

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Kahle, Slagh, Posthumus and Tyrone Carter

ENROLLED HOUSE BILL No. 4674

AN ACT 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 sections 1, 4, 9, 11, and 15 (MCL 18.351, 18.354, 18.359, 18.361, and 18.365), sections 1, 9, and 15 as amended by 1996 PA 519, section 4 as amended by 2008 PA 390, and section 11 as amended by 2010 PA 282, and by adding section 16a.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

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

(b) “Commission” means the crime victim services commission.

(c) “Crime” means an act that is 1 of the following:

(i) A crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state.

(ii) An act committed in another state that if committed in this state would constitute a crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state or that causes actual bodily harm, including pregnancy or death, to a resident of this state or that poses a reasonably perceived or actual threat of injury or death to a resident of this state within a state that does not have a victim compensation program eligible for funding from the victims of crime act of 1984, chapter XIV of title II of the comprehensive crime control act of 1984, Public Law 98-473.

(iii) An act of international terrorism as that term is defined in 18 USC 2331, committed outside the territorial jurisdiction of the United States that causes actual bodily harm, including pregnancy or death, to a resident of this state or that poses a reasonably perceived or actual threat of injury or death.

(d) “Dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(e) “Dependent” means an individual principally dependent on another for support.

(f) “Household member” means an individual who resides in the same dwelling unit as a victim or intervenor.

(g) “Intervenor” means a person who goes to the aid of one who has become a victim of a crime and who suffers personal injury.

(h) "Other services necessary" means recognized medical treatment, convalescent aids, supplies, and other equipment needed by the victim because of physical incapacity sustained as a direct result of the crime.

(i) "Personal injury" means either of the following injuries:

(i) Actual bodily harm, including pregnancy or death.

(ii) Psychological, mental, or emotional injury resulting from a reasonably perceived or actual threat of injury or death.

(j) "Support" means actual monetary payments made by a victim or intervenor to or for a person principally dependent on the victim or intervenor.

(k) "Victim" means a person who suffers a personal injury as a direct result of a crime.

(l) "Victim services organization" means an organization or agency that has a documented history of providing services to address issues arising from victimization to victims or to family members or household members of victims.

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

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

(b) Any of the following individuals:

(i) An individual who is related to a victim or intervenor by blood or affinity to the second degree, including a child born after the death of the victim or intervenor.

(ii) An individual who was in a dating relationship with the victim or intervenor at the time of the crime.

(iii) If the victim or intervenor is a guardian of or primary caregiver to an adult who is physically or mentally incapacitated, that adult who is physically or mentally incapacitated.

(iv) If the victim or intervenor is a guardian or primary caregiver to a minor, that minor.

(v) If the victim or intervenor is a minor or is an adult who is physically or mentally incapacitated and a dependent, the guardian of or primary caregiver to that victim or intervenor.

(vi) An individual who was a guardian of or primary caregiver to a victim or intervenor when the victim or intervenor was a minor.

(c) An individual who legally assumes the obligation or voluntarily pays funeral or burial expenses of a victim who died as a result of a crime.

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

(e) Subject to subsection (4), an individual who, at the time the crime occurred, was a household member.

(f) Subject to subsection (4), an individual who was a household member before the time the crime occurred for a period of not less than 2 years and who is related to the victim or intervenor by blood or affinity.

(g) A dependent who suffers loss of support as a result of the death of a victim or intervenor who died as a result of the crime.

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

(a) Criminally responsible for the crime.

(b) An accomplice to the crime.

(3) An award must not be made on a claim unless the claimant has incurred an out-of-pocket loss of not less than \$200.00, or has lost at least 5 days' earnings or support, but the commission may waive the limitations of this subsection if a claimant is retired by reason of age or disability. If the claimant is a victim of criminal sexual conduct in the first, second, or third degree, the commission may waive the limitations of this subsection. The commission shall waive this limitation for health care providers seeking payment under section 5a.

(4) The commission may require an individual to provide verification or proof of permanent residence to demonstrate the individual is eligible for an award under subsection (1)(e) or (f), including, but not limited to, a lease agreement, utility bill, license registration, document showing the mailing address, pay stub, tax form, or notarized statement.

Sec. 9. (1) If it appears that the claim is one with respect to which an award probably will be made and undue hardship will result to the claimant if immediate payment is not made, the commission may make an emergency award to the claimant pending a final decision in the case. The commission shall provide a procedure for a claimant to request an emergency award under this section.

(2) The amount of an emergency award under this section must not exceed \$4,000.00 and must be deducted from the final award made to the claimant. The excess of the amount of the emergency award over the amount of the final award, if any, must be repaid by the claimant to the commission.

(3) Promptly after receiving an application or request for an emergency award under subsection (1), the commission shall determine whether to grant an emergency award under this section. If the commission determines to grant an emergency award, the award must be promptly issued to the claimant.

Sec. 11. (1) Except for a claim under section 5a, an award made under this 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 personal injury upon which the claim is based, together with loss of earnings or support resulting from the crime. The aggregate award under this act must not exceed \$45,000.00 per claimant.

(2) Unless reduced under this act, an award made for an out-of-pocket loss must be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness related to the crime and reasonably incurred for any of the following:

(a) Medical care for the victim or intervenor.

(b) Subject to subsection (6), psychological or grief counseling for an individual listed in section 4(1)(a), (b), (c), (e), (f), or (g).

(c) Reasonable expenses for temporary or permanent relocation for an individual listed in section 4(1)(a) or (e), or if the victim is deceased, for an individual listed in section 4(1)(b), (e), or (f). An award for expenses under this subdivision may be made only if the claimant is relocating to protect the claimant's physical safety or emotional or financial well-being as a result of the crime and, unless good cause is shown, is relocating within 1 year of the date the crime occurred, or of the date the claimant is threatened by a change in circumstance or by an indicator of danger. An award for expenses under this subdivision may not exceed \$3,800.00 per claimant. Eligible relocation expenses under this subdivision include, but are not limited to, all of the following expenses:

(i) The first month of rent, a security deposit, and the costs to start utilities in the dwelling unit to which the claimant relocates. The commission may require the claimant to provide a signed rental agreement to verify these expenses.

(ii) Moving expenses, including, but not limited to, costs to rent a truck, travel, and for moving services.

(iii) Costs for temporary lodging for not more than 30 days.

(d) Replacement services for homemaking tasks, child care, and other services previously performed by an individual listed in section 4(1)(a), (b), (e), or (f), that, because of the victim's injury, or the claimant's attendance at a victim services organization to receive services related to the crime, must temporarily or permanently be performed by another person.

(e) Transportation expenses for the purpose of an individual listed in section 4(1)(a), or if the victim or intervenor is deceased, for a person listed in section 4(1)(b), (e), or (f), to access services from a victim services organization, medical care, or mental health care, or to attend the funeral of a victim or intervenor. An award for expenses under this subdivision must not exceed the following aggregate amounts per claimant:

(i) If the expense is for travel of a distance of not more than 50 miles each way from the claimant's residence, \$1,000.00.

(ii) If the expense is for travel that meets 1 or more of the following, \$5,000.00:

(A) If the travel is a distance of not less than 50 miles from the claimant's residence each way and is to and from a health care provider, mental health professional as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b, or health facility or agency that renders a specific treatment or care that is not available within 50 miles of the claimant's residence.

(B) If the travel is a distance of not less than 50 miles from the claimant's residence each way and is to and from a funeral for a deceased victim or intervenor.

(f) Reasonable costs of not more than \$1,000.00 per residence for installing, increasing, or replacing residential security, which may include installing a home security device or system; replacing or repairing windows or locks; or increasing the number of locks, at either of the following residences:

(i) The residence of an individual listed in section 4(1)(a).

(ii) If the crime scene is located at the residence of an individual listed in section 4(1)(b), (e), or (f), at that residence.

(g) Accessibility or rehabilitative equipment or devices for either of the following:

(i) Equipment or devices that a victim or intervenor needs because of an injury of the victim or intervenor caused by the crime, including, but not limited to, modifications necessary to make a residence or vehicle accessible for a victim or intervenor.

(ii) Replacement equipment or devices that a victim or intervenor needs because the equipment or device of the victim or intervenor was damaged in the course of a crime.

(h) Nonmedical remedial treatment rendered to the victim or intervenor in accordance with a recognized religious method of healing.

(i) If the crime scene is located at the residence of, or a motor vehicle owned or leased by, an individual listed in section 4(1)(a), (b), (e), or (f), the crime scene cleanup services resulting from a crime for that residence or vehicle after crime scene cleanup is permitted by the investigating law enforcement agency, in an amount not to exceed \$5,000.00 per crime scene.

(j) Replacement costs of not more than \$250.00 for clothing or bedding of an individual listed in section 4(1)(a), (b), (e), or (f), that is held as evidence of a crime.

(k) Subject to subsection (5), funeral expenses.

(l) Other services necessary for the victim or intervenor.

(3) Unless reduced under this act, an award made for loss of support must be in an amount equal to the actual loss sustained. An award must not exceed \$1,000.00 for each week of lost support.

(4) Unless reduced under this act, an award made for loss of earnings must be in an amount equal to the actual loss sustained. An award must not exceed \$1,000.00 for each week of lost earnings. A claimant may be awarded for loss of earnings under this subsection for lost wages as a result of the crime, including, but not limited to, in the following circumstances:

(a) A victim or intervenor, the parent, guardian, or primary caregiver of a victim or intervenor, or if the victim or intervenor is deceased, a claimant who is listed in section 4(1)(b) or (e), for not attending work due to any of the following:

(i) Seeking medical attention for or recovery from an injury caused by the crime.

(ii) Obtaining psychological counseling or obtaining services from a victim services organization.

(iii) Providing care or assistance to a victim or claimant in recovering from injuries caused by the crime or in obtaining psychological counseling or services from a victim services organization.

(b) If the victim or intervenor is deceased and a claimant is listed in section 4(1)(b), (e), or (f), wage loss for bereavement leave to attend the funeral or alternative to a funeral of the deceased victim or intervenor, to make arrangements necessitated by the death of the deceased victim or intervenor, or for a period of grieving the death of the deceased victim or intervenor, not to exceed the following amounts:

(i) If the claimant is listed in section 4(1)(b) or (e), \$2,000.00.

(ii) If the claimant is listed in section 4(1)(f), \$1,000.00.

(5) Unless reduced under this act, an award made for funeral expenses must be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness incurred for burial expenses, transporting the victim's body, and other costs for the funeral service or alternative to funeral service, and must not exceed \$8,000.00 for each victim. An award under this subsection must not exceed an additional \$500.00 for a grave marker for each victim.

(6) An award for psychological or grief counseling must not exceed 35 hourly sessions per individual listed in section 4(1)(a), (b), (c), (e), (f), or (g) who requires psychological counseling as a result of the crime or grief counseling in connection with the death of the victim or intervenor. The award may include not more than 20 family sessions that include an individual who is not criminally responsible for or an accomplice to the crime, and who is related to the victim or intervenor by blood or affinity to the second degree, the guardian or primary caregiver of a minor victim, or an individual listed in section 4(1)(e). The maximum hourly reimbursement rate must not exceed \$80.00 per hourly session for a therapist or counselor licensed or registered to practice in this state, except that the maximum hourly reimbursement rate must not exceed \$125.00 per hourly session for a psychologist or physician licensed to practice in this state.

(7) An award must be reduced by the amount of 1 or more of the following payments received or to be received as a result of the injury:

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

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

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

(d) From an emergency award under section 9.

(8) In making a determination on a claim filed by an individual listed in section 4(1)(a), (b), (c), (e), (f), or (g), the commission shall determine whether the victim's misconduct contributed to his or her injury and shall reduce the amount of the award or reject the claim altogether, in accordance with the determination. The commission may disregard for this purpose the victim's responsibility for his or her own injury if the record shows that the injury was attributable to the victim's efforts to prevent a crime or an attempted crime from occurring in his or her presence or to apprehend a person who had committed a crime in his or her presence. As used in this subsection, "misconduct" includes but is not limited to provocation of or participation in a crime contemporaneous with or immediately preceding the injury.

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

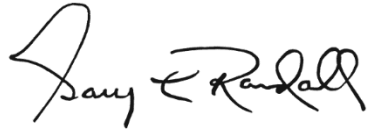
(10) If a claimant receives a payment described under subsection (7)(a) to (c) for an expense for which the claimant received an award under this section, the claimant shall reimburse the commission to the extent the total amount the claimant received exceeds the actual loss the claimant experienced for that expense.

Sec. 15. For purposes of this act, information relating to the filing of a claim by a claimant before the commission or proceedings before the commission, an emergency award made by the commission pursuant to section 9, or final awards made by the commission pursuant to section 11 are inadmissible in a criminal proceeding.

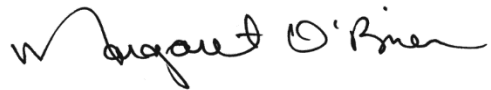
Sec. 16a. The amendatory act that added this section applies to claims submitted on or after the effective date of this amendatory act.

Enacting section 1. This amendatory act takes effect 450 days after the date it is enacted into law and applies to claims submitted on or after the effective date.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor