

Act No. 390
Public Acts of 2008
Approved by the Governor
December 25, 2008
Filed with the Secretary of State
December 29, 2008
EFFECTIVE DATE: December 29, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Rep. Condino

ENROLLED HOUSE BILL No. 6602

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 2, 4, 5, 10, and 11 (MCL 18.352, 18.354, 18.355, 18.360, and 18.361), as amended by 1996 PA 519.

The People of the State of Michigan enact:

Sec. 2. (1) The crime victims compensation board formerly created within the department of management and budget under this section is renamed the crime victim services commission, which shall continue as the successor agency of the board in all respects and for all purposes. Office budget development, procurement, and related management functions shall be performed by the department of community health.

(2) Members of the crime victims compensation board shall continue in office as commission members for their unexpired terms. The commission shall consist of 5 members as follows, of whom not more than 3 shall belong to the same political party and who shall be appointed by the governor with the advice and consent of the senate:

(a) One member admitted to the practice of law in this state for not less than 5 years immediately preceding his or her appointment.

(b) One member who is a county prosecuting attorney.

(c) One member who is a peace officer.

(d) One member who is a member of the medical profession.

(e) One member who is a community-based victim advocate.

(3) A member's term of office shall be 3 years, except that of the 2 members appointed to satisfy the expanded membership requirement created by 1996 PA 519, 1 shall be appointed to serve an initial term of 2 years and the other shall be appointed to serve an initial term of 3 years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(4) The governor shall designate 1 commission member to serve as chairperson at the governor's pleasure.

(5) The commission members shall be paid on a per diem basis as determined by the legislature.

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

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

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

(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 shall not be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of \$200.00 or has lost at least 2 continuous weeks' earnings or support, but the commission may waive the limitations of this subsection in the case of a claimant 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.

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

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

(a) If police records show that a victim of criminal sexual conduct in the first, second, or third degree was less than 18 years of age at the time of the occurrence and that the victim reported the crime before attaining 19 years of age, a claim based on that crime may be filed by a person listed in section 4(1)(a), (b), or (c) not later than 1 year after the crime was reported.

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

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

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

(5) Upon filing of a claim by a person listed in section 4(1)(a), (b), or (c), the commission shall promptly notify the prosecuting attorney of the county in which the crime is alleged to have occurred. If, within 20 days after the notification, the prosecuting attorney advises the commission that a criminal prosecution is pending upon the same alleged crime and requests that action by the commission be deferred, the commission shall defer the proceedings until the criminal prosecution is concluded. When the criminal prosecution is concluded, the prosecuting attorney shall promptly notify the commission. This section does not prohibit the commission from granting emergency awards pursuant to section 9 or from paying a health care provider under section 5a.

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

(a) A crime was committed.

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

(c) Police records show that the crime was reported promptly to the proper authorities. An award shall not be made if the police records show that the report was made more than 48 hours after the occurrence of the crime unless any of the following circumstances apply:

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

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

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

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

Sec. 11. (1) Except for a claim under section 5a, an award made under this act shall 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 this act shall not exceed \$15,000.00 per claimant.

(2) Unless reduced under this act, an award made for loss of earnings or support shall be in an amount equal to the actual loss sustained. An award shall not exceed \$200.00 for each week of lost earnings or support.

(3) An award made for funeral expenses, including burial expenses and grief counseling, shall be not less than \$200.00 or more than \$2,000.00 for each victim. The award may include not more than \$500.00 to reimburse expenses for grief counseling for the victim's spouse, child, parent, or sibling.

(4) An award for psychological counseling shall not exceed 26 hourly sessions per victim or intervenor. The award may include not more than 8 family sessions that include any of the victim's or intervenor's spouse, children, parents, or siblings who are not criminally responsible for or an accomplice to the crime. The maximum hourly reimbursement rate shall 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 shall not exceed \$95.00 per hourly session for a psychologist or physician licensed to practice in this state.

(5) An award shall 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.

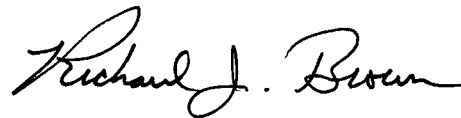
(6) In making a determination on a claim filed by a person listed in section 4(1)(a), (b), or (c), the commission shall determine whether the victim's misconduct contributed to his or her injury and shall reduce the amount of the award or reject the claim altogether, in accordance with the determination. 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.

(7) Except for a claim under section 5a, 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 shall deny the award. In determining the serious financial hardship, the commission shall consider all of the financial resources of the claimant.

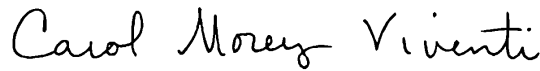
(8) If the commission determines that the payment of an award will cause substantial unjust enrichment and economic benefit to a person criminally responsible for the crime, the commission shall deny the payment.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1629 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor