defined in section 562.012, **[and]** victims **and family**
11 **members of victims** of domestic assault, as defined in
12 sections 565.072 to 565.076, **victims and family members of**
13 **victims of involuntary manslaughter in the first or second**
14 **degree, as defined in sections 565.024 and 565.027, and**
15 **victims and family members of victims of the offense of**
16 **driving while intoxicated if the person was found guilty of**
17 **a felony, as defined in subdivisions (3), (4), (5), and (6)**
18 **of subsection 2 of section 577.010; and, upon written**

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

19 request, the following rights shall be afforded to victims
20 of all other crimes and witnesses of crimes:

21 (1) For victims, the right to be present at all
22 criminal justice proceedings at which the defendant has such
23 right, including juvenile proceedings where the offense
24 would have been a felony if committed by an adult, even if
25 the victim is called to testify or may be called to testify
26 as a witness in the case;

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

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

34 (4) For victims, the right to confer with and to be
35 informed by the prosecutor regarding bail hearings, guilty
36 pleas, pleas under chapter 552 or its successors, hearings,
37 sentencing and probation revocation hearings and the right
38 to be heard at such hearings, including juvenile
39 proceedings, unless in the determination of the court the
40 interests of justice require otherwise;

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

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

46 (b) The right to be informed by local law enforcement
47 agencies or the appropriate juvenile authorities of the
48 availability of victim compensation assistance, assistance
49 in obtaining documentation of the victim's losses,
50 including, but not limited to and subject to existing law

51 concerning protected information or closed records, access
52 to copies of complete, unaltered, unedited investigation
53 reports of motor vehicle, pedestrian, and other similar
54 accidents upon request to the appropriate law enforcement
55 agency by the victim or the victim's representative, and
56 emergency crisis intervention services available in the
57 community;

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

60 (d) Within twenty-four hours, any escape by such
61 person from a municipal detention facility, county jail, a
62 correctional facility operated by the department of
63 corrections, mental health facility, or the division of
64 youth services or any agency thereof, and any subsequent
65 recapture of such person;

66 (6) For victims, the right to be informed by
67 appropriate juvenile authorities of probation revocation
68 hearings initiated by the juvenile authority and the right
69 to be heard at such hearings or to offer a written
70 statement, video or audio tape, counsel or a representative
71 designated by the victim in lieu of a personal appearance,
72 the right to be informed by the board of probation and
73 parole of probation revocation hearings initiated by the
74 board and of parole hearings, the right to be present at
75 each and every phase of parole hearings, the right to be
76 heard at probation revocation and parole hearings or to
77 offer a written statement, video or audio tape, counsel or a
78 representative designated by the victim in lieu of a
79 personal appearance, and the right to have, upon written
80 request of the victim, a partition set up in the probation
81 or parole hearing room in such a way that the victim is
82 shielded from the view of the probationer or parolee, and

83 the right to be informed by the custodial mental health
84 facility or agency thereof of any hearings for the release
85 of a person committed pursuant to the provisions of chapter
86 552, the right to be present at such hearings, the right to
87 be heard at such hearings or to offer a written statement,
88 video or audio tape, counsel or a representative designated
89 by the victim in lieu of personal appearance;

90 (7) For victims and witnesses, upon their written
91 request, the right to be informed by the appropriate
92 custodial authority, including any municipal detention
93 facility, juvenile detention facility, county jail,
94 correctional facility operated by the department of
95 corrections, mental health facility, division of youth
96 services or agency thereof if the offense would have been a
97 felony if committed by an adult, postconviction or
98 commitment pursuant to the provisions of chapter 552 of the
99 following:

100 (a) The projected date of such person's release from
101 confinement;

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

103 (c) Any release of such person on furlough, work
104 release, trial release, electronic monitoring program, or to
105 a community correctional facility or program or release for
106 any other reason, in advance of such release;

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

112 (e) Within twenty-four hours, any escape by such
113 person from a municipal detention facility, county jail, a
114 correctional facility operated by the department of

115 corrections, mental health facility, or the division of
116 youth services or any agency thereof, and any subsequent
117 recapture of such person;

118 (f) Any decision by a parole board, by a juvenile
119 releasing authority or by a circuit court presiding over
120 releases pursuant to the provisions of chapter 552, or by a
121 circuit court presiding over releases under section 217.362,
122 to release such person or any decision by the governor to
123 commute the sentence of such person or pardon such person;

