

SENATE BILL NO. 535

September 24, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1976 PA 223, entitled

"An act to create an agency concerned with crime victim services; 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,"

by amending the title and sections 1, 4, 10, and 11 (MCL 18.351, 18.354, 18.360, and 18.361), the title and section 1 as amended by 1996 PA 519, sections 4 and 10 as amended by 2008 PA 390, and section 11 as amended by 2010 PA 282, and by adding section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

1 An act to create an agency concerned with crime victim
2 services; to prescribe its powers and duties; to provide
3 compensation to certain victims of crimes **and other entities**; to
4 provide for the promulgation of rules; and to provide for
5 penalties.

6 Sec. 1. As used in this act:

7 (a) "Claimant" means a victim or intervenor who is injured, or
8 any other person eligible for an award under section 4(1) or 5(1),
9 who files a claim under this act.

10 (b) "Commission" means the crime victim services commission.

11 (c) "Crime" means an act that is 1 of the following:

12 (i) A crime under the laws of this state or the United States
13 that causes an injury within this state.

14 (ii) An act committed in another state that if committed in
15 this state would constitute a crime under the laws of this state or
16 the United States, that causes an injury within this state or that
17 causes an injury to a resident of this state within a state that
18 does not have a victim compensation program eligible for funding
19 from the victims of crime act of 1984, chapter XIV of title II of
20 the comprehensive crime control act of 1984, Public Law 98-473. ~~7~~
21 ~~98 Stat. 2170.~~

22 (iii) An act of international terrorism as **that term is** defined
23 in ~~section 2331 of title 18 of the United States code, 18 U.S.C.~~
24 **USC 2331**, committed outside the territorial jurisdiction of the
25 United States that causes an injury to a resident of this state.

26 (d) **"Financial injury" means the payment of towing fees or**
27 **storage fees to recover an automobile.**

28 (e) ~~(d)~~—"Intervenor" means a person who goes to the aid of one
29 who has become a victim of a crime and who suffers personal

1 physical injury.

2 (f) ~~(e)~~—"Out-of-pocket loss" means the unreimbursed and
 3 unreimbursable expenses or indebtedness reasonably incurred for
 4 medical care, psychological counseling, replacement services, any
 5 nonmedical remedial treatment rendered in accordance with a
 6 recognized religious method of healing, or other services necessary
 7 as a result of the injury upon which a claim is based.

8 (g) ~~(f)~~—"Personal physical injury" means actual bodily harm
 9 and includes pregnancy.

10 (h) ~~(g)~~—"Replacement services" means homemaking tasks, child
 11 care, transportation, and other services previously performed by
 12 the victim that, because of the victim's injury, must temporarily
 13 or permanently be performed by a person other than the victim.

14 (i) ~~(h)~~—"Support" means actual monetary payments made by a
 15 victim or intervenor to or for a person principally dependent on
 16 the victim or intervenor.

17 (j) ~~(i)~~—"Victim" means ~~a person~~ **an individual** who suffers a
 18 personal physical injury as a direct result of a crime **or a person**
 19 **that suffers a financial injury as a result of a crime involving**
 20 **automobile theft.**

21 Sec. 4. (1) Except as provided in subsection (2), the
 22 following persons are eligible for awards:

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

24 (b) A surviving spouse, parent, grandparent, child, sibling,
 25 or grandchild of a victim of a crime who died as a direct result of
 26 the crime.

27 (c) A surviving person related to the victim by blood or
 28 affinity, a guardian, personal representative, or member of the
 29 same household as the victim.

1 (d) A health care provider seeking payment under section 5a.

2 **(e) An insurer seeking payment under section 5b.**

3 (2) A person is not eligible to receive an award if the person
4 is either of the following:

5 (a) Criminally responsible for the crime.

6 (b) An accomplice to the crime.

7 (3) An award ~~shall~~**must** not be made on a claim unless the
8 claimant has incurred a minimum out-of-pocket loss of \$200.00 or
9 has lost at least 2 continuous weeks' earnings or support, but the
10 commission may waive the limitations of this subsection in the case
11 of a claimant retired by reason of age or disability. If the
12 claimant is a victim of criminal sexual conduct in the first,
13 second, or third degree, the commission may waive the limitations
14 of this subsection. The commission shall waive this limitation for
15 health care providers seeking payment under section 5a, **a victim**
16 **seeking payment for a financial injury, or an insurer seeking**
17 **payment under section 5b.**

18 **Sec. 5b. An insurer is eligible to be paid for the actual cost**
19 **of towing fees and storage fees paid for a victim to recover his or**
20 **her stolen automobile.**

21 Sec. 10. An award ~~shall~~**must** not be made unless the
22 investigation of the claim verifies the following facts:

23 (a) A crime was committed.

24 (b) The crime directly resulted in personal physical injury **or**
25 **financial injury** to, or death of, the victim.

26 (c) Police records show that the crime was reported promptly
27 to the proper authorities. An award ~~shall~~**must** not be made if the
28 police records show that the report was made more than 48 hours
29 after the occurrence of the crime unless any of the following

1 circumstances apply:

2 (i) The crime was criminal sexual conduct committed against a
3 victim who was less than 18 years of age at the time of the
4 occurrence and the crime was reported before the victim attained 19
5 years of age.

6 (ii) The commission, for good cause shown, finds the delay was
7 justified.

8 (iii) The commission is making a payment under section 5a.

9 (d) That the crime did not occur while the victim was confined
10 in a federal, state, or local correctional facility.

11 Sec. 11. (1) Except for a claim **for payment of a financial**
12 **injury, or** under section 5a **or 5b**, an award made under this act
13 ~~shall~~**must** be an amount not more than an out-of-pocket loss,
14 including indebtedness reasonably incurred for medical or other
15 services necessary as a result of the injury upon which the claim
16 is based, together with loss of earnings or support resulting from
17 the injury. The aggregate award under this act ~~shall~~**must** not
18 exceed \$25,000.00 per claimant.

19 (2) Unless reduced under this act, an award made for loss of
20 earnings or support ~~shall~~**must** be in an amount equal to the actual
21 loss sustained. An award ~~shall~~**must** not exceed \$350.00 for each
22 week of lost earnings or support.

23 (3) An award made for funeral expenses, including burial
24 expenses, ~~shall~~**must** not exceed \$5,000.00 for each victim. An award
25 under this subsection ~~shall~~**must** not exceed an additional \$500.00
26 for each of the following services:

27 (a) Grief counseling for the victim's spouse, children,
28 parents, siblings, grandparents, and grandchildren.

29 (b) Crime scene cleanup services after crime scene cleanup is

1 permitted by the investigating law enforcement agency, if the crime
2 scene is located at the residence of the victim or of a person
3 eligible for an award under section 4(1) (b).

4 (4) An award for psychological counseling ~~shall~~**must** not
5 exceed 35 hourly sessions per victim or intervenor. The award may
6 include not more than 8 family sessions that include any of the
7 victim's or intervenor's spouse, children, parents, or siblings who
8 are not criminally responsible for or an accomplice to the crime.
9 The maximum hourly reimbursement rate ~~shall~~**must** not exceed \$80.00
10 per hourly session for a therapist or counselor licensed or
11 registered to practice in this state, except that the maximum
12 hourly reimbursement rate ~~shall~~**must** not exceed \$125.00 per hourly
13 session for a psychologist or physician licensed to practice in
14 this state.

15 (5) An award ~~shall~~**must** be reduced by the amount of 1 or more
16 of the following payments received or to be received as a result of
17 the injury:

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

19 (b) From insurance, but not including disability or death
20 benefits paid or to be paid to a peace officer or a corrections
21 officer on account of injuries sustained in the course of
22 employment.

23 (c) From public funds, but not including disability or death
24 benefits paid or to be paid to a peace officer or a corrections
25 officer on account of injuries sustained in the course of
26 employment.

27 (d) From an emergency award under section 9.

28 (6) In making a determination on a claim filed by a person
29 listed in section 4(1) (a), (b), or (c), the commission shall

1 determine whether the victim's misconduct contributed to his or her
2 injury and shall reduce the amount of the award or reject the claim
3 altogether, in accordance with the determination. The commission
4 may disregard for this purpose the victim's responsibility for his
5 or her own injury if the record shows that the injury was
6 attributable to the victim's efforts to prevent a crime or an
7 attempted crime from occurring in his or her presence or to
8 apprehend a person who had committed a crime in his or her
9 presence. As used in this subsection, "misconduct" includes but is
10 not limited to provocation of or participation in a crime
11 contemporaneous with or immediately preceding the injury.

12 (7) Except for a claim **for payment of a financial injury, or**
13 under section 5a **or 5b**, if the commission finds that the claimant
14 will not suffer serious financial hardship as a result of the loss
15 of earnings or support and the out-of-pocket expenses incurred as a
16 result of the injury if he or she is not granted financial
17 assistance, the commission shall deny the award. In determining the
18 serious financial hardship, the commission shall consider all of
19 the financial resources of the claimant.

20 (8) If the commission determines that the payment of an award
21 will cause substantial unjust enrichment and economic benefit to a
22 person criminally responsible for the crime, the commission shall
23 deny the payment.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.