

HOUSE BILL NO. 4675

April 21, 2021, Introduced by Reps. Slagh, Kahle, Posthumus, Tyrone Carter and Calley and referred to the Committee on Rules and Competitiveness.

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, 5, 10, and 11 (MCL 18.351, 18.355, 18.360, and 18.361), section 1 as amended by 1996 PA 519, sections 5 and 10 as amended by 2008 PA 390, and section 11 as amended by 2010 PA 282.

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.

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

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

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

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

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

21 (d) "Intervenor" means a person who goes to the aid of one who