124 (g) Notification within thirty days of the death of
125 such person;

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

130 (9) For victims and witnesses, the right to reasonable
131 protection from the defendant or any person acting on behalf
132 of the defendant from harm and threats of harm arising out
133 of their cooperation with law enforcement and prosecution
134 efforts;

135 (10) For victims and witnesses, on charged cases or
136 submitted cases where no charge decision has yet been made,
137 to be informed by the prosecuting attorney of the status of
138 the case and of the availability of victim compensation
139 assistance and of financial assistance and emergency and
140 crisis intervention services available within the community
141 and information relative to applying for such assistance or
142 services, and of any final decision by the prosecuting
143 attorney not to file charges;

144 (11) For victims, to be informed by the prosecuting
145 attorney of the right to restitution which shall be

146 enforceable in the same manner as any other cause of action
147 as otherwise provided by law;

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

152 (13) When a victim's property is no longer needed for
153 evidentiary reasons or needs to be retained pending an
154 appeal, the prosecuting attorney or any law enforcement
155 agency having possession of the property shall, upon request
156 of the victim, return such property to the victim within
157 five working days unless the property is contraband or
158 subject to forfeiture proceedings, or provide written
159 explanation of the reason why such property shall not be
160 returned;

161 (14) An employer may not discharge or discipline any
162 witness, victim or member of a victim's immediate family for
163 honoring a subpoena to testify in a criminal proceeding,
164 attending a criminal proceeding, or for participating in the
165 preparation of a criminal proceeding, or require any
166 witness, victim, or member of a victim's immediate family to
167 use vacation time, personal time, or sick leave for honoring
168 a subpoena to testify in a criminal proceeding, attending a
169 criminal proceeding, or participating in the preparation of
170 a criminal proceeding;

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

175 (16) For victims and witnesses, the right to speedy
176 disposition of their cases, and for victims, the right to
177 speedy appellate review of their cases, provided that

178 nothing in this subdivision shall prevent the defendant from
179 having sufficient time to prepare such defendant's defense.
180 The attorney general shall provide victims, upon their
181 written request, case status information throughout the
182 appellate process of their cases. The provisions of this
183 subdivision shall apply only to proceedings involving the
184 particular case to which the person is a victim or witness;

185 (17) For victims and witnesses, to be provided by the
186 court, a secure waiting area during court proceedings and to
187 receive notification of the date, time and location of any
188 hearing conducted by the court for reconsideration of any
189 sentence imposed, modification of such sentence or recall
190 and release of any defendant from incarceration;

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

194 2. The provisions of subsection 1 of this section
195 shall not be construed to imply any victim who is
196 incarcerated by the department of corrections or any local
197 law enforcement agency has a right to be released to attend
198 any hearing or that the department of corrections or the
199 local law enforcement agency has any duty to transport such
200 incarcerated victim to any hearing.

201 3. Those persons entitled to notice of events pursuant
202 to the provisions of subsection 1 of this section shall
203 provide the appropriate person or agency with their current
204 addresses, electronic mail addresses, and telephone numbers
205 or the addresses, electronic mail addresses, or telephone
206 numbers at which they wish notification to be given.

207 4. Notification by the appropriate person or agency
208 utilizing the statewide automated crime victim notification
209 system as established in section 650.310 shall constitute

210 compliance with the victim notification requirement of this
211 section. If notification utilizing the statewide automated
212 crime victim notification system cannot be used, then
213 written notification shall be sent by certified mail or
214 electronic mail to the most current address or electronic
215 mail address provided by the victim.

216 5. Victims' rights as established in Section 32 of
217 Article I of the Missouri Constitution or the laws of this
218 state pertaining to the rights of victims of crime shall be
219 granted and enforced regardless of the desires of a
220 defendant and no privileges of confidentiality shall exist
221 in favor of the defendant to exclude victims or prevent
222 their full participation in each and every phase of parole
223 hearings or probation revocation hearings. The rights of
224 the victims granted in this section are absolute and the
225 policy of this state is that the victim's rights are
226 paramount to the defendant's rights. The victim has an
227 absolute right to be present at any hearing in which the
228 defendant is present before a probation and parole hearing
229 officer.

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