

# HOUSE BILL No. 5986

May 15, 2018, Introduced by Rep. Lucido and referred to the Committee on Law and Justice.

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:

### 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 **AND OTHER ENTITIES**; to

1 provide for the promulgation of rules; and to provide for  
2 penalties.

3 Sec. 1. As used in this act:

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

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

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

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

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

19 (iii) An act of international terrorism as defined in ~~section~~  
20 ~~2331 of title 18 of the United States code, 18 U.S.C. USC 2331,~~  
21 committed outside the territorial jurisdiction of the United States  
22 that causes an injury to a resident of this state.

23 (D) "FINANCIAL INJURY" MEANS THE PAYMENT OF TOWING FEES OR  
24 STORAGE FEES TO RECOVER AN AUTOMOBILE.

25 (E) ~~(d)~~ "Intervenor" means a person who goes to the aid of one  
26 who has become a victim of a crime and who suffers personal  
27 physical injury.

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

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

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

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

16       (J) ~~(i)~~—"Victim" means a person who suffers a personal  
17 physical injury as a direct result of a crime **OR A PERSON WHO**  
18 **SUFFERS A FINANCIAL INJURY AS A RESULT OF A CRIME INVOLVING**  
19 **AUTOMOBILE THEFT.**

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

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

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

26       (c) A surviving person related to the victim by blood or  
27 affinity, a guardian, personal representative, or member of the

1 same household as the victim.

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

3 **(E) AN INSURER SEEKING PAYMENT UNDER SECTION 5B.**

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

6 (a) Criminally responsible for the crime.

7 (b) An accomplice to the crime.

8 (3) An award shall not be made on a claim unless the claimant  
9 has incurred a minimum out-of-pocket loss of \$200.00 or has lost at  
10 least 2 continuous weeks' earnings or support, but the commission  
11 may waive the limitations of this subsection in the case of a  
12 claimant retired by reason of age or disability. If the claimant is  
13 a victim of criminal sexual conduct in the first, second, or third  
14 degree, the commission may waive the limitations of this  
15 subsection. The commission shall waive this limitation for health  
16 care providers seeking payment under section 5a, **A VICTIM SEEKING**  
17 **PAYMENT FOR A FINANCIAL INJURY, OR AN INSURER SEEKING PAYMENT UNDER**  
18 **SECTION 5B.**

19 **SEC. 5B. AN INSURER IS ELIGIBLE TO BE PAID FOR THE ACTUAL COST**  
20 **OF TOWING FEES AND STORAGE FEES PAID FOR A VICTIM TO RECOVER HIS OR**  
21 **HER STOLEN AUTOMOBILE.**

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

24 (a) A crime was committed.

25 (b) The crime directly resulted in personal physical injury **OR**  
26 **FINANCIAL INJURY** to, or death of, the victim.

27 (c) Police records show that the crime was reported promptly

1 to the proper authorities. An award shall not be made if the police  
2 records show that the report was made more than 48 hours after the  
3 occurrence of the crime unless any of the following circumstances  
4 apply:

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

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

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

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

14 Sec. 11. (1) Except for a claim **FOR PAYMENT OF A FINANCIAL**  
15 **INJURY, OR** under ~~section~~**SECTIONS** 5a **OR 5B**, an award made under  
16 this act ~~shall~~**MUST** be an amount not more than an out-of-pocket  
17 loss, including indebtedness reasonably incurred for medical or  
18 other services necessary as a result of the injury upon which the  
19 claim is based, together with loss of earnings or support resulting  
20 from the injury. The aggregate award under this act ~~shall~~**MUST** not  
21 exceed \$25,000.00 per claimant.

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

26 (3) An award made for funeral expenses, including burial  
27 expenses, ~~shall~~**MUST** not exceed \$5,000.00 for each victim. An award

1 under this subsection ~~shall~~**MUST** not exceed an additional \$500.00  
2 for each of the following services:

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

5 (b) Crime scene cleanup services after crime scene cleanup is  
6 permitted by the investigating law enforcement agency, if the crime  
7 scene is located at the residence of the victim or of a person  
8 eligible for an award under section 4(1)(b).

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

20 (5) An award ~~shall~~**MUST** be reduced by the amount of 1 or more  
21 of the following payments received or to be received as a result of  
22 the injury:

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

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

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

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

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

19 (7) Except for a claim **FOR PAYMENT OF A FINANCIAL INJURY, OR**  
20 under ~~section~~ **SECTIONS 5a OR 5B**, if the commission finds that the  
21 claimant will not suffer serious financial hardship as a result of  
22 the loss of earnings or support and the out-of-pocket expenses  
23 incurred as a result of the injury if he or she is not granted  
24 financial assistance, the commission shall deny the award. In  
25 determining the serious financial hardship, the commission shall  
26 consider all of the financial resources of the claimant.

27 (8) If the commission determines that the payment of an award

1 will cause substantial unjust enrichment and economic benefit to a  
2 person criminally responsible for the crime, the commission shall  
3 deny the payment.

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