

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 921

98TH GENERAL ASSEMBLY

2016

5905S.04T

AN ACT

To repeal sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, and to enact in lieu thereof seven new sections relating to victims of crime.

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

Section A. Sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 9.172, 43.545, 173.2050, 455.543, 455.545, 595.030, and 595.209, to read as follows:

9.172. The month of February is hereby designated as "Teen Dating Violence Awareness Month" in the state of Missouri. One in three teens in the United States will experience physical, sexual, or emotional abuse by someone with whom they are in a relationship before they become adults. The citizens of this state are encouraged to observe the month with appropriate activities and events to raise awareness of abuse in teen relationships.

43.545. The state highway patrol shall include [in its voluntary system of reporting for compilation in the "Crime in Missouri"] all reported incidents of domestic violence as defined in section 455.010, whether or not an arrest is made, **in its system of reporting for compilation in the annual crime report published under section 43.505.** All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol.

173.2050. 1. The governing board of each public institution of higher education in this state shall engage in discussions with law

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

3 enforcement agencies with jurisdiction over the premises of an
4 institution to develop and enter into a memorandum of understanding
5 concerning sexual assault, domestic violence, dating violence, and
6 stalking, as defined in the federal Higher Education Act of 1965, 20
7 U.S.C. Section 1092(f), involving students both on and off campus.

8 2. The memorandum of understanding shall contain detailed
9 policies and protocols regarding sexual assault, domestic violence,
10 dating violence, and stalking involving a student that comport with
11 best practices and current professional practices. At a minimum, the
12 memorandum shall set out procedural requirements for the reporting
13 of an offense, protocol for establishing who has jurisdiction over an
14 offense, and criteria for determining when an offense is to be reported
15 to law enforcement.

16 3. The department of public safety in cooperation with the
17 department of higher education shall promulgate rules and regulations
18 to facilitate the implementation of this section. Any rule or portion of
19 a rule, as that term is defined in section 536.010, that is created under
20 the authority delegated in this section shall become effective only if it
21 complies with and is subject to all of the provisions of chapter 536 and,
22 if applicable, section 536.028. This section and chapter 536 are
23 nonseverable, and if any of the powers vested with the general
24 assembly pursuant to chapter 536 to review, to delay the effective date,
25 or to disapprove and annul a rule are subsequently held
26 unconstitutional, then the grant of rulemaking authority and any rule
27 proposed or adopted after August 28, 2016, shall be invalid and void.

455.543. 1. In any incident investigated by a law enforcement agency
2 involving a homicide or suicide, the law enforcement agency shall make a
3 determination as to whether the homicide or suicide is related to domestic
4 violence.

5 2. In making such determination, the local law enforcement agency may
6 consider a number of factors including, but not limited to, the following:

7 (1) If the relationship between the perpetrator and the victim is or was
8 that of a family or household member;

9 (2) Whether the victim or perpetrator had previously filed for an order of
10 protection;

11 (3) Whether any of the subjects involved in the incident had previously
12 been investigated for incidents of domestic violence; and

13 (4) Any other evidence regarding the homicide or suicide that assists the
14 agency in making its determination.

15 3. After making a determination as to whether the homicide or suicide is
16 related to domestic violence, the law enforcement agency shall forward the
17 information required [within fifteen days] to the Missouri state highway patrol
18 on a form or format approved by the patrol. The required information shall
19 include the gender and age of the victim, the type of incident investigated, the
20 disposition of the incident and the relationship of the victim to the
21 perpetrator. The state highway patrol shall develop a form for this purpose
22 which shall be distributed by the department of public safety to all law
23 enforcement agencies by October 1, 2000. [Completed forms shall be forwarded
24 to the highway patrol without undue delay as required by section 43.500; except
25 that all such reports shall be forwarded no later than seven days after an incident
26 is determined or identified as a homicide or suicide involving domestic violence.]

455.545. The highway patrol shall compile an annual report of homicides
2 and suicides related to domestic violence. Such report shall be presented by
3 [February] **March** first of the subsequent year to the governor, speaker of the
4 house of representatives, and president pro tempore of the senate.

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

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

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

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

15 2. No compensation shall be paid unless the department of public safety
16 finds that a crime was committed, that such crime directly resulted in personal
17 physical injury to, or the death of, the victim, and that police records show that
18 such crime was promptly reported to the proper authorities. In no case may
19 compensation be paid if the police records show that such report was made more

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

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

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

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

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

40 (3) Clinical social worker licensed pursuant to chapter 337; [or]

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

42 **(5) Board certified psychiatric-mental health clinical nurse**
43 **specialist or board certified psychiatric-mental health nurse**
44 **practitioner licensed under chapter 335 or licensed in the state in**
45 **which the service is provided.**

46 5. Any compensation paid pursuant to sections 595.010 to 595.075 for
47 death or personal injury shall be in an amount not exceeding out-of-pocket loss,
48 together with loss of earnings or support from gainful employment, not to exceed
49 four hundred dollars per week, resulting from such injury or death. In the event
50 of death of the victim, an award may be made for reasonable and necessary
51 expenses actually incurred for preparation and burial not to exceed five thousand
52 dollars.

