

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 583

94TH GENERAL ASSEMBLY

0661S.08T

2007

AN ACT

To repeal sections 191.225, 431.056, 565.072, 595.030, 595.036, 595.209, RSMo, and to enact in lieu thereof twenty-one new sections relating to crime victims, with penalty provisions.

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

Section A. Sections 191.225, 431.056, 565.072, 595.030, 595.036, 595.209, RSMo, are
2 repealed and twenty-one new sections, to be known as sections 191.225, 217.692, 431.056,
3 455.003, 455.038, 537.047, 565.072, 566.224, 566.226, 589.660, 589.663, 589.666, 589.669,
4 589.672, 589.675, 589.678, 589.681, 589.683, 595.030, 595.036, and 595.209, to read as
5 follows:

191.225. 1. The department of health and senior services shall make payments to
2 [hospitals and physicians] **appropriate medical providers**, out of appropriations made for that
3 purpose, to cover the [cost] **charges** of the [medical] **forensic** examination [not covered by
4 insurance, Medicare or Medicaid] of persons who may be a victim of [the crime of rape as
5 defined in section 566.030, RSMo, or a victim of a crime as defined in chapter 566, RSMo, or
6 sections 568.020, 568.050, 568.060, 568.080, 568.090, 568.110, and 568.175, RSMo,] **a sexual
7 offense** if:

- 8 (1) The victim or the victim's guardian consents in writing to the examination;
- 9 (2) The report of the examination is made on a form approved by the attorney general
- 10 with the advice of the department of health and senior services; and

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.

11 (3) The report of the examination is filed [by the victim] with the prosecuting attorney
12 of the county in which the alleged incident occurred.

13

14 **The appropriate medical provider shall file the report of the examination within three**
15 **business days of completion of the forensic exam.**

16 2. A minor may consent to examination under this section. Such consent is not subject
17 to disaffirmance because of minority, and consent of parent or guardian of the minor is not
18 required for such examination. The [hospital or physician] **appropriate medical provider**
19 making the examination shall give written notice to the parent or guardian of a minor that such
20 an examination has taken place.

21 3. The attorney general, with the advice of the department of health and senior services,
22 shall develop the forms and procedures for gathering evidence **during the forensic examination**
23 under the provisions of this section [and shall furnish every hospital and physician in this state
24 with copies of such forms and procedures.

25 4. Reasonable hospital and physicians]. **The department of health and senior services**
26 **shall develop a checklist for appropriate medical providers to refer to while providing**
27 **medical treatment to victims of a sexual offense.**

28 **4. Evidentiary collection kits shall be developed and made available, subject to**
29 **appropriation, to appropriate medical providers by the highway patrol or its designees and**
30 **eligible crime laboratories. Such kits shall be distributed with the forms and procedures**
31 **for gathering evidence during forensic examinations of victims of a sexual offense to**
32 **appropriate medical providers upon request of the provider, in the amount requested, and**
33 **at no charge to the medical provider. All appropriate medical providers shall, with the**
34 **written consent of the victim, perform a forensic examination using the evidentiary**
35 **collection kit and forms and procedures for gathering evidence following the checklist for**
36 **any person presenting as a victim of a sexual offense.**

37 **5. All appropriate medical provider charges for eligible forensic examinations shall**
38 **be billed to and paid by the department of health and senior services. No appropriate medical**
39 **provider conducting forensic examinations and providing medical treatment to victims of**
40 **sexual offenses shall charge the victim for the forensic examination. For appropriate**
41 **medical provider charges related to the medical treatment of victims of sexual offenses, if**
42 **the victim is an eligible claimant under the crime victims' compensation fund, the**
43 **appropriate medical provider shall seek compensation under sections 595.010 to 595.075,**
44 **RSMo.**

45 **6. For purposes of this section, the following terms mean:**

46 (1) "Appropriate medical provider", any licensed nurse, physician, or physician
47 assistant, and any institution employing licensed nurses, physicians, or physician
48 assistants; provided that such licensed professionals are the only persons at such institution
49 to perform tasks under the provisions of this section;

50 (2) "Evidentiary collection kit", a kit used during a forensic examination that
51 includes materials necessary for appropriate medical providers to gather evidence in
52 accordance with the forms and procedures developed by the attorney general for forensic
53 examinations;

54 (3) "Forensic examination", an examination performed by an appropriate medical
55 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary
56 collection kit;

57 (4) "Medical treatment", the treatment of all injuries and health concerns resulting
58 directly from a patient's sexual assault or victimization.

217.692. 1. Notwithstanding any other provision of law to the contrary, any
2 offender incarcerated in a correctional institution serving any sentence of life with no
3 parole for fifty years or life without parole, whose plea of guilt was entered or whose trial
4 commenced prior to December 31, 1990, and who:

5 (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic
6 partner;

7 (2) Has no prior violent felony convictions;

8 (3) No longer has a cognizable legal claim or legal recourse; and

9 (4) Has a history of being a victim of continual and substantial physical or sexual
10 domestic violence that was not presented as an affirmative defense at trial or sentencing
11 and such history can be corroborated with evidence of facts or circumstances which existed
12 at the time of the alleged physical or sexual domestic violence of the offender, including but
13 not limited to witness statements, hospital records, social services records, and law
14 enforcement records;

15

16 shall be eligible for parole after having served fifteen years of such sentence when the
17 board determines by using the guidelines established by this section, that there is a strong
18 and reasonable probability that the person will not thereafter violate the law.

19 2. The board of probation and parole shall give a thorough review of the case
20 history and prison record of any offender described in subsection 1 of this section. At the
21 end of the board's review, the board shall provide the offender with a copy of a statement
22 of reasons for its parole decision.

23 **3. Any offender released under the provisions of this section shall be under the**
24 **supervision of the parole board for an amount of time to be determined by the board.**

25 **4. The parole board shall consider, but not be limited to the following criteria when**
26 **making its parole decision:**

27 **(1) Length of time served;**

28 **(2) Prison record and self-rehabilitation efforts;**

29 **(3) Whether the history of the case included corroborative material of physical,**
30 **sexual, mental, or emotional abuse of the offender, including but not limited to witness**
31 **statements, hospital records, social service records, and law enforcement records;**

32 **(4) If an offer of a plea bargain was made and if so, why the offender rejected or**
33 **accepted the offer;**

34 **(5) Any victim information outlined in subsection 7 of section 217.690 and section**
35 **595.209, RSMo;**

36 **(6) The offender's continued claim of innocence;**

37 **(7) The age and maturity of the offender at the time of the board's decision;**

38 **(8) The age and maturity of the offender at the time of the crime and any**
39 **contributing influence affecting the offender's judgment;**

40 **(9) The presence of a workable parole plan; and**

41 **(10) Community and family support.**

42 **5. Nothing in this section shall limit the review of any offender's case who is eligible**
43 **for parole prior to fifteen years, nor shall it limit in any way the parole board's power to**
44 **grant parole prior to fifteen years.**

45 **6. Nothing in this section shall limit the review of any offender's case who has**
46 **applied for executive clemency, nor shall it limit in any way the governor's power to grant**
47 **clemency.**

48 **7. It shall be the responsibility of the offender to petition the board for a hearing**
49 **under this section.**

50 **8. A person commits the crime of perjury if he or she, with the purpose to deceive,**
51 **knowingly makes a false witness statement to the board. Perjury under this section shall**
52 **be a class C felony.**

53 **9. In cases where witness statements alleging physical or sexual domestic violence**
54 **are in conflict as to whether such violence occurred or was continual and substantial in**
55 **nature, the history of such alleged violence shall be established by other corroborative**
56 **evidence in addition to witness statements, as provided by subsection 1 of this section. A**
57 **contradictory statement of the victim shall not be deemed a conflicting statement for**
58 **purposes of this section.**

431.056. A minor shall be qualified and competent to contract for housing, employment,
2 purchase of an automobile, receipt of a student loan, admission to high school or postsecondary
3 school, obtaining medical care, establishing a bank account [and] , admission to a shelter for
4 victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter, **and**
5 **receipt of services as a victim of domestic and sexual violence, including but not limited to**
6 **counseling, court advocacy, financial assistance, and other advocacy services, if:**

7 (1) The minor is sixteen or seventeen years of age; and

8 (2) The minor is homeless, as defined in subsection 1 of section 167.020, RSMo, or a
9 victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the
10 supervision of the children's division or the jurisdiction of the juvenile court; and

11 (3) The minor is self-supporting, such that the minor is without the physical or financial
12 support of a parent or legal guardian; and

13 (4) The minor's parent or legal guardian has consented to the minor living independent
14 of the parents' or guardians' control. Consent may be expressed or implied, such that:

15 (a) Expressed consent is any verbal or written statement made by the parents or guardian
16 of the minor displaying approval or agreement that the minor may live independently of the
17 parent's or guardian's control;

18 (b) Implied consent is any action made by the parent or guardian of the minor that
19 indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such
20 actions may include, but are not limited to:

21 a. Barring the minor from the home or otherwise indicating that the minor is not
22 welcome to stay;

23 b. Refusing to provide any or all financial support for the minor; or

24 c. Abusing or neglecting the minor, as defined in section 210.110, RSMo.

455.003. 1. A rape crisis center shall:

2 (1) **Require persons employed by or volunteering services to the rape crisis center**
3 **to maintain confidentiality of any information that would identify individuals served by**
4 **the center and any information or records that are directly related to the advocacy services**
5 **provided to such individuals; and**

6 (2) **Prior to providing any advocacy services, inform individuals served by the rape**
7 **crisis center of the nature and scope of the confidentiality requirements of subdivision (1)**
8 **of this subsection.**

9 **2. Any person employed by or volunteering services to a rape crisis center for**
10 **victims of sexual assault shall be incompetent to testify concerning any confidential**
11 **information in subsection 1 of this section, unless the confidentiality requirements is**
12 **waived in writing by the individual served by the center.**

13 **3. As used in this section, the term "rape crisis center" shall mean any public or**
14 **private agency that offers assistance to victims of sexual assault, as the term "sexual**
15 **assault" is defined in section 455.010, who are adults, as defined by section 455.010, or**
16 **qualified minors, as defined by section 431.056, RSMo.**

455.038. Every circuit clerk shall be responsible for providing information to
2 **individuals petitioning for ex parte orders of protection regarding notification of service**
3 **of these orders of protection. Such notification to the petitioner is required if the petitioner**
4 **has registered a telephone number with the victim notification system, established under**
5 **subsection 3 of section 650.310, RSMo. The petitioner shall be informed of his or her**
6 **option to receive notification of service of an ex parte order of protection on the respondent**
7 **by the circuit clerk and shall be provided information on how to receive notification of**
8 **service of ex parte orders of protection. The local law enforcement agency or any other**
9 **government agency responsible for serving ex parte orders of protection shall notify the**
10 **circuit clerk when no more service attempts are planned by that agency. The provisions**
11 **of this section shall only apply to those circuit clerks able to access a statewide victim**
12 **notification system designed to provide notification of service of orders of protection.**

537.047. 1. Any person who, while a child or minor as defined by section 573.010,
2 **RSMo, was a victim of a violation of sections 573.023, 573.025, 573.035, or 573.037, RSMo,**
3 **and who suffers physical or psychological injury or illness as a result of such violation,**
4 **shall be entitled to bring a civil action to recover the actual damages sustained as a result**
5 **of the violation, and shall also be entitled to recover the costs of the civil action and**
6 **reasonable fees for attorneys and expert witnesses. A psychological injury or illness as**
7 **described under this section need not be accompanied by physical injury or illness.**

8 **2. Any action described under this section shall be commenced within ten years of**
9 **the plaintiff attaining the age of twenty-one, or within three years of the date the plaintiff**
10 **discovers that the injury or illness was caused by the violation of an offense enumerated**
11 **in subsection one of this section, whichever later occurs.**

12 **3. A cause of action under this section may arise only if the violation that caused**
13 **the injury occurs on or after August 28, 2007.**

565.072. 1. A person commits the crime of domestic assault in the first degree if he or
2 **she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family**
3 **or household member or an adult who is or has been in a continuing social relationship of a**
4 **romantic or intimate nature with the actor, as defined in section 455.010, RSMo.**

5 **2. Domestic assault in the first degree is a class B felony unless in the course thereof the**
6 **actor inflicts serious physical injury on the victim or has previously pleaded guilty to or been**
7 **found guilty of committing this crime, in which case it is a class A felony.**

2 **566.224.** No prosecuting or circuit attorney, peace officer, governmental official,
3 or employee of a law enforcement agency shall request or require a victim of sexual assault
4 under section 566.040 or forcible rape under section 566.030 to submit to any polygraph
5 test or psychological stress evaluator exam as a condition for proceeding with a criminal
6 investigation of such crime.

2 **566.226. 1.** After August 28, 2007, any information contained in any court record,
3 whether written or published on the Internet, that could be used to identify or locate any
4 victim of sexual assault, domestic assault, stalking, or forcible rape shall be closed and
5 redacted from such record prior to disclosure to the public. Identifying information shall
6 include the name, home or temporary address, telephone number, social security number
7 or physical characteristics.

8 **2.** If the court determines that a person or entity who is requesting identifying
9 information of a victim has a legitimate interest in obtaining such information, the court
10 may allow access to the information, but only if the court determines that disclosure to the
11 person or entity would not compromise the welfare or safety of such victim.

589.660. As used in sections 589.660 to 589.681, the following terms mean:

2 (1) "Address", a residential street address, school address, or work address of a
3 person, as specified on the person's application to be a program participant;

4 (2) "Application assistant", an employee of a state or local agency, or of a nonprofit
5 program that provides counseling, referral, shelter, or other specialized service to victims
6 of domestic violence, rape, sexual assault, or stalking, who has been designated by the
7 respective agency or program, and who has been trained and registered by the secretary
8 of state to assist individuals in the completion of program participation applications;

9 (3) "Designated address", the address assigned to a program participant by the
10 secretary;

11 (4) "Mailing address", an address that is recognized for delivery by the United
12 States Postal Service;

13 (5) "Program", the address confidentiality program established in section 589.663;

14 (6) "Program participant", a person certified by the secretary of state as eligible
15 to participate in the address confidentiality program;

16 (7) "Secretary", the secretary of state.

589.663. There is created in the office of the secretary of state a program to be
2 known as the "Address Confidentiality Program" to protect victims of domestic violence,
3 rape, sexual assault, or stalking by authorizing the use of designated addresses for such
4 victims and their minor children. The program shall be administered by the secretary
5 under the following application and certification procedures:

6 (1) An adult person, a parent or guardian acting on behalf of a minor, or a
7 guardian acting on behalf of an incapacitated person may apply to the secretary to have
8 a designated address assigned by the secretary to serve as the person's address or the
9 address of the minor or incapacitated person;

10 (2) The secretary may approve an application only if it is filed with the office of the
11 secretary in the manner established by rule and on a form prescribed by the secretary. A
12 completed application shall contain:

13 (a) The application preparation date, the applicant's signature, and the signature
14 and registration number of the application assistant who assisted the applicant in applying
15 to be a program participant;

16 (b) A designation of the secretary as agent for purposes of service of process and
17 for receipt of first-class mail, legal documents, and certified mail;

18 (c) A sworn statement by the applicant that the applicant has good reason to believe
19 that he or she:

20 a. Is a victim of domestic violence, rape, sexual assault, or stalking; and

21 b. Fears further violent acts from his or her assailant;

22 (d) The mailing address where the applicant may be contacted by the secretary or
23 a designee and the telephone number or numbers where the applicant may be called by the
24 secretary or the secretary's designee; and

25 (e) One or more addresses that the applicant requests not be disclosed for the
26 reason that disclosure will jeopardize the applicant's safety or increase the risk of violence
27 to the applicant or members of the applicant's household;

28 (3) Upon receipt of a properly completed application, the secretary may certify the
29 applicant as a program participant. A program participant is certified for four years
30 following the date of initial certification unless the certification is withdrawn or cancelled
31 before that date. The secretary shall send notification of lapsing certification and a
32 reapplication form to a program participant at least four weeks prior to the expiration of
33 the program participant's certification;

34 (4) The secretary shall forward first-class mail, legal documents, and certified mail
35 to the appropriate program participants.

589.666. Certification of a program participant may be cancelled by the secretary
2 if one or more of the following conditions apply:

3 (1) If the program participant obtains a name change, unless the program
4 participant provides the secretary with documentation of a legal name change within ten
5 business days of the name change;

6 (2) If there is a change in the mailing address from the person listed on the
7 application, unless the program participant provides the secretary with notice of the
8 change in such manner as the secretary provides by rule; or

9 (3) The applicant or program participant violates subsection 2 of section 589.663.
589.669. Upon demonstration of a program participant's certification in the
2 program, state and local agencies and the courts shall accept the designated address as a
3 program participant's address when creating a new public record unless the secretary has
4 determined that:

5 (1) The agency has a bona fide statutory or administrative requirement for the use
6 of the program participant's address or mailing address, such that it is unable to fulfill its
7 statutory duties and obligations without the address; and

8 (2) The program participant's address or mailing address shall be used only for
9 those statutory and administrative purposes.

589.672. If the secretary deems it appropriate, the secretary may make a program
2 participant's address or mailing address available for inspection or copying, under the
3 following circumstances:

4 (1) If requested of the secretary by a law enforcement agency in the manner
5 provided for by rule; or

6 (2) Upon request to the secretary by a director of a state agency or the director's
7 designee in the manner provided for by rule and upon a showing of a bona fide statutory
8 or administrative requirement for the use of the program participant's address or mailing
9 address, such that the director or the director's designee is unable to fulfill statutory duties
10 and obligations without the address or mailing address.

589.675. If the secretary deems it appropriate, the secretary shall make a program
2 participant's address and mailing address available for inspection or copying under the
3 following circumstances:

4 (1) To a person identified in a court order, upon the secretary's receipt of such
5 court order that specifically orders the disclosure of a particular program participant's
6 address and mailing address and the reasons stated for the disclosure; or

7 (2) If the certification has been cancelled because the applicant or program
8 participant violated subsection 2 of section 589.663.

589.678. A program participant's application and supporting materials are not a
2 public record and shall be kept confidential by the secretary.

589.681. The secretary shall promulgate rules to establish and administer the
2 address confidentiality program. Any rule or portion of a rule, as that term is defined in
3 section 536.010, RSMo, that is created under the authority delegated in sections 589.660

4 to 589.681 shall become effective only if it complies with and is subject to all of the
5 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section
6 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general
7 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
8 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
9 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be
10 invalid and void.

589.683. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

2 (1) Any new program authorized under sections 589.660 to 589.681 shall
3 automatically sunset six years after the effective date of sections 589.660 to 589.681 unless
4 reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 589.660
6 to 589.681 shall automatically sunset twelve years after the effective date of the
7 reauthorization of sections 589.660 to 589.681; and

8 (3) Sections 589.660 to 589.681 shall terminate on September first of the calendar
9 year immediately following the calendar year in which a program authorized under
10 sections 589.660 to 589.681 is sunset.

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 support
3 from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable
4 expenses or indebtedness reasonably incurred:

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

9 (2) As a result of personal property being seized in an investigation by law
10 enforcement. Compensation paid for an "out-of-pocket loss" under this subdivision shall
11 be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

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

20 division of family services personnel; or by any other member of the victim's family. **In the case**
21 **of a sexual offense, filing a report of the offense to the proper authorities may include, but**
22 **not be limited to, the filing of the report of the forensic examination by the appropriate**
23 **medical provider, as defined in section 191.225, RSMo, with the prosecuting attorney of**
24 **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, RSMo, or licensed to practice medicine
31 in the state in which the service is provided;

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

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

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

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

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

49 7. The method and timing of the payment of any compensation pursuant to sections
50 595.010 to 595.075 shall be determined by the division.

