

**SUBSTITUTE FOR
HOUSE BILL NO. 4674**

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 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:

- 1 Sec. 1. As used in this act:
- 2 (a) "Claimant" means a victim or intervenor who is injured, or
- 3 any other person eligible for an award under section 4(1) or 5(1),
- 4 who files a claim under this act.

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

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

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

8 (ii) An act committed in another state that if committed in
 9 this state would constitute a crime under the laws of this state,
 10 ~~or the United States,~~ **or a federally recognized tribe in this**
 11 **state,** that causes ~~an injury~~ **actual bodily harm, including**
 12 **pregnancy or death, or that poses a reasonably perceived or actual**
 13 **threat of injury or death** within this state or that causes ~~an~~
 14 ~~injury~~ **actual bodily harm, including pregnancy or death, to a**
 15 **resident of this state or that poses a reasonably perceived or**
 16 **actual threat of injury or death** to a resident of this state within
 17 a state that does not have a victim compensation program eligible
 18 for funding from the victims of crime act of 1984, chapter XIV of
 19 title II of the comprehensive crime control act of 1984, Public Law
 20 98-473. ~~798 Stat. 2170.~~

21 (iii) An act of international terrorism as **that term is** defined
 22 in ~~section 2331 of title 18 of the United States code, 18 U.S.C.~~
 23 **USC 2331,** committed outside the territorial jurisdiction of the
 24 United States that causes ~~an injury~~ **actual bodily harm, including**
 25 **pregnancy or death,** to a resident of this state **or that poses a**
 26 **reasonably perceived or actual threat of injury or death.**

27 (d) "Dating relationship" means frequent, intimate
 28 associations primarily characterized by the expectation of
 29 affectional involvement. Dating relationship does not include a

casual relationship or an ordinary fraternization between 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) ~~(d)~~ "Intervenor" means a person who goes to the aid of one who has become a victim of a crime and who suffers personal ~~physical~~ injury.

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

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

~~(g) "Replacement services" means homemaking tasks, child care, transportation, and other services previously performed by the victim that, because of the victim's injury, must temporarily or permanently be performed by a person other than the victim. 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) ~~(h)~~ "Support" means actual monetary payments made by a victim or intervenor to or for a person principally dependent on the victim or intervenor.

(k) ~~(i)~~ "Victim" means a person who suffers a personal ~~physical~~ 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) A surviving spouse, parent, grandparent,~~ 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 ~~7 sibling, or grandchild of a victim of a crime who died as a direct result of the crime.~~ 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) A surviving person related to the victim by blood or affinity, a guardian, personal representative, or member of the same household as the victim.~~ 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 ~~shall~~**must** not be made on a claim unless the claimant has incurred ~~a minimum~~**an** out-of-pocket loss of **not less than** \$200.00, or has lost at least ~~2 continuous weeks'~~**5 days'** earnings or support, but the commission may waive the limitations of this subsection ~~in the case of~~**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

1 commission shall waive this limitation for health care providers
2 seeking payment under section 5a.

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

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

16 **(2) The amount of the**~~an~~ **emergency award shall**~~under this~~
17 **section must** not exceed \$500.00.~~The amount of the emergency award~~
18 ~~shall~~**\$4,000.00 and must** be deducted from the final award made to
19 the claimant. The excess of the amount of the emergency award over
20 the amount of the final award, if any, ~~shall~~**must** be repaid by the
21 claimant to the commission.

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

27 Sec. 11. (1) Except for a claim under section 5a, an award
28 made under this act ~~shall~~**must** be an amount not more than an out-
29 of-pocket loss, including indebtedness reasonably incurred for

1 medical or other services necessary as a result of the **personal**
2 injury upon which the claim is based, together with loss of
3 earnings or support resulting from the ~~injury.~~**crime**. The aggregate
4 award under this act ~~shall~~**must** not exceed ~~\$25,000.00~~**\$45,000.00**
5 per claimant.

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

10 (a) Medical care for the victim or intervenor.

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

14 (c) Reasonable expenses for temporary or permanent relocation
15 for an individual listed in section 4(1)(a) or (e), or if the
16 victim is deceased, for an individual listed in section 4(1)(b),
17 (e), or (f). An award for expenses under this subdivision may be
18 made only if the claimant is relocating to protect the claimant's
19 physical safety or emotional or financial well-being as a result of
20 the crime and, unless good cause is shown, is relocating within 1
21 year of the date the crime occurred, or of the date the claimant is
22 threatened by a change in circumstance or by an indicator of
23 danger. An award for expenses under this subdivision may not exceed
24 \$3,800.00 per claimant. Eligible relocation expenses under this
25 subdivision include, but are not limited to, all of the following
26 expenses:

27 (i) The first month of rent, a security deposit, and the costs
28 to start utilities in the dwelling unit to which the claimant
29 relocates. The commission may require the claimant to provide a

1 signed rental agreement to verify these expenses.

