

HOUSE BILL No. 5467

February 8, 1990, Introduced by Reps. Perry Bullard, Jondahl, Van Regenmorter and Jaye and referred to the Committee on Judiciary.

A bill to amend sections 1, 4, 5, and 11 of Act No. 223 of the Public Acts of 1976, entitled

"An act to create the crime victims compensation board; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties,"

sections 1 and 4 as amended by Act No. 157 of the Public Acts of 1985, section 5 as amended by Act No. 367 of the Public Acts of 1988, and section 11 as amended by Act No. 247 of the Public Acts of 1989, being sections 18.351, 18.354, 18.355, and 18.361 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 4, 5, and 11 of Act No. 223 of the
2 Public Acts of 1976, sections 1 and 4 as amended by Act No. 157
3 of the Public Acts of 1985, section 5 as amended by Act No. 367
4 of the Public Acts of 1988, and section 11 as amended by Act

1 No. 247 of the Public Acts of 1989, being sections 18.351,
2 18.354, 18.355, and 18.361 of the Michigan Compiled Laws, are
3 amended to read as follows:

4 Sec. 1. As used in this act:

5 (a) "Board" means the crime victims compensation board.

6 (b) "Claimant" means a victim or intervenor who is injured,
7 ~~in this state,~~ or any other person eligible for an award pursu-
8 ant to section 4 (1) OR 5(1), who files a claim pursuant to this
9 act.

10 (c) "Crime" means an act ~~which~~ THAT constitutes a crime
11 pursuant to the laws of this state ~~—~~ or the United States, OR
12 AN ACT COMMITTED IN ANOTHER STATE THAT IF COMMITTED IN THIS STATE
13 WOULD CONSTITUTE A CRIME PURSUANT TO THE LAWS OF THIS STATE OR
14 THE UNITED STATES; and ~~which~~ THAT causes an injury within ~~the~~
15 ~~state of Michigan~~ THIS STATE, OR THAT CAUSES AN INJURY TO A RES-
16 IDENT OF THIS STATE WITHIN A STATE THAT DOES NOT HAVE A VICTIM
17 COMPENSATION PROGRAM FOR WHICH THE RESIDENT IS ELIGIBLE, AS ELI-
18 GIBILITY IS DESCRIBED IN THIS ACT.

19 (d) "Intervenor" means a person who goes to the aid of one
20 who has become a victim of a crime and who suffers personal phys-
21 ical injury.

22 (e) "Out-of-pocket loss" means the unreimbursed and unreim-
23 bursable expenses or indebtedness reasonably incurred for medical
24 care, psychological counseling, REPLACEMENT SERVICES, any nonmed-
25 ical remedial treatment rendered in accordance with a recognized
26 religious method of healing, or other services necessary as a
27 result of the injury upon which a claim is based.

1 (f) "Personal physical injury" means actual bodily harm and
2 includes pregnancy.

3 (G) "REPLACEMENT SERVICES" MEANS HOME MAKING TASKS, CHILD
4 CARE, TRANSPORTATION, AND OTHER SERVICES PREVIOUSLY PERFORMED BY
5 THE VICTIM THAT, BECAUSE OF THE VICTIM'S INJURY, MUST TEMPORARILY
6 OR PERMANENTLY BE PERFORMED BY A PERSON OTHER THAN THE VICTIM.

7 (H) ~~(g)~~ "Support" means actual monetary payments made by a
8 victim or intervenor to, or for, a person principally dependent
9 on the victim or intervenor.

10 (I) ~~(h)~~ "Victim" means a person who suffers a personal
11 physical injury as a direct result of a crime.

12 Sec. 4. (1) Except as provided in subsection (2), the fol-
13 lowing persons are eligible for awards:

14 (a) A victim or an intervenor of a crime.

15 (b) A surviving spouse, parent, GRANDPARENT, child, ~~or~~
16 sibling, OR GRANDCHILD of a victim of a crime who died as a
17 direct result of the crime.

18 (c) Any other person dependent for his or her principal sup-
19 port upon a victim of a crime who died as a direct result of the
20 crime.

21 (2) A person is not eligible to receive an award if the
22 person is ~~any~~ EITHER of the following:

23 (a) Criminally responsible for the crime.

24 (b) An accomplice to the crime.

25 ~~(c) A person who resides in the same household with the~~
26 ~~person who is criminally responsible for the crime, except to the~~
27 ~~extent that actual out of pocket expenses incurred by the victim~~

~~1 may be paid directly to a medical care provider by the board. As
2 used in this subdivision "resides" does not include the situation
3 of a domestic employee, unrelated by blood or marriage to the
4 employer, who is living in the household of the employer.~~

5 (3) An award shall not be made on a claim unless the claim-
6 ant has incurred a minimum out-of-pocket loss of \$200.00 or has
7 lost at least 2 continuous weeks' earnings or support, but the
8 board may waive the limitations of this subsection in the case of
9 a claimant retired by reason of age or disability. If the claim-
10 ant is a victim of criminal sexual conduct in the first, second,
11 or third degree, the board may waive the limitations of this
12 subsection.

13 Sec. 5. (1) A claim may be filed by the person eligible to
14 receive an award, or if a person is a minor, by his or her parent
15 or guardian.

16 (2) A claim shall be filed by the claimant not later than
17 1 year after the occurrence of the crime upon which the claim is
18 based, except ~~that if~~ AS FOLLOWS:

19 (A) IF police records show that a victim of ~~police records~~
20 ~~show that a victim of~~ criminal sexual conduct in the first,
21 second, or third degree was less than 18 years of age at the time
22 of the occurrence and that the victim reported the crime before
23 attaining 19 years of age, a claim based on that crime may be
24 filed not later than 1 year after the crime was reported.

25 (B) A CLAIM MAY BE FILED WITHIN 1 YEAR AFTER THE DISCOVERY
26 BY A LAW ENFORCEMENT AGENCY THAT INJURIES PREVIOUSLY DETERMINED

1 TO BE ACCIDENTAL, OF UNKNOWN ORIGIN, OR RESULTING FROM NATURAL
2 CAUSES, WERE INCURRED AS THE RESULT OF A CRIME.

3 (3) A claim shall be filed in the office of the board in
4 person or by mail. The board shall accept for filing a claim
5 ~~which~~ THAT is submitted by a person who is eligible and which
6 alleges the jurisdictional requirements set forth in this act and
7 meets the requirements as to form as approved by the board.

8 (4) Upon filing of a claim, the board shall promptly notify
9 the prosecuting attorney of the county in which the crime is
10 alleged to have occurred. If, within 20 days after the notifica-
11 tion, the prosecuting attorney advises the board that a criminal
12 prosecution is pending upon the same alleged crime and requests
13 that action by the board be deferred, the board shall defer the
14 proceedings until the criminal prosecution is concluded. When
15 the criminal prosecution is concluded, the prosecuting attorney
16 shall promptly notify the board. ~~Nothing in this~~ THIS section
17 ~~prohibits~~ DOES NOT PROHIBIT the board from granting emergency
18 awards pursuant to section 9.

19 Sec. 11. (1) An award made pursuant to this act shall be an
20 amount not more than an out-of-pocket loss, including indebted-
21 ness reasonably incurred for medical or other services necessary
22 as a result of the injury upon which the claim is based, together
23 with loss of earnings or support resulting from the injury. The
24 aggregate award under this act shall not exceed \$15,000.00 per
25 claimant.

26 (2) An award made for loss of earnings or support, unless
27 reduced pursuant to this act, shall be in an amount equal to the

1 actual loss sustained. An award shall not exceed ~~-\$100.00-~~
2 \$200.00 for each week of lost earnings or support.

3 (3) An award shall be reduced by the amount of a payment
4 received or to be received as a result of the injury:

5 (a) From or on behalf of the person who committed the
6 crime.

7 (b) From insurance, but not including disability or death
8 benefits paid or to be paid to a peace officer, or a corrections
9 officer, on account of injuries sustained in the course of
10 employment.

11 (c) From public funds, but not including disability or death
12 benefits paid or to be paid to a peace officer, or a corrections
13 officer, on account of injuries sustained in the course of
14 employment.

15 (d) From an emergency award pursuant to section 9.

16 (4) The board shall determine whether the claimant contrib-
17 uted to the infliction of his or her injury and shall reduce the
18 amount of the award or reject the claim altogether, in accordance
19 with the determination. The board may disregard for this purpose
20 the responsibility of the claimant for his or her own injury
21 where the record shows that the injury was attributable to
22 efforts by the claimant to prevent a crime or an attempted crime
23 from occurring in his or her presence or to apprehend a person
24 who had committed a crime in his or her presence.

25 (5) If the board finds that the claimant will not suffer
26 serious financial hardship as a result of the loss of earnings or
27 support and the out-of-pocket expenses incurred as a result of

1 the injury if not granted financial assistance, the board shall
2 deny the award. In determining the serious financial hardship,
3 the board shall consider all of the financial resources of the
4 claimant.

5 (6) If at any time after March 31, 1977, a person's claim
6 was denied, or an award to the person was reduced, under this act
7 because a disability or death benefit was paid or was to be paid
8 to a corrections officer as a result of an injury sustained in
9 the course of employment, both of the following shall apply:

10 (a) The person whose claim was denied or whose award was
11 reduced may file a new claim under this act for the award or the
12 part of the award that was denied for the reason described in
13 this subsection, within 1 year after the effective date of the
14 amendatory act that added this subsection.

15 (b) The board shall grant to the person who files a claim
16 under subdivision (a) an award in the full amount prescribed
17 under subsection (1) if the person's claim was previously denied,
18 or in the amount by which the previous award was reduced if the
19 person was previously granted a reduced award.

20 (7) IF THE BOARD DETERMINES THAT THE PAYMENT OF AN AWARD
21 WILL CAUSE SUBSTANTIAL UNJUST ENRICHMENT AND ECONOMIC BENEFIT TO
22 A PERSON CRIMINALLY RESPONSIBLE FOR THE CRIME, THE BOARD SHALL
23 DENY THE PAYMENT.