53 6. Any compensation for loss of earnings or support from gainful
54 employment shall be in an amount equal to the actual loss sustained not to
55 exceed four hundred dollars per week; provided, however, that no award pursuant
56 to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two

57 or more persons are entitled to compensation as a result of the death of a person
58 which is the direct result of a crime or in the case of a sexual assault, the
59 compensation shall be apportioned by the department of public safety among the
60 claimants in proportion to their loss.

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

63 8. The department shall have the authority to negotiate the costs of
64 medical care or other services directly with the providers of the care or services
65 on behalf of any victim receiving compensation pursuant to sections 595.010 to
66 595.075.

595.209. 1. The following rights shall automatically be afforded to victims
2 of dangerous felonies, as defined in section 556.061, victims of murder in the first
3 degree, as defined in section 565.020, victims of voluntary manslaughter, as
4 defined in section 565.023, [and] **victims of any offense under chapter 566,**
5 **victims of an attempt to commit one of the preceding crimes, as defined in section**
6 **564.011, and victims of domestic assault, as defined in sections 565.072**
7 **to 565.076;** and, upon written request, the following rights shall be afforded to
8 victims of all other crimes and witnesses of crimes:

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

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

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

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

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

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

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

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

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

42 (6) For victims, the right to be informed by appropriate juvenile
43 authorities of probation revocation hearings initiated by the juvenile authority
44 and the right to be heard at such hearings or to offer a written statement, video
45 or audio tape, counsel or a representative designated by the victim in lieu of a
46 personal appearance, the right to be informed by the board of probation and
47 parole of probation revocation hearings initiated by the board and of parole
48 hearings, the right to be present at each and every phase of parole hearings, the
49 right to be heard at probation revocation and parole hearings or to offer a written
50 statement, video or audio tape, counsel or a representative designated by the
51 victim in lieu of a personal appearance, and the right to have, upon written
52 request of the victim, a partition set up in the probation or parole hearing room
53 in such a way that the victim is shielded from the view of the probationer or
54 parolee, and the right to be informed by the custodial mental health facility or
55 agency thereof of any hearings for the release of a person committed pursuant to
56 the provisions of chapter 552, the right to be present at such hearings, the right
57 to be heard at such hearings or to offer a written statement, video or audio tape,
58 counsel or a representative designated by the victim in lieu of personal
59 appearance;

60 (7) For victims and witnesses, upon their written request, the right to be
61 informed by the appropriate custodial authority, including any municipal
62 detention facility, juvenile detention facility, county jail, correctional facility
63 operated by the department of corrections, mental health facility, division of
64 youth services or agency thereof if the offense would have been a felony if

65 committed by an adult, postconviction or commitment pursuant to the provisions
66 of chapter 552 of the following:

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

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

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

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

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

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

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

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

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

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

100 (11) For victims, to be informed by the prosecuting attorney of the right
101 to restitution which shall be enforceable in the same manner as any other cause

102 of action as otherwise provided by law;

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

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

112 (14) An employer may not discharge or discipline any witness, victim or
113 member of a victim's immediate family for honoring a subpoena to testify in a
114 criminal proceeding, attending a criminal proceeding, or for participating in the
115 preparation of a criminal proceeding, or require any witness, victim, or member
116 of a victim's immediate family to use vacation time, personal time, or sick leave
117 for honoring a subpoena to testify in a criminal proceeding, attending a criminal
118 proceeding, or participating in the preparation of a criminal proceeding;

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

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

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

135 (18) For victims, the right to receive upon request from the department
136 of corrections a photograph taken of the defendant prior to release from
137 incarceration.

138 2. The provisions of subsection 1 of this section shall not be construed to

139 imply any victim who is incarcerated by the department of corrections or any local
140 law enforcement agency has a right to be released to attend any hearing or that
141 the department of corrections or the local law enforcement agency has any duty
142 to transport such incarcerated victim to any hearing.

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

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

153 5. Victims' rights as established in Section 32 of Article I of the Missouri
154 Constitution or the laws of this state pertaining to the rights of victims of crime
155 shall be granted and enforced regardless of the desires of a defendant and no
156 privileges of confidentiality shall exist in favor of the defendant to exclude victims
157 or prevent their full participation in each and every phase of parole hearings or
158 probation revocation hearings. The rights of the victims granted in this section
159 are absolute and the policy of this state is that the victim's rights are paramount
160 to the defendant's rights. The victim has an absolute right to be present at any
161 hearing in which the defendant is present before a probation and parole hearing
162 officer.

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