

SECOND REGULAR SESSION

# HOUSE BILL NO. 1301

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CONWAY (104).

4346H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 595.030 and 595.045, RSMo, and to enact in lieu thereof two new sections relating to governmental compensation funds, with penalty provisions.

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

Section A. Sections 595.030 and 595.045, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 595.030 and 595.045, to read as follows:

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

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

(2) As a result of personal property being seized in an investigation by law enforcement.

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

2. No compensation shall be paid unless the department of public safety finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 public safety finds that the report to the police was delayed for good cause. If the victim is under  
19 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by  
20 a physician, a nurse, or hospital emergency room personnel; by the children's division personnel;  
21 or by any other member of the victim's family. In the case of a sexual offense, filing a report of  
22 the offense to the proper authorities may include, but not be limited to, the filing of the report  
23 of the forensic examination by the appropriate medical provider, as defined in section 595.220,  
24 with the prosecuting attorney of the county in which the alleged incident occurred.

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

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

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

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

34 (3) Clinical social worker licensed pursuant to chapter 337;

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

36 (5) Board-certified psychiatric-mental health clinical nurse specialist or board certified  
37 psychiatric-mental health nurse practitioner licensed under chapter 335 or licensed in the state  
38 in which the service is provided.

39 5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal  
40 injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or  
41 support from gainful employment, not to exceed four hundred dollars per week, resulting from  
42 such injury or death. In the event of death of the victim, **a claim for** an award may be made for  
43 reasonable and necessary expenses actually incurred for preparation and burial not to exceed five  
44 thousand dollars **by the funeral home or a relative of the victim.**

45 6. Any compensation for loss of earnings or support from gainful employment shall be  
46 in an amount equal to the actual loss sustained not to exceed four hundred dollars per week;  
47 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-  
48 five thousand dollars. If two or more persons are entitled to compensation as a result of the death  
49 of a person which is the direct result of a crime or in the case of a sexual assault, the  
50 compensation shall be apportioned by the department of public safety among the claimants in  
51 proportion to their loss.

52 7. The method and timing of the payment of any compensation pursuant to sections  
53 595.010 to 595.075 shall be determined by the department.

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

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

10           2. Notwithstanding any other provision of law to the contrary, the moneys collected by  
11 clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected  
12 and disbursed in accordance with sections 488.010 to 488.020 and shall be payable to the  
13 director of the department of revenue.

14           3. The director of revenue shall deposit annually the amount of **at least** two hundred fifty  
15 thousand **dollars but no more than one million** dollars to the state forensic laboratory account  
16 administered by the department of public safety to provide financial assistance to defray  
17 expenses of crime laboratories if such analytical laboratories are registered with the federal Drug  
18 Enforcement Agency or the Missouri department of health and senior services. Subject to  
19 appropriations made therefor, such funds shall be distributed by the department of public safety  
20 to the crime laboratories serving the courts of this state making analysis of a controlled substance  
21 or analysis of blood, breath or urine in relation to a court proceeding.

22           4. The remaining funds collected under subsection 1 of this section shall be denoted to  
23 the payment of an annual appropriation for the administrative and operational costs of the office  
24 for victims of crime and, if a statewide automated crime victim notification system is established  
25 pursuant to section 650.310, to the monthly payment of expenditures actually incurred in the  
26 operation of such system. Additional remaining funds shall be subject to the following  
27 provisions:

28           (1) On the first of every month, the director of revenue or the director's designee shall  
29 determine the balance of the funds in the crime victims' compensation fund available to satisfy  
30 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections  
31 595.050 and 595.055;

32           (2) Beginning on September 1, 2004, and on the first of each month, the director of  
33 revenue or the director's designee shall deposit fifty percent of the balance of funds available to

34 the credit of the crime victims' compensation fund and fifty percent to the services to victims'  
35 fund established in section 595.100.

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

39 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this  
40 section shall be collected and disbursed as provided by sections 488.010 to 488.020. Five percent  
41 of such moneys shall be payable to the city treasury of the city from which such funds were  
42 collected. The remaining ninety-five percent of such moneys shall be payable to the director of  
43 revenue. The funds received by the director of revenue pursuant to this subsection shall be  
44 distributed as follows:

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

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

53 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such  
54 audit shall include all records associated with crime victims' compensation funds collected, held  
55 or disbursed by any state agency.

56 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court  
57 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'  
58 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class  
59 A or B felony; **fifty-five dollars upon a plea of guilty or a finding of guilt for a class C**  
60 **felony;** forty-six dollars upon a plea of guilty or finding of guilt for a class ~~C or~~ D or E felony;  
61 and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri  
62 law except for those in chapter 252 relating to fish and game, chapter 302 relating to drivers' and  
63 commercial drivers' license, chapter 303 relating to motor vehicle financial responsibility,  
64 chapter 304 relating to traffic regulations, chapter 306 relating to watercraft regulation and  
65 licensing, and chapter 307 relating to vehicle equipment regulations. Any clerk of the court  
66 receiving moneys pursuant to such judgments shall collect and disburse such crime victims'  
67 compensation judgments in the manner provided by sections 488.010 to 488.020. Such funds  
68 shall be payable to the state treasury and deposited to the credit of the crime victims'  
69 compensation fund.

70           9. The clerk of the court processing such funds shall maintain records of all dispositions  
71 described in subsection 1 of this section and all dispositions where a judgment has been entered  
72 against a defendant in favor of the state of Missouri in accordance with this section; all payments  
73 made on judgments for alcohol-related traffic offenses; and any judgment or portion of a  
74 judgment entered but not collected. These records shall be subject to audit by the state auditor.  
75 The clerk of each court transmitting such funds shall report separately the amount of dollars  
76 collected on judgments entered for alcohol-related traffic offenses from other crime victims'  
77 compensation collections or services to victims collections.

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

81           11. The state courts administrator shall include in the annual report required by section  
82 476.350 the circuit court caseloads and the number of crime victims' compensation judgments  
83 entered.

84           12. All awards made to injured victims under sections 595.010 to 595.105 and all  
85 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and  
86 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance  
87 remaining in the crime victims' compensation fund at the end of each biennium shall not be  
88 subject to the provision of section 33.080 requiring the transfer of such unexpended balance to  
89 the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund.  
90 In the event that there are insufficient funds in the crime victims' compensation fund to pay all  
91 claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime  
92 victims' compensation fund, then no claim shall be paid until funds have again accumulated in  
93 the crime victims' compensation fund. When sufficient funds become available from the fund,  
94 awards which have not been paid shall be paid in chronological order with the oldest paid first.  
95 In the event an award was to be paid in installments and some remaining installments have not  
96 been paid due to a lack of funds, then when funds do become available that award shall be paid  
97 in full. All such awards on which installments remain due shall be paid in full in chronological  
98 order before any other postdated award shall be paid. Any award pursuant to this subsection is  
99 specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime  
100 victims' compensation fund.

101           13. When judgment is entered against a defendant as provided in this section and such  
102 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,  
103 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to  
104 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be  
105 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall

106 be entered on the court record. Under no circumstances shall the general revenue fund be used  
107 to reimburse court costs or pay for such judgment. The director of the department of corrections  
108 shall have the authority to pay into the crime victims' compensation fund from an offender's  
109 compensation or account the amount owed by the offender to the crime victims' compensation  
110 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering  
111 a correctional facility of the department of corrections.

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

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

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

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