595.036. 1. **Any party aggrieved by a decision of the department on a claim under**
2 **the provisions of sections 595.010 to 595.070 may, within thirty days following the date of**
3 **notification of mailing of such decision, file a petition with the division of workers'**
4 **compensation of the department of labor and industrial relations to have such decision**
5 **heard de novo by an administrative law judge. The administrative law judge may affirm,**

6 reverse, or set aside the decision of the department of public safety on the basis of the
7 evidence previously submitted in such case or may take additional evidence or may remand
8 the matter to the department of public safety with directions. The division of workers'
9 compensation shall promptly notify the parties of its decision and the reasons therefor.

10 2. Any of the parties to a decision of **an administrative law judge of** the division of
11 workers' compensation, **as provided by subsection 1 of this section**, on a claim heard under the
12 provisions of sections 595.010 to 595.070 may, within thirty days following the date of
13 notification or mailing of such decision, file a petition with the labor and industrial relations
14 commission to have such decision reviewed by the commission. The commission may allow or
15 deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set
16 aside the decision of the division of workers' compensation on the basis of the evidence
17 previously submitted in such case or may take additional evidence or may remand the matter to
18 the division of workers' compensation with directions. The commission shall promptly notify
19 the parties of its decision and the reasons therefor.

20 [2.] 3. Any petition for review filed pursuant to subsection 1 of this section shall be
21 deemed to be filed as of the date endorsed by the United States Postal Service on the envelope
22 or container in which such petition is received.

23 [3.] 4. Any party who is aggrieved by a final decision of the labor and industrial relations
24 commission pursuant to the provisions of subsections [1 and] 2 **and 3** of this section [may seek
25 judicial review thereof, as provided in sections 536.100 to 536.140, RSMo] **shall within thirty**
26 **days from the date of the final decision, appeal the decision to the court of appeals. Such**
27 **appeal may be taken by filing notice of appeal with commission, whereupon the**
28 **commission shall, under its certificate, return to the court all documents and papers on file**
29 **in the matter, together with a transcript of the evidence, the findings and award, which**
30 **shall thereupon become the record of the cause. Upon appeal no additional evidence shall**
31 **be heard and, in the absence of fraud, the findings of fact made by the commission within**
32 **its powers shall be conclusive and binding. The court, on appeal, shall review only**
33 **questions of law and may modify, reverse, remand for rehearing, or set aside the award**
34 **upon any of the following grounds and no other:**

35 (1) **That the commission acted without or in excess of its powers;**

36 (2) **That the award was procured by fraud;**

37 (3) **That the facts found by the commission do not support the award;**

38 (4) **That there was not sufficient competent evidence in the record to warrant the**
39 **making of the award.**

595.209. 1. The following rights shall automatically be afforded to victims of dangerous
2 felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined

3 in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023,
4 RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section
5 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of
6 all other crimes and witnesses of crimes:

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

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

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

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

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

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

24 (b) The right to be informed by local law enforcement agencies or the appropriate
25 juvenile authorities of the availability of victim compensation assistance, assistance in obtaining
26 documentation of the victim's losses, including, but not limited to and subject to existing law
27 concerning protected information or closed records, access to copies of complete, unaltered,
28 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon
29 request to the appropriate law enforcement agency by the victim or the victim's representative,
30 and emergency crisis intervention services available in the community;

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

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

36 (6) For victims, the right to be informed by appropriate juvenile authorities of probation
37 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings
38 or to offer a written statement, video or audio tape, **or a statement by counsel or a**

39 **representative designated by the victim on behalf of the victim** in lieu of a personal
40 appearance, the right to be informed by the board of probation and parole of probation revocation
41 hearings initiated by the board and of parole hearings, the right to be present at each and every
42 phase of parole hearings [and] , the right to be heard at probation revocation and parole hearings
43 or to offer a written statement, video or audio tape in lieu of a personal appearance, **and the**
44 **right to have, upon written request of the victim, a partition set up in the probation or**
45 **parole hearing room in such a way that the victim is shielded from the view of the**
46 **probationer or parolee**, and the right to be informed by the custodial mental health facility or
47 agency thereof of any hearings for the release of a person committed pursuant to the provisions
48 of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such
49 hearings or to offer a written statement, video or audio tape, **or a statement by counsel or a**
50 **representative designated by the victim** in lieu of personal appearance;

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

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

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

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

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

65 (e) Within twenty-four hours, any escape by such person from a municipal detention
66 facility, county jail, a correctional facility operated by the department of corrections, mental
67 health facility, or the division of youth services or any agency thereof, and any subsequent
68 recapture of such person;

69 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court
70 presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court
71 presiding over releases under section 217.362, RSMo, to release such person or any decision by
72 the governor to commute the sentence of such person or pardon such person;

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

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

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

80 (10) For victims and witnesses, on charged cases or submitted cases where no charge
81 decision has yet been made, to be informed by the prosecuting attorney of the status of the case
82 and of the availability of victim compensation assistance and of financial assistance and
83 emergency and crisis intervention services available within the community and information
84 relative to applying for such assistance or services, and of any final decision by the prosecuting
85 attorney not to file charges;

86 (11) For victims, to be informed by the prosecuting attorney of the right to restitution
87 which shall be enforceable in the same manner as any other cause of action as otherwise
88 provided by law;

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

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

97 (14) An employer may not discharge or discipline any witness, victim or member of a
98 victim's immediate family for honoring a subpoena to testify in a criminal proceeding, **attending**
99 **a criminal proceeding**, or for participating in the preparation of a criminal proceeding, **or**
100 **require any witness, victim, or member of a victim's immediate family to use vacation time,**
101 **personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding,**
102 **attending a criminal proceeding, or participating in the preparation of a criminal**
103 **proceeding;**

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

106 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
107 victims, the right to speedy appellate review of their cases, provided that nothing in this
108 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's
109 defense. The attorney general shall provide victims, upon their written request, case status

110 information throughout the appellate process of their cases. The provisions of this subdivision
111 shall apply only to proceedings involving the particular case to which the person is a victim or
112 witness;

113 (17) For victims and witnesses, to be provided by the court, a secure waiting area during
114 court proceedings and to receive notification of the date, time and location of any hearing
115 conducted by the court for reconsideration of any sentence imposed, modification of such
116 sentence or recall and release of any defendant from incarceration.

117 2. The provisions of subsection 1 of this section shall not be construed to imply any
118 victim who is incarcerated by the department of corrections or any local law enforcement agency
119 has a right to be released to attend any hearing or that the department of corrections or the local
120 law enforcement agency has any duty to transport such incarcerated victim to any hearing.

121 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1
122 of this section shall provide the appropriate person or agency with their current addresses and
123 telephone numbers or the addresses or telephone numbers at which they wish notification to be
124 given.

125 4. Notification by the appropriate person or agency utilizing the statewide automated
126 crime victim notification system as established in section 650.310, RSMo, shall constitute
127 compliance with the victim notification requirement of this section. If notification utilizing the
128 statewide automated crime victim notification system cannot be used, then written notification
129 shall be sent by certified mail to the most current address provided by the victim.

130 5. Victims' rights as established in section 32 of article I of the Missouri Constitution or
131 the laws of this state pertaining to the rights of victims of crime shall be granted and enforced
132 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor
133 of the defendant to exclude victims or prevent their full participation in each and every phase of
134 parole hearings or probation revocation hearings. The rights of the victims granted in this section
135 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's

136 rights. The victim has an absolute right to be present at any hearing in which the defendant is
137 present before a probation and parole hearing officer.

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