

SECOND REGULAR SESSION

# SENATE BILL NO. 981

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR COLEMAN.

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5671S.01I

KRISTINA MARTIN, Secretary

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### AN ACT

To repeal sections 595.025, 595.035, and 595.045, RSMo, and to enact in lieu thereof three new sections relating to compensation for crime victims.

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

Section A. Sections 595.025, 595.035, and 595.045, RSMo,  
2 are repealed and three new sections enacted in lieu thereof, to  
3 be known as sections 595.025, 595.035, and 595.045, to read as  
4 follows:

595.025. 1. A claim for compensation may be filed by  
2 a person eligible for compensation or, if the person is an  
3 incapacitated or disabled person, or a minor, by the  
4 person's spouse, parent, conservator, or guardian.

5 2. A claim **for compensation** shall be filed not later  
6 than two years after [the occurrence of the crime or the  
7 discovery of the crime upon which it is based] **any of the**  
8 **following, whichever occurs later:**

9 (1) **The occurrence of the crime upon which the claim**  
10 **is based;**

11 (2) **The discovery of the crime upon which the claim is**  
12 **based;**

13 (3) **The filing of criminal charges relating to the**  
14 **claimant's claim for compensation; or**

15 (4) **The conviction of a crime relating to the**  
16 **claimant's claim for compensation.**

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

17     **Notwithstanding the foregoing, a claim filed by a victim of**  
18     **an offense under sections 566.030, 566.031, 566.032,**  
19     **566.034, 566.060, 566.061, 566.062, 566.064, 566.067,**  
20     **566.068, 566.069, 566.071, 566.083, 566.086, 566.093,**  
21     **566.095, 566.100, 566.101, 566.209, 566.210, 566.211, or**  
22     **568.020, may be brought at any time.**

23           3. Each claim shall be submitted to the department.  
24     The department of public safety shall investigate such  
25     claim, prior to the opening of formal proceedings. The  
26     claimant shall be notified of the date and time of any  
27     hearing on such claim. In determining the amount of  
28     compensation for which a claimant is eligible, the  
29     department shall consider the facts stated on the  
30     application filed pursuant to section 595.015, and:

31           (1) Need not consider whether or not the alleged  
32     assailant has been apprehended or brought to trial or the  
33     result of any criminal proceedings against that person;  
34     however, if any person is convicted of the crime which is  
35     the basis for an application for compensation, proof of the  
36     conviction shall be conclusive evidence that the crime was  
37     committed;

38           (2) Shall determine the amount of the loss to the  
39     claimant, or the victim's survivors or dependents;

40           (3) Shall determine the degree or extent to which the  
41     victim's acts or conduct provoked, incited, or contributed  
42     to the injuries or death of the victim.

43           4. The claimant may present evidence and testimony on  
44     his own behalf or may retain counsel. The department of  
45     public safety may, as part of any award entered under  
46     sections 595.010 to 595.075, determine and allow reasonable  
47     attorney's fees, which shall not exceed fifteen percent of  
48     the amount awarded as compensation under sections 595.010 to

49 595.075, which fee shall be paid out of, but not in addition  
50 to, the amount of compensation, to the attorney representing  
51 the claimant. No attorney for the claimant shall ask for,  
52 contract for or receive any larger sum than the amount so  
53 allowed.

54 5. The person filing a claim shall, prior to any  
55 hearing thereon, submit reports, if available, from all  
56 hospitals, physicians, surgeons, or other health care  
57 providers who treated or examined the victim for the injury  
58 for which compensation is sought. A hospital, physician,  
59 surgeon, or other health care provider may submit reports on  
60 behalf of the person filing a claim. If, in the opinion of  
61 the department of public safety, an examination of the  
62 injured victim and a report thereon, or a report on the  
63 cause of death of the victim, would be of material aid, the  
64 department of public safety may appoint a duly qualified,  
65 impartial physician to make such examination and report.

66 6. Each and every payment shall be exempt from  
67 attachment, garnishment or any other remedy available to  
68 creditors for the collection of a debt.