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

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

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

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

18 (i) If the expense is for travel of a distance of not more than
19 50 miles each way from the claimant's residence, \$1,000.00.

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

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

29 (B) If the travel is a distance of not less than 50 miles from

1 the claimant's residence each way and is to and from a funeral for
2 a deceased victim or intervenor.

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

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

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

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

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

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

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

24 (i) If the crime scene is located at the residence of, or a
25 motor vehicle owned or leased by, an individual listed in section
26 4(1)(a), (b), (e), or (f), the crime scene cleanup services
27 resulting from a crime for that residence or vehicle after crime
28 scene cleanup is permitted by the investigating law enforcement
29 agency, in an amount not to exceed \$5,000.00 per crime scene.

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

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

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

6 (3) ~~(2)~~ Unless reduced under this act, an award made for loss
7 of ~~earnings or support shall~~ **must** be in an amount equal to the
8 actual loss sustained. An award ~~shall~~ **must** not exceed ~~\$350.00~~
9 **\$1,000.00** for each week of lost ~~earnings or support~~.

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

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

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

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

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

28 (b) If the victim or intervenor is deceased and a claimant is
29 listed in section 4(1)(b), (e), or (f), wage loss for bereavement

1 leave to attend the funeral or alternative to a funeral of the
 2 deceased victim or intervenor, to make arrangements necessitated by
 3 the death of the deceased victim or intervenor, or for a period of
 4 grieving the death of the deceased victim or intervenor, not to
 5 exceed the following amounts:

6 (i) If the claimant is listed in section 4(1) (b) or (e),
 7 \$2,000.00.

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

9 (5) ~~(3) An~~ Unless reduced under this act, an award made for
 10 funeral expenses ~~, including must be in an amount equal to~~
 11 unreimbursed and unreimbursable expenses or indebtedness incurred
 12 for burial expenses, ~~shall transporting the victim's body, and~~
 13 other costs for the funeral service or alternative to funeral
 14 service, and must not exceed ~~\$5,000.00~~ \$8,000.00 for each victim.
 15 An award under this subsection ~~shall~~ must not exceed an additional
 16 \$500.00 for each of the following services:

17 ~~(a) Grief counseling for the victim's spouse, children,~~
 18 ~~parents, siblings, grandparents, and grandchildren.~~

19 ~~(b) Crime scene cleanup services after crime scene cleanup is~~
 20 ~~permitted by the investigating law enforcement agency, if the crime~~
 21 ~~scene is located at the residence of the victim or of a person~~
 22 ~~eligible for an award under section 4(1) (b).~~ a grave marker for each
 23 victim.

24 (6) ~~(4) An award for psychological or grief counseling shall~~
 25 ~~must not exceed 35 hourly sessions per victim or intervenor. The~~
 26 ~~award may include not more than 8 family sessions that include any~~
 27 ~~of the victim's or intervenor's spouse, children, parents, or~~
 28 ~~siblings who are not criminally responsible for or an accomplice to~~
 29 ~~the crime.~~ 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 ~~shall~~**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 ~~shall~~**must** not exceed \$125.00 per hourly session for a psychologist or physician licensed to practice in this state.

(7) ~~(5)~~—An award ~~shall~~**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) ~~(6)~~—In making a determination on a claim filed by ~~a person~~**an individual** listed in section 4(1)(a), (b), ~~or~~ (c), (e), (f), or (g), the commission shall determine whether the victim's misconduct

1 contributed to his or her injury and shall reduce the amount of the
2 award or reject the claim altogether, in accordance with the
3 determination. The commission may disregard for this purpose the
4 victim's responsibility for his or her own injury if the record
5 shows that the injury was attributable to the victim's efforts to
6 prevent a crime or an attempted crime from occurring in his or her
7 presence or to apprehend a person who had committed a crime in his
8 or her presence. As used in this subsection, "misconduct" includes
9 but is not limited to provocation of or participation in a crime
10 contemporaneous with or immediately preceding the injury.

11 ~~(7) Except for a claim under section 5a, if the commission~~
12 ~~finds that the claimant will not suffer serious financial hardship~~
13 ~~as a result of the loss of earnings or support and the out-of-~~
14 ~~-pocket expenses incurred as a result of the injury if he or she is~~
15 ~~not granted financial assistance, the commission shall deny the~~
16 ~~award. In determining the serious financial hardship, the~~
17 ~~commission shall consider all of the financial resources of the~~
18 ~~claimant.~~

19 **(9)** ~~(8)~~ If the commission determines that the payment of an
20 award will cause substantial unjust enrichment and economic benefit
21 to a person criminally responsible for the crime, the commission
22 shall deny the payment.

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

28 Sec. 15. For purposes of this act, information relating to the
29 filing of a claim by a claimant before the commission or

1 proceedings before the commission, an emergency award made by the
2 commission pursuant to section 9, or final awards made by the
3 commission pursuant to section ~~11(2)~~**11** are inadmissible in a
4 criminal proceeding.

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

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