



SENATE BILL No. 1212

November 12, 1996, Introduced by Senators VAN REGENMORTER and SHUGARS and referred to the Committee on Judiciary.

A bill to amend sections 1, 2, 3, 11, and 13 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,"

section 1 as amended by Act No. 348 of the Public Acts of 1993, sections 2 and 3 as amended by Act No. 157 of the Public Acts of 1985, and section 11 as amended by Act No. 316 of the Public Acts of 1990, being sections 18.351, 18.352, 18.353, 18.361, and 18.363 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 2, 3, 11, and 13 of Act No. 223 of
2 the Public Acts of 1976, section 1 as amended by Act No. 348 of
3 the Public Acts of 1993, sections 2 and 3 as amended by Act

1 No. 157 of the Public Acts of 1985, and section 11 as amended by
2 Act No. 316 of the Public Acts of 1990, being sections 18.351,
3 18.352, 18.353, 18.361, and 18.363 of the Michigan Compiled Laws,
4 are amended to read as follows:

5 Sec. 1. As used in this act:

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

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

11 (c) "Crime" means an act that ~~constitutes a~~ IS 1 OF THE
12 FOLLOWING:

13 (i) A crime ~~pursuant to~~ UNDER the laws of this state or
14 the United States ~~, or an~~ THAT CAUSES AN INJURY WITHIN THIS
15 STATE.

16 (ii) AN act committed in another state that if committed in
17 this state would constitute a crime ~~pursuant to~~ UNDER the laws
18 of this state or the United States, ~~and~~ that causes an injury
19 within this state ~~or~~ or that causes an injury to a resident of
20 this state within a state that does not have a victim compensa-
21 tion program eligible for funding from the victims of crime act
22 of 1984, chapter XIV of title II of THE COMPREHENSIVE CRIME CON-
23 TROL ACT OF 1984, Public Law 98-473, 98 Stat. 2170.

24 (iii) AN ACT OF INTERNATIONAL TERRORISM AS DEFINED IN SEC-
25 TION 2331 OF TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. 2331,
26 COMMITTED OUTSIDE THE TERRITORIAL JURISDICTION OF THE UNITED
27 STATES THAT CAUSES AN INJURY TO A RESIDENT OF THIS STATE.

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

4 (e) "Out-of-pocket loss" means the unreimbursed and unreim-
5 bursable expenses or indebtedness reasonably incurred for medical
6 care, psychological counseling, replacement services, ~~including,~~
7 ~~but not limited to, homemaking and child care services,~~ any non-
8 medical remedial treatment rendered in accordance with a recog-
9 nized religious method of healing, or other services necessary as
10 a result of the injury upon which a claim is based.

11 (f) "Personal physical injury" means actual bodily harm and
12 includes pregnancy.

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

17 (h) "Support" means actual monetary payments made by a
18 victim or intervenor to ~~the~~ or for ~~the~~ a person principally
19 dependent on the victim or intervenor.

20 (i) "Victim" means a person who suffers a personal physical
21 injury as a direct result of a crime.

22 Sec. 2. (1) The crime victims compensation board is created
23 within the department of management and budget. Office budget
24 development, procurement, and related management functions shall
25 be performed by the department of management and budget.

26 (2) The board shall consist of ~~3~~ 5 members AS FOLLOWS, of
27 ~~which~~ WHOM not more than ~~2~~ 3 shall belong to the same

1 political party and who shall be appointed by the governor with
2 the advice and consent of the senate: ~~At least 1~~

3 (A) ONE member ~~of the board shall be~~ admitted to THE prac-
4 tice OF law in this state for not less than 5 years immediately
5 preceding his or her appointment.

6 (B) ONE MEMBER WHO REPRESENTS COUNTY PROSECUTING ATTORNEYS.

7 (C) ONE MEMBER WHO REPRESENTS PEACE OFFICERS.

8 (D) ONE MEMBER WHO REPRESENTS THE MEDICAL PROFESSION.

9 (E) ONE MEMBER WHO REPRESENTS COMMUNITY-BASED VICTIM
10 ADVOCATES.

11 (3) The term of office of a member shall be 3 years, except
12 that ~~the members first appointed shall serve for terms of 1, 2,~~
13 ~~and 3 years~~ OF THE 2 MEMBERS APPOINTED TO SATISFY THE EXPANDED
14 MEMBERSHIP REQUIREMENT CREATED BY THE 1996 AMENDATORY ACT THAT
15 AMENDED THIS SECTION, 1 SHALL BE APPOINTED TO SERVE AN INITIAL
16 TERM OF 2 YEARS AND THE OTHER SHALL BE APPOINTED TO SERVE AN INI-
17 TIAL TERM OF 3 YEARS. A member appointed to fill a vacancy
18 occurring otherwise than by expiration of a term shall be
19 appointed for the remainder of the unexpired term.

20 (4) The governor shall designate 1 BOARD member ~~of the~~
21 ~~board~~ to serve as chairperson at the GOVERNOR'S pleasure. ~~of~~
22 ~~the governor.~~

23 (5) The members of the board shall be paid on a per diem
24 basis as determined by the legislature.

25 Sec. 3. (1) The board shall do all of the following:

26 (a) Promulgate rules ~~pursuant to~~ UNDER THE ADMINISTRATIVE
27 PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969,

1 ~~as amended,~~ being sections 24.201 to 24.328 of the Michigan
2 Compiled Laws, including rules for the approval of attorneys'
3 fees for representation before the board or before the court of
4 appeals upon judicial review as provided for in section 8.

5 (b) Obtain from a state or local governmental unit assist-
6 ance and data to enable the board to carry out its functions and
7 duties.

8 (c) Investigate and determine claims for awards and ~~to~~
9 reinvestigate or reopen cases as the board ~~deems~~ CONSIDERS
10 necessary.

11 (d) Direct medical examination of victims.

12 (e) Review all appeals, hold hearings, administer oaths or
13 affirmations, examine any person under oath or affirmation, issue
14 subpoenas requiring the attendance and giving of testimony of
15 witnesses and the production of books, papers, documentary or
16 other evidence. For the purposes of this section, a certified
17 copy of ~~any~~ AN investigative report relating to the hearing ~~in~~
18 ~~question will meet~~ MEETS the requirements of this section.

19 (f) Take or cause to be taken affidavits or depositions
20 within or without the state.

21 (g) Give an annual written report of its activities to the
22 governor and ~~to~~ the legislature.

23 (h) Conduct a program to insure continued public awareness
24 of the provisions of this act in cooperation with state and local
25 agencies.

26 (i) Monitor, evaluate, and coordinate state and local victim
27 assistance programs.

1 (j) Administer the disbursement of federal funds AVAILABLE
2 FROM THE VICTIMS OF CRIME ACT OF 1984, CHAPTER XIV OF THE COMPRE-
3 HENSIVE CRIME CONTROL ACT OF 1984, TITLE II OF PUBLIC LAW 98-473,
4 98 STAT. 2170, for the purposes of compensating and assisting
5 crime victims.

6 (K) PERFORM THE DUTIES REQUIRED UNDER ACT NO. 196 OF THE
7 PUBLIC ACTS OF 1989, BEING SECTIONS 780.901 TO 780.911 OF THE
8 MICHIGAN COMPILED LAWS.

9 (2) With the exception of subsection (1)(e), the powers pro-
10 vided in subsection (1) may be delegated by the board to a member
11 of the board or its staff.

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

19 (2) ~~An~~ UNLESS REDUCED UNDER THIS ACT, AN award made for
20 loss of earnings or support ~~, unless reduced pursuant to this~~
21 ~~act,~~ shall be in an amount equal to the actual loss sustained.
22 An award shall not exceed \$200.00 for each week of lost earnings
23 or support.

24 (3) An award made for funeral expenses, including burial
25 expenses AND GRIEF COUNSELING, shall be not less than \$200.00 or
26 more than ~~-\$1,500.00~~ \$2,000.00 for each victim. THE AWARD MAY

1 INCLUDE NOT MORE THAN \$500.00 TO REIMBURSE EXPENSES FOR GRIEF
2 COUNSELING FOR THE VICTIM'S SPOUSE, CHILD, PARENT, OR SIBLING.

3 (4) AN AWARD FOR PSYCHOLOGICAL COUNSELING SHALL NOT EXCEED
4 26 HOURLY SESSIONS PER VICTIM OR INTERVENOR. THE AWARD MAY
5 INCLUDE NOT MORE THAN 8 FAMILY SESSIONS THAT INCLUDE ANY OF THE
6 VICTIM'S OR INTERVENOR'S SPOUSE, CHILDREN, PARENTS, OR SIBLINGS
7 WHO ARE NOT CRIMINALLY RESPONSIBLE FOR OR AN ACCOMPLICE TO THE
8 CRIME. THE MAXIMUM HOURLY REIMBURSEMENT RATE SHALL NOT EXCEED
9 \$80.00 PER HOURLY SESSION FOR A THERAPIST OR COUNSELOR LICENSED
10 OR REGISTERED TO PRACTICE IN THIS STATE, EXCEPT THAT THE MAXIMUM
11 HOURLY REIMBURSEMENT RATE SHALL NOT EXCEED \$95.00 PER HOURLY SES-
12 SION FOR A PSYCHOLOGIST OR PHYSICIAN LICENSED TO PRACTICE IN THIS
13 STATE.

14 (5) ~~(4)~~ An award shall be reduced by the amount of 1 or
15 more of the following payments received or to be received as a
16 result of the injury:

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

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

1 (d) From an emergency award ~~pursuant to~~ UNDER section 9.

2 (6) ~~(5)~~ The board shall determine whether the ~~claimant~~
3 VICTIM'S MISCONDUCT contributed to ~~the infliction of~~ his or her
4 injury and shall reduce the amount of the award or reject the
5 claim altogether, in accordance with the determination. The
6 board may disregard for this purpose the VICTIM'S responsibility
7 ~~of the claimant~~ for his or her own injury ~~where~~ IF the record
8 shows that the injury was attributable to THE VICTIM'S efforts
9 ~~by the claimant~~ to prevent a crime or an attempted crime from
10 occurring in his or her presence or to apprehend a person who had
11 committed a crime in his or her presence. AS USED IN THIS SUB-
12 SECTION, "MISCONDUCT" INCLUDES BUT IS NOT LIMITED TO PROVOCATION
13 OF OR PARTICIPATION IN A CRIME CONCURRENTLY WITH OR IMMEDIATELY
14 PRECEDING THE INJURY.

15 (7) ~~(6)~~ If the board finds that the claimant will not
16 suffer serious financial hardship as a result of the loss of
17 earnings or support and the out-of-pocket expenses incurred as a
18 result of the injury if HE OR SHE IS not granted financial
19 assistance, the board shall deny the award. In determining the
20 serious financial hardship, the board shall consider all of the
21 financial resources of the claimant.

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

1 ~~(a) The person whose claim was denied or whose award was~~
2 ~~reduced may file a new claim under this act for the award or the~~
3 ~~part of the award that was denied for the reason described in~~
4 ~~this subsection, within 1 year after December 21, 1989.~~

5 ~~(b) The board shall grant to the person who files a claim~~
6 ~~under subdivision (a) an award in the full amount prescribed~~
7 ~~under subsection (1) if the person's claim was previously denied,~~
8 ~~or in the amount by which the previous award was reduced if the~~
9 ~~person was previously granted a reduced award.~~

10 (8) If the board determines that the payment of an award
11 will cause substantial unjust enrichment and economic benefit to
12 a person criminally responsible for the crime, the board shall
13 deny the payment.

14 Sec. 13. The record of a proceeding before the board
15 ~~shall be~~ IS a public record, EXCEPT THAT A CLAIMANT'S FILE AND
16 HIS OR HER TESTIMONY BEFORE THE BOARD IS EXEMPT FROM DISCLOSURE
17 UNDER THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC
18 ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN
19 COMPILED LAWS. A record or report obtained by the board, the
20 confidentiality of which is protected by any other law or rule,
21 shall remain confidential.

22 Section 2. Section 3a of Act No. 223 of the Public Acts of
23 1976, being section 18.353a of the Michigan Compiled Laws, is
24 repealed.

25 Section 3. This amendatory act shall not take effect unless
26 Senate Bill No. 1213

27 of the 88th Legislature is enacted into law.