69 7. Payments of compensation shall not be made directly  
70 to any person legally incompetent to receive them but shall  
71 be made to the parent, guardian or conservator for the  
72 benefit of such minor, disabled or incapacitated person.

595.035. 1. For the purpose of determining the amount  
2 of compensation payable pursuant to sections 595.010 to  
3 595.075, the department of public safety shall, insofar as  
4 practicable, formulate standards for the uniform application  
5 of sections 595.010 to 595.075, taking into consideration  
6 the provisions of sections 595.010 to 595.075, the rates and  
7 amounts of compensation payable for injuries and death  
8 pursuant to other laws of this state and of the United

9 States, excluding pain and suffering **for any claimant other**  
10 **than a victim of a crime**, and the availability of funds  
11 appropriated for the purpose of sections 595.010 to  
12 595.075. All decisions of the department of public safety  
13 on claims pursuant to sections 595.010 to 595.075 shall be  
14 in writing, setting forth the name of the claimant, the  
15 amount of compensation and the reasons for the decision.

16 2. The crime victims' compensation fund is not a state  
17 health program and is not intended to be used as a primary  
18 payor to other health care assistance programs, but is a  
19 public, quasi-charitable fund whose fundamental purpose is  
20 to assist victims of violent crimes through a period of  
21 financial hardship, as a payor of last resort. Accordingly,  
22 any compensation paid pursuant to sections 595.010 to  
23 595.075 shall be reduced by the amount of any payments,  
24 benefits or awards received or to be received as a result of  
25 the injury or death:

26 (1) From or on behalf of the offender;

27 (2) Under private or public insurance programs,  
28 including Tricare, Medicare, Medicaid and other state or  
29 federal programs, but not including any life insurance  
30 proceeds; or

31 (3) From any other public or private funds, including  
32 an award payable pursuant to the workers' compensation laws  
33 of this state.

34 3. In determining the amount of compensation payable,  
35 the department of public safety shall determine whether,  
36 because of the victim's consent, provocation, incitement or  
37 negligence, the victim contributed to the infliction of the  
38 victim's injury or death, and shall reduce the amount of the  
39 compensation or deny the claim altogether, in accordance  
40 with such determination; provided, however, that the

41 department of public safety may disregard the responsibility  
42 of the victim for his or her own injury where such  
43 responsibility was attributable to efforts by the victim to  
44 aid a victim, or to prevent a crime or an attempted crime  
45 from occurring in his or her presence, or to apprehend a  
46 person who had committed a crime in his or her presence or  
47 had in fact committed a felony.

48 4. In determining the amount of compensation payable  
49 pursuant to sections 595.010 to 595.075, monthly Social  
50 Security disability or retirement benefits received by the  
51 victim shall not be considered by the department as a factor  
52 for reduction of benefits.

595.045. 1. There is established in the state  
2 treasury the "Crime Victims' Compensation Fund". A  
3 surcharge of [seven] **ten** dollars [and fifty cents] shall be  
4 assessed as costs in each court proceeding filed in any  
5 court in the state in all criminal cases including  
6 violations of any county ordinance or any violation of  
7 criminal or traffic laws of the state, including an  
8 infraction and violation of a municipal ordinance; except  
9 that no such fee shall be collected in any proceeding in any  
10 court when the proceeding or the defendant has been  
11 dismissed by the court or when costs are to be paid by the  
12 state, county, or municipality. A surcharge of [seven] **ten**  
13 dollars [and fifty cents] shall be assessed as costs in a  
14 juvenile court proceeding in which a child is found by the  
15 court to come within the applicable provisions of  
16 subdivision (3) of subsection 1 of section 211.031.

17 2. Notwithstanding any other provision of law to the  
18 contrary, the moneys collected by clerks of the courts  
19 pursuant to the provisions of subsection 1 of this section  
20 shall be collected and disbursed in accordance with sections

21 488.010 to 488.020 and shall be payable to the director of  
22 the department of revenue.

23 3. The director of revenue shall deposit annually the  
24 amount of two hundred fifty thousand dollars to the state  
25 forensic laboratory account administered by the department  
26 of public safety to provide financial assistance to defray  
27 expenses of crime laboratories if such analytical  
28 laboratories are registered with the federal Drug  
29 Enforcement Agency or the Missouri department of health and  
30 senior services. Subject to appropriations made therefor,  
31 such funds shall be distributed by the department of public  
32 safety to the crime laboratories serving the courts of this  
33 state making analysis of a controlled substance or analysis  
34 of blood, breath or urine in relation to a court proceeding.

35 4. The remaining funds collected under subsection 1 of  
36 this section shall be denoted to the payment of an annual  
37 appropriation for the administrative and operational costs  
38 of the office for victims of crime and, if a statewide  
39 automated crime victim notification system is established  
40 pursuant to section 650.310, to the monthly payment of  
41 expenditures actually incurred in the operation of such  
42 system. Additional remaining funds shall be subject to the  
43 following provisions:

44 (1) On the first of every month, the director of  
45 revenue or the director's designee shall determine the  
46 balance of the funds in the crime victims' compensation fund  
47 available to satisfy the amount of compensation payable  
48 pursuant to sections 595.010 to 595.075, excluding sections  
49 595.050 and 595.055;

50 (2) Beginning on September 1, 2004, and on the first  
51 of each month, the director of revenue or the director's  
52 designee shall deposit fifty percent of the balance of funds

53 available to the credit of the crime victims' compensation  
54 fund and fifty percent to the services to victims' fund  
55 established in section 595.100.

56 5. The director of revenue or such director's designee  
57 shall at least monthly report the moneys paid pursuant to  
58 this section into the crime victims' compensation fund and  
59 the services to victims fund to the department of public  
60 safety.

61 6. The moneys collected by clerks of municipal courts  
62 pursuant to subsection 1 of this section shall be collected  
63 and disbursed as provided by sections 488.010 to 488.020.  
64 Five percent of such moneys shall be payable to the city  
65 treasury of the city from which such funds were collected.  
66 The remaining ninety-five percent of such moneys shall be  
67 payable to the director of revenue. The funds received by  
68 the director of revenue pursuant to this subsection shall be  
69 distributed as follows:

70 (1) On the first of every month, the director of  
71 revenue or the director's designee shall determine the  
72 balance of the funds in the crime victims' compensation fund  
73 available to satisfy the amount of compensation payable  
74 pursuant to sections 595.010 to 595.075, excluding sections  
75 595.050 and 595.055;

76 (2) Beginning on September 1, 2004, and on the first  
77 of each month the director of revenue or the director's  
78 designee shall deposit fifty percent of the balance of funds  
79 available to the credit of the crime victims' compensation  
80 fund and fifty percent to the services to victims' fund  
81 established in section 595.100.

82 7. These funds shall be subject to a biennial audit by  
83 the Missouri state auditor. Such audit shall include all

84 records associated with crime victims' compensation funds  
85 collected, held or disbursed by any state agency.

86 8. In addition to the moneys collected pursuant to  
87 subsection 1 of this section, the court shall enter a  
88 judgment in favor of the state of Missouri, payable to the  
89 crime victims' compensation fund, of [sixty-eight] **one**  
90 **hundred** dollars upon a plea of guilty or a finding of guilt  
91 for a class A or B felony; [forty-six] **eighty** dollars upon a  
92 plea of guilty or finding of guilt for a class C, D, or E  
93 felony; and [ten] **forty** dollars upon a plea of guilty or a  
94 finding of guilt for any misdemeanor under Missouri law  
95 except for those in chapter 252 relating to fish and game,  
96 chapter 302 relating to drivers' and commercial drivers'  
97 license, chapter 303 relating to motor vehicle financial  
98 responsibility, chapter 304 relating to traffic regulations,  
99 chapter 306 relating to watercraft regulation and licensing,  
100 and chapter 307 relating to vehicle equipment regulations.  
101 Any clerk of the court receiving moneys pursuant to such  
102 judgments shall collect and disburse such crime victims'  
103 compensation judgments in the manner provided by sections  
104 488.010 to 488.020. Such funds shall be payable to the  
105 state treasury and deposited to the credit of the crime  
106 victims' compensation fund.

107 9. The clerk of the court processing such funds shall  
108 maintain records of all dispositions described in subsection  
109 1 of this section and all dispositions where a judgment has  
110 been entered against a defendant in favor of the state of  
111 Missouri in accordance with this section; all payments made  
112 on judgments for alcohol-related traffic offenses; and any  
113 judgment or portion of a judgment entered but not  
114 collected. These records shall be subject to audit by the  
115 state auditor. The clerk of each court transmitting such

116 funds shall report separately the amount of dollars  
117 collected on judgments entered for alcohol-related traffic  
118 offenses from other crime victims' compensation collections  
119 or services to victims collections.

120 10. The department of revenue shall maintain records  
121 of funds transmitted to the crime victims' compensation fund  
122 by each reporting court and collections pursuant to  
123 subsection 16 of this section and shall maintain separate  
124 records of collection for alcohol-related offenses.

125 11. The state courts administrator shall include in  
126 the annual report required by section 476.350 the circuit  
127 court caseloads and the number of crime victims'  
128 compensation judgments entered.

129 12. All awards made to injured victims under sections  
130 595.010 to 595.105 and all appropriations for administration  
131 of sections 595.010 to 595.105, except sections 595.050 and  
132 595.055, shall be made from the crime victims' compensation  
133 fund. Any unexpended balance remaining in the crime  
134 victims' compensation fund at the end of each biennium shall  
135 not be subject to the provision of section 33.080 requiring  
136 the transfer of such unexpended balance to the ordinary  
137 revenue fund of the state, but shall remain in the crime  
138 victims' compensation fund. In the event that there are  
139 insufficient funds in the crime victims' compensation fund  
140 to pay all claims in full, all claims shall be paid on a pro  
141 rata basis. If there are no funds in the crime victims'  
142 compensation fund, then no claim shall be paid until funds  
143 have again accumulated in the crime victims' compensation  
144 fund. When sufficient funds become available from the fund,  
145 awards which have not been paid shall be paid in  
146 chronological order with the oldest paid first. In the  
147 event an award was to be paid in installments and some

148 remaining installments have not been paid due to a lack of  
149 funds, then when funds do become available that award shall  
150 be paid in full. All such awards on which installments  
151 remain due shall be paid in full in chronological order  
152 before any other postdated award shall be paid. Any award  
153 pursuant to this subsection is specifically not a claim  
154 against the state, if it cannot be paid due to a lack of  
155 funds in the crime victims' compensation fund.

156 13. When judgment is entered against a defendant as  
157 provided in this section and such sum, or any part thereof,  
158 remains unpaid, there shall be withheld from any  
159 disbursement, payment, benefit, compensation, salary, or  
160 other transfer of money from the state of Missouri to such  
161 defendant an amount equal to the unpaid amount of such  
162 judgment. Such amount shall be paid forthwith to the crime  
163 victims' compensation fund and satisfaction of such judgment  
164 shall be entered on the court record. Under no  
165 circumstances shall the general revenue fund be used to  
166 reimburse court costs or pay for such judgment. The  
167 director of the department of corrections shall have the  
168 authority to pay into the crime victims' compensation fund  
169 from an offender's compensation or account the amount owed  
170 by the offender to the crime victims' compensation fund,  
171 provided that the offender has failed to pay the amount owed  
172 to the fund prior to entering a correctional facility of the  
173 department of corrections.

174 14. All interest earned as a result of investing funds  
175 in the crime victims' compensation fund shall be paid into  
176 the crime victims' compensation fund and not into the  
177 general revenue of this state.

178       15. Any person who knowingly makes a fraudulent claim  
179       or false statement in connection with any claim hereunder is  
180       guilty of a class A misdemeanor.

181       16. The department may receive gifts and contributions  
182       for the benefit of crime victims. Such gifts and  
183       contributions shall be credited to the crime victims'  
184       compensation fund as used solely for compensating victims  
185       under the provisions of sections 595.010 to 595.075.

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