

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 1769, Page 6, Section 570.095, Line 140, by inserting immediately after
2 all of said section and line the following:

3
4 "595.209. 1. The following rights shall automatically be afforded to victims of dangerous
5 felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section
6 565.020, victims of voluntary manslaughter, as defined in section 565.023, victims of any offense
7 under chapter 566, victims of an attempt to commit one of the preceding crimes, as defined in
8 section 562.012, and victims of domestic assault, as defined in sections 565.072 to 565.076; and,
9 upon written request, the following rights shall be afforded to victims of all other crimes and
10 witnesses of crimes:

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

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

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

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

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

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

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

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

36 (d) Within twenty-four hours, any escape by such person from a municipal detention

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1 facility, county jail, a correctional facility operated by the department of corrections, mental health
2 facility, or the division of youth services or any agency thereof, and any subsequent recapture of
3 such person;

4 (6) For victims, the right to be informed by appropriate juvenile authorities of probation
5 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or
6 to offer a written statement, video or audio tape, counsel or a representative designated by the
7 victim in lieu of a personal appearance, the right to be informed by the board of probation and
8 parole of probation revocation hearings initiated by the board and of parole hearings, the right to be
9 present at each and every phase of parole hearings, the right to be heard at probation revocation and
10 parole hearings or to offer a written statement, video or audio tape, counsel or a representative
11 designated by the victim in lieu of a personal appearance, and the right to have, upon written request
12 of the victim, a partition set up in the probation or parole hearing room in such a way that the victim
13 is shielded from the view of the probationer or parolee, and the right to be informed by the custodial
14 mental health facility or agency thereof of any hearings for the release of a person committed
15 pursuant to the provisions of chapter 552, the right to be present at such hearings, the right to be
16 heard at such hearings or to offer a written statement, video or audio tape, counsel or a
17 representative designated by the victim in lieu of personal appearance;

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

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

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

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

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

32 (e) 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 health
34 facility, or the division of youth services or any agency thereof, and any subsequent recapture of
35 such person;

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

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

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

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

47 (10) For victims and witnesses, on charged cases or submitted cases where no charge
48 decision has yet been made, to be informed by the prosecuting attorney of the status of the case and

1 of the availability of victim compensation assistance and of financial assistance and emergency and
2 crisis intervention services available within the community and information relative to applying for
3 such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

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

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

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

14 (14) An employer may not discharge or discipline any witness, victim or member of a
15 victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending a
16 criminal proceeding, or for participating in the preparation of a criminal proceeding, or require any
17 witness, victim, or member of a victim's immediate family to use vacation time, personal time, or
18 sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal
19 proceeding, or participating in the preparation of a criminal proceeding;

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

22 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
23 victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision
24 shall prevent the defendant from having sufficient time to prepare such defendant's defense. The
25 attorney general shall provide victims, upon their written request, case status information
26 throughout the appellate process of their cases. The provisions of this subdivision shall apply only
27 to proceedings involving the particular case to which the person is a victim or witness;

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

32 (18) For victims, the right to receive upon request from the department of corrections a
33 photograph taken of the defendant prior to release from incarceration; and

34 (19) For victims and witnesses, a full order of protection if such victims or witnesses fear
35 for their safety. A victim or witness obtaining a full order of protection under this subdivision shall
36 not be required to release his or her Social Security number, date of birth, or contact number;
37 however, the victim's or witness's last known address may be released upon written request of the
38 defendant or defense counsel, but only if such release is approved by the court. If the victim's or
39 witness's last known address was released without approval of the court, the person releasing such
40 information shall be held in contempt of court and fined one thousand dollars.

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

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

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

6 5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution or the
7 laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless
8 of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant
9 to exclude victims or prevent their full participation in each and every phase of parole hearings or
10 probation revocation hearings. The rights of the victims granted in this section are absolute and the
11 policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has
12 an absolute right to be present at any hearing in which the defendant is present before a probation
13 and parole hearing officer."; and

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15 Further amend said bill by amending the title, enacting clause, and intersectional references
16 accordingly.