

SECOND REGULAR SESSION

HOUSE BILL NO. 1523

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLY (27), LOWE, CARNAHAN,
WILSON (42) AND TROUPE (Co-sponsors).

Read 1st time January 17, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2855L.011

AN ACT

To repeal sections 595.020 and 595.030, RSMo, and to enact in lieu thereof two new sections relating to crime victims' compensation.

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

Section A. Sections 595.020 and 595.030, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 595.020 and 595.030, to read as follows:

595.020. 1. Except as hereinafter provided, the following persons shall be eligible for
2 compensation pursuant to sections 595.010 to 595.075:

3 (1) A victim of a crime;

4 (2) In the case of a sexual assault victim[:

5 (a)] a relative of the victim requiring counseling in order to better assist the victim in his
6 recovery; and

7 (3) In the case of the death of the victim as a direct result of the crime:

8 (a) A dependent of the victim;

9 (b) Any member of the family who legally assumes the obligation, or who pays the
10 medical or burial expenses incurred as a direct result thereof; and

11 (c) A survivor of the victim requiring counseling as a direct result of the death of the
12 victim.

13 2. An offender or an accomplice of an offender shall in no case be eligible to receive
14 compensation with respect to a crime committed by the offender. No victim or dependent shall
15 be denied compensation solely because he is a relative of the offender or was living with the
16 offender as a family or household member at the time of the injury or death. However, the

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

17 division may award compensation to a victim or dependent who is a relative, family or household
18 member of the offender only if the division can reasonably determine the offender will receive
19 no substantial economic benefit or unjust enrichment from the compensation.

20 3. No compensation of any kind may be made to a victim or intervenor injured while
21 confined in any federal, state, county, or municipal jail, prison or other correctional facility,
22 including house arrest.

23 4. No compensation of any kind may be made to a victim who has been finally
24 adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two
25 felonies within the past ten years, of which one or both involves illegal drugs or violence. The
26 division may waive this restriction if it determines that the interest of justice would be served
27 otherwise.

28 5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of
29 this section, who is incarcerated as a result of a conviction of a crime not related to the incident
30 upon which the claim is based at the time of application, or at any time following the filing of
31 the application:

32 (1) The division shall suspend all proceedings and payments until such time as the
33 claimant is released from incarceration;

34 (2) The division shall notify the applicant at the time the proceedings are suspended of
35 the right to reactivate the claim within six months of release from incarceration. The notice shall
36 be deemed sufficient if mailed to the applicant at the applicant's last known address;

37 (3) The claimant shall file an application to request that the case be reactivated not later
38 than six months after the date the claimant is released from incarceration. Failure to file such
39 request within the six-month period shall serve as a bar to any recovery.

40 6. Victims of crime who are not residents of the state of Missouri may be compensated
41 only when federal funds are available for that purpose. Compensation for nonresident victims
42 shall terminate when federal funds for that purpose are no longer available.

43 7. A Missouri resident who suffers personal physical injury or, in the case of death, a
44 dependent of the victim or any member of the family who legally assumes the obligation, or who
45 pays the medical or burial expenses incurred as a direct result thereof, in another state,
46 possession or territory of the United States may make application for compensation in Missouri
47 if:

48 (1) The victim of the crime would be compensated if the crime had occurred in the state
49 of Missouri;

50 (2) The place that the crime occurred is a state, possession or territory of the United
51 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
52 2331, that does not have a crime victims' compensation program for which the victim is eligible

53 and which provides at least the same compensation that the victim would have received if he had
54 been injured in Missouri.

55 **8. Notwithstanding any other provision of law to the contrary, it is not necessary**
56 **for any claimant to be living with or have been living with the victim in order to be eligible**
57 **to receive compensation.**

595.030. 1. No compensation shall be paid unless the claimant has incurred an
2 out-of-pocket loss of at least fifty dollars or has lost [two continuous weeks of] earnings or
3 support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or
4 unreimbursable expenses or indebtedness reasonably incurred for medical care or other services,
5 including psychiatric, psychological or counseling expenses, necessary as a result of the crime
6 upon which the claim is based, except that the amount paid for psychiatric, psychological or
7 counseling expenses per eligible claim shall not exceed two thousand five hundred dollars.

8 2. No compensation shall be paid unless the division of workers' compensation finds that
9 a crime was committed, that such crime directly resulted in personal physical injury to, or the
10 death of, the victim, and that police records show that such crime was promptly reported to the
11 proper authorities. In no case may compensation be paid if the police records show that such
12 report was made more than forty-eight hours after the occurrence of such crime, unless the
13 division of workers' compensation finds that the report to the police was delayed for good cause.
14 If the victim is under eighteen years of age such report may be made by the victim's parent,
15 guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the
16 division of family services personnel; or by any other member of the victim's family.

17 3. No compensation shall be paid for medical care if the service provider is not a medical
18 provider as that term is defined in section 595.027, and the individual providing the medical care
19 is not licensed by the state of Missouri or the state in which the medical care is provided.

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

22 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
23 in the state in which the service is provided;

24 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
25 psychology in the state in which the service is provided;

26 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

27 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

28 5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal
29 injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or
30 support from gainful employment, not to exceed [two] **four** hundred dollars per week, resulting
31 from such injury or death. In the event of death of the victim, an award may be made for

32 reasonable and necessary expenses actually incurred for preparation and burial not to exceed
33 [five] **seven** thousand **five hundred** dollars.

34 6. Any compensation for loss of earnings or support from gainful employment shall be
35 in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
36 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
37 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
38 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
39 compensation shall be apportioned by the division of workers' compensation among the
40 claimants in proportion to their loss.

41 7. The method and timing of the payment of any compensation pursuant to sections
42 595.010 to 595.075 shall be determined by the division.