



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 535 (as introduced 9-24-19)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 2-12-20

CONTENT

The bill would amend the crime victim's compensation Act to do the following:

- **Add Section 5b to specify that an insurer would be eligible to be paid by the Crime Victim Services Commission for the actual cost of towing and storage fees paid for a victim to recover his or her stolen automobile.**
- **Allow the Commission to waive a minimum out-of-pocket loss limitation for a victim seeking payment for a financial injury or an insurer seeking payment under Section 5b.**
- **Modify a provision specifying that an award may not be made unless the investigation of the claim verifies certain facts to include that the crime directly resulted in financial injury (or personal physical injury, as currently required) to the victim.**
- **Except from provisions limiting an award amount and allowing the Commission to deny a claim if the claimant would not suffer serious financial hardship a claim for payment of a financial injury and a claim under Section 5b.**

The bill would take effect 90 days after its enactment.

The Act specifies that, except as otherwise provided, the following are eligible for compensation as a result of a crime:

- A victim or an intervenor of a crime.
- A surviving spouse, parent, grandparent, child, sibling, or grandchild of a victim of a crime who died as a direct result of the crime.
- A surviving person related to the victim by blood or affinity, a guardian, personal representative, or member of the same household as the victim.
- A health care provider seeking payment for a sexual assault forensic examination.

The bill would include an insurer seeking payment under proposed Section 5b in the list of those eligible for compensation under the Act.

The Act defines "victim" as a person who suffers a personal physical injury as a direct result of a crime. Instead, under the bill, the term would mean an individual who suffers a personal physical injury as a direct result of a crime or a person that suffers a financial injury as a result of a crime involving automobile theft. "Financial injury would mean the payment of towing fees or storage fees to recover an automobile."

Under the Act, a claimant is not permitted to receive an award unless he or she has incurred a minimum out-of-pocket loss of \$200 or has lost at least two continuous weeks' earnings or support. The Crime Victim Services Commission may waive this limitation, however, if the claimant is retired due to age or disability, or is a victim of criminal sexual conduct in the first-

, second-, or third-degree. The Commission must waive the limitation for health care providers seeking payment for a sexual assault medical forensic examination. The bill also would allow the Commission to waive the limitation for a victim seeking payment for a financial injury, or an insurer seeking payment under proposed Section 5b.

The Act specifies that an award may not be made unless an investigation of the claim verifies certain facts, including that the crime directly resulted in personal physical injury to, or death of, the victim. The bill, instead, would refer to personal physical injury *or financial injury* to or death of, the victim.

Under the Act, except for a claim from a health care provider seeking payment for a sexual assault forensic examination, an award made under the Act must be an amount not more than an out-of-pocket loss, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from the injury. The aggregate award under the Act may not exceed \$25,000 per claimant. The bill also would except from these provisions a claim for payment of a financial injury and a claim under proposed Section 5b.

The Act also specifies that, except for a claim by a health care provider seeking payment for a sexual assault forensic examination, if the Commission finds that the claimant will not suffer serious financial hardship as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury if he or she is not granted financial assistance, the Commission must deny the award. The bill also would except from this provision a claim for payment of a financial injury and a claim under proposed Section 5b.

MCL 18.351 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill likely would increase State expenditures by an uncertain amount and would have no effect on local units of government. The reason for the uncertainty as to the cost pertains to the volume of crimes involving automobile theft and the varying costs of towing fees or storage fees. These payments would be made from the Crime Victim's Rights Fund.

In calendar year 2018, the Michigan State Police (MSP) reported that there were 17,458 motor vehicle thefts (which include such offenses as "joy riding").¹ This figure does not include "carjacking" or the forcible robbery of a vehicle. The MSP reports that in 2018, there were 472 "occurrences of carjacking".² This means that there was a total of 17,930 incidents of a crime involving an automobile. It is not known if all of the incidents listed in the Michigan Incident Crime Reporting would qualify for the financial injury payments described in the bill. Since the fees for storage and towing vary by municipality and provider and data describing the average rates for these services are not readily available, it is difficult to estimate the costs with any certainty. One illustration of the potential costs is as follows: if all of the 17,930 incidents from 2018 were eligible for payment and if the average cost for towing and storage were \$250, the total costs to the State would be approximately \$4.5 million. As of the most recent available balance, December 31, 2019, the Crime Victim's Rights Fund had a balance of approximately \$32.3 million.

Fiscal Analyst: John Maxwell

¹ https://www.michigan.gov/documents/msp/i_Motor_Vehicle_Thefts_661296_7.pdf

² https://www.michigan.gov/documents/msp/e_Robbery_661292_7.pdf