

FIRST REGULAR SESSION

# HOUSE BILL NO. 431

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ROWLAND.

0884L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 595.020 and 595.030, RSMo, and to enact in lieu thereof two new sections relating to compensation for damages arising from service of process.

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*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Section A. Sections 595.020 and 595.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 595.020 and 595.030, to read as follows: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 compensation pursuant to sections 595.010 to 595.075:

(1) A victim of a crime;

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

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

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

(a) A dependent of the victim;

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

(c) A survivor of the victim requiring counseling as a direct result of the death of the victim; **and**

**(4) The owner of property damaged by the arresting law enforcement agency during service of process, unless the damaged property is owned by the offender or an accomplice of an offender.**

2. An offender or an accomplice of an offender shall in no case be eligible to receive compensation with respect to a crime committed by the offender. No victim or dependent shall

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 be denied compensation solely because he is a relative of the offender or was living with the  
19 offender as a family or household member at the time of the injury or death. However, the  
20 department may award compensation to a victim or dependent who is a relative, family or  
21 household member of the offender only if the department can reasonably determine the offender  
22 will receive no substantial economic benefit or unjust enrichment from the compensation.

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

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

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

35             (1) The department shall suspend all proceedings and payments until such time as the  
36 claimant is released from incarceration;

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

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

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

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

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

53 (2) The place that the crime occurred is a state, possession or territory of the United  
54 States, or location outside of the United States that is covered and defined in 18 U.S.C. Section  
55 2331, that does not have a crime victims' compensation program for which the victim is eligible  
56 and which provides at least the same compensation that the victim would have received if he had  
57 been injured in Missouri.

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

12 **(3) As a result of damages incurred during service of process. Compensation paid**  
13 **for an out-of-pocket loss under this subdivision shall be in an amount equal to half of the**  
14 **reasonable reimbursement costs of the property.**

15 2. No compensation shall be paid unless the department of public safety finds that a  
16 crime was committed, that such crime directly resulted in personal physical injury to, or the death  
17 of, the victim, and that police records show that such crime was promptly reported to the proper  
18 authorities. In no case may compensation be paid if the police records show that such report was  
19 made more than forty-eight hours after the occurrence of such crime, unless the department of  
20 public safety finds that the report to the police was delayed for good cause. If the victim is under  
21 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by  
22 a physician, a nurse, or hospital emergency room personnel; by the children's division personnel;  
23 or by any other member of the victim's family. In the case of a sexual offense, filing a report of  
24 the offense to the proper authorities may include, but not be limited to, the filing of the report  
25 of the forensic examination by the appropriate medical provider, as defined in section 595.220,  
26 with the prosecuting attorney of the county in which the alleged incident occurred.

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

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

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

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

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

37 (4) Professional counselor licensed pursuant to chapter 337.

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

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

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

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