

SENATE BILL No. 119

February 1, 2005, Introduced by Senators JOHNSON, BISHOP, BIRKHOLZ, SANBORN, CASSIS, TOY, PATTERSON, KUIPERS, SWITALSKI, PRUSI, BRATER, OLSHOVE, JACOBS, CROPSEY, BROWN, HARDIMAN, VAN WOERKOM, GOSCHKA, SIKKEMA, HAMMERSTROM, GARCIA, GILBERT, GEORGE, ALLEN, McMANUS, JELINEK, STAMAS, CHERRY, THOMAS, SCOTT, BERNERO, CLARK-COLEMAN, BASHAM, BARCIA, SCHAUER, CLARKE, LELAND and EMERSON and referred to the Committee on Judiciary.

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 4, 5, 6, and 10 (MCL 18.354, 18.355, 18.356, and 18.360), as amended by 1996 PA 519, and by adding section 5a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

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~~ **CRIME VICTIMS AND TO HEALTH CARE PROVIDERS THAT PROVIDE MEDICAL SERVICES TO CERTAIN**

1 **CRIME VICTIMS; TO REGULATE PAYMENT FOR MEDICAL SERVICES PROVIDED TO**
2 **CERTAIN CRIME VICTIMS;** to provide for the promulgation of rules;
3 and to provide for penalties.

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

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

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

10 (c) Any other person dependent for his or her principal
11 support upon a victim of a crime who died as a direct result of the
12 crime.

13 **(D) A HEALTH CARE PROVIDER SEEKING COMPENSATION UNDER SECTION**
14 **5A.**

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

17 (a) Criminally responsible for the crime.

18 (b) An accomplice to the crime.

19 (3) An award shall not be made on a claim unless the claimant
20 has incurred a minimum out-of-pocket loss of \$200.00 or has lost at
21 least 2 continuous weeks' earnings or support, but the commission
22 may waive the limitations of this subsection in the case of a
23 claimant retired by reason of age or disability. If the claimant is
24 a victim of criminal sexual conduct in the first, second, or third
25 degree, the commission may waive the limitations of this
26 subsection. **IF THE CLAIMANT IS A HEALTH CARE PROVIDER SEEKING**
27 **COMPENSATION UNDER SECTION 5A, THE COMMISSION SHALL WAIVE THE**

1 **LIMITATION OF THIS SUBSECTION.**

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

5 (2) Except as provided in subsection (3), a claim shall be
6 filed by the claimant not later than 1 year after the occurrence of
7 the crime upon which the claim is based, except as follows:

8 (a) If police records show that a victim of criminal sexual
9 conduct in the first, second, or third degree was less than 18
10 years of age at the time of the occurrence and that the victim
11 reported the crime before attaining 19 years of age, a claim based
12 on that crime may be filed not later than 1 year after the crime
13 was reported.

14 (b) A claim may be filed within 1 year after the discovery by
15 a law enforcement agency that injuries previously determined to be
16 accidental, of unknown origin, or resulting from natural causes,
17 were incurred as the result of a crime.

18 (3) Upon petition by the claimant and for good cause shown,
19 the commission may extend the period in which a claim may be filed
20 under subsection (2).

21 (4) A claim shall be filed in the commission's office in
22 person or by mail. The commission shall accept for filing a claim
23 that is submitted by a person who is eligible and ~~which~~ **THAT**
24 alleges the jurisdictional requirements set forth in this act and
25 meets the requirements as to form as approved by the commission.

26 (5) Upon filing of a claim, the commission shall promptly
27 notify the prosecuting attorney of the county in which the crime is

1 alleged to have occurred. If, within 20 days after the
2 notification, the prosecuting attorney advises the commission that
3 a criminal prosecution is pending upon the same alleged crime and
4 requests that action by the commission be deferred, the commission
5 shall defer the proceedings until the criminal prosecution is
6 concluded. When the criminal prosecution is concluded, the
7 prosecuting attorney shall promptly notify the commission. This
8 ~~section~~ **SUBSECTION** does not prohibit the commission from granting
9 emergency awards pursuant to section 9 **OR AN AWARD UNDER SECTION**
10 **5A.**

11 **SEC. 5A. (1) THE COMMISSION SHALL COMPENSATE A HEALTH CARE**
12 **PROVIDER FOR THE FOLLOWING SERVICES RENDERED TO A VICTIM OF**
13 **CRIMINAL SEXUAL CONDUCT:**

14 **(A) THE ADMINISTRATION OF A SEXUAL ASSAULT EVIDENCE KIT UNDER**
15 **SECTION 21527 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
16 **333.21527. THIS SUBSECTION DOES NOT APPLY TO THE COST OF A SEXUAL**
17 **ASSAULT EVIDENCE KIT THAT IS PROVIDED TO THE MEDICAL CARE PROVIDER**
18 **FREE OF CHARGE.**

19 **(B) INITIAL VENEREAL DISEASE TESTING AND TREATMENT ARISING OUT**
20 **OF A CRIMINAL SEXUAL ASSAULT AND NOT MORE THAN 2 RETURN OR REFERRAL**
21 **VISITS FOR VENEREAL DISEASE TESTING AND TREATMENT.**

22 **(C) PREGNANCY TESTING.**

23 **(2) COMPENSATION UNDER SUBSECTION (1) SHALL BE IN THE**
24 **FOLLOWING AMOUNTS FOR EACH VISIT:**

25 **(A) NOT MORE THAN \$200.00 FOR USE OF AN EMERGENCY ROOM.**

26 **(B) NOT MORE THAN \$125.00 FOR THE USE OF A CLINIC OR OFFICE**
27 **EXAMINATION ROOM.**

(C) NOT MORE THAN \$100.00 FOR AN EXAMINATION.

(D) NOT MORE THAN \$200.00 FOR ANY PROCEDURE.

(E) ALL ACTUAL AND REASONABLE LABORATORY FEES.

(F) ALL ACTUAL AND REASONABLE PHARMACOLOGICAL FEES.

(3) A HEALTH CARE PROVIDER SEEKING COMPENSATION UNDER SUBSECTION (1) SHALL SUBMIT THE CLAIM TO THE COMMISSION IN THE MANNER REQUIRED BY THE COMMISSION. THE CLAIM FOR COMPENSATION SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

(A) THE VICTIM'S NAME AND BIRTHDATE.

(B) AN ITEMIZED STATEMENT OF THE SERVICES PROVIDED INCLUDING THE DATE ON WHICH THEY WERE PROVIDED.

(C) THE HEALTH CARE PROVIDER'S FEDERAL IDENTIFICATION NUMBER.

(4) A VICTIM IS NOT RESPONSIBLE FOR PAYING COSTS DETERMINED BY THE COMMISSION TO BE COMPENSABLE UNDER SUBSECTION (1). A HEALTH CARE PROVIDER THAT IS COMPENSATED UNDER THIS SECTION SHALL NOT SUBMIT ANY PORTION OF THE CLAIM TO THE VICTIM OR THE VICTIM'S INSURER FOR PAYMENT.

(5) A VICTIM IS NOT REQUIRED TO SUBMIT THE CLAIM TO HIS OR HER INSURANCE CARRIER FOR PAYMENT BEFORE THE COMMISSION MAKES PAYMENT TO THE HEALTH CARE PROVIDER UNDER THIS SECTION. THIS SECTION DOES NOT PROHIBIT THE VICTIM FROM SUBMITTING THE CLAIM TO HIS OR HER INSURANCE CARRIER IF HE OR SHE CHOOSES TO DO SO.

(6) THE COMMISSION SHALL NOT REQUIRE A VICTIM TO FILE A POLICE REPORT OF THE CRIMINAL SEXUAL CONDUCT VIOLATION AS A CONDITION FOR DISBURSING FUNDS UNDER THIS SECTION.

(7) IF A CLAIM IS PAID OR OVERPAID UNDER THIS SECTION BASED UPON A CLERICAL ERROR, MISTAKEN IDENTITY, INNOCENT

1 MISREPRESENTATION, OR OTHER CIRCUMSTANCE OF A SUBSTANTIALLY SIMILAR
2 NATURE, OTHER THAN FRAUD, THE RECIPIENT OF THE PAYMENT IS LIABLE TO
3 THE COMMISSION FOR REPAYMENT OF THE CLAIM OR THE OVERPAID AMOUNT.
4 HOWEVER, IF THE COMMISSION FAILS TO NOTIFY THE CLAIMANT OF THE
5 PAYMENT OR OVERPAYMENT WITHIN 1 YEAR AFTER THE PAYMENT OR
6 OVERPAYMENT IS MADE, THE RECIPIENT IS NOT LIABLE FOR REPAYMENT TO
7 THE COMMISSION. IF A PAYMENT OR OVERPAYMENT HAS BEEN INDUCED BY
8 FRAUD, THE RECIPIENT IS LIABLE FOR REPAYMENT TO THE COMMISSION AS
9 OTHERWISE PROVIDED BY LAW.

10 (8) AS USED IN THIS SECTION, "HEALTH CARE PROVIDER" MEANS ALL
11 OF THE FOLLOWING:

12 (A) A HEALTH PROFESSIONAL LICENSED OR REGISTERED UNDER ARTICLE
13 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO
14 333.18838.

15 (B) A HEALTH FACILITY OR AGENCY LICENSED UNDER ARTICLE 17 OF
16 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO 333.22260.

17 (C) A LOCAL HEALTH DEPARTMENT AS THAT TERM IS DEFINED IN
18 SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.1105.

19 Sec. 6. (1) When a claim is accepted for filing, an
20 investigation and examination shall be conducted to determine the
21 validity of the claim. The investigation shall include an
22 examination of papers filed in support of the claim, official
23 records and reports concerning the crime, and an examination of
24 medical and hospital reports relating to the injury upon which the
25 claim is based. All claims ~~which~~ **THAT** arise from the death of an
26 individual as a direct result of a crime shall be considered
27 together, and the total compensation awarded for all claims ~~which~~

1 **THAT** arise from the death of an individual shall not exceed the
2 maximum aggregate award.

3 (2) A claim shall be investigated and determined regardless of
4 whether the alleged criminal was apprehended, prosecuted,
5 convicted, acquitted, or found not guilty of the crime in question,
6 unless the disposition is a direct result of willful noncooperation
7 by the victim or other claimant with the law enforcement agency or
8 the prosecuting attorney. In the event of determination of willful
9 noncooperation by the victim or other claimant, the commission
10 shall reject the claim. **A POLICE REPORT IS NOT REQUIRED FOR A CLAIM**
11 **FILED UNDER SECTION 5A.**

12 (3) A claim may be decided on the basis of the papers filed in
13 support of the claim and the report of the investigation of the
14 claim. If the person authorized to decide a claim under section
15 3(2) is convinced that a decision should not be made without a
16 hearing, that person may request the commission to conduct a
17 hearing under section 7. At the hearing any relevant evidence, not
18 legally privileged, is admissible.

19 (4) After an examination of the papers filed in support of a
20 claim and the report of investigation, and if no hearing is
21 requested under subsection (3), a decision granting or denying the
22 award shall be made.

23 (5) A written report setting forth the decision and reasons
24 for the decision shall be sent to the claimant.

25 Sec. 10. An award shall not be made unless the investigation
26 of the claim verifies the following facts:

27 (a) A crime was committed.

1 (b) The crime directly resulted in personal physical injury
2 to, or death of, the victim.

3 (c) ~~Police~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 5A AND**
4 **6, POLICE** records show that the crime was reported promptly to the
5 proper authorities. An award, ~~may~~ **OTHER THAN AN AWARD FOR A CLAIM**
6 **UNDER SECTION 5A, SHALL** not be made where the police records show
7 that the report was made more than 48 hours after the occurrence of
8 the crime unless either of the following apply:

9 (i) The crime was criminal sexual conduct committed against a
10 victim who was less than 18 years of age at the time of the
11 occurrence and the crime was reported before the victim attained 19
12 years of age.

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

15 (d) ~~That the~~ **THE** crime did not occur while the victim was
16 confined in a federal, state, or local correctional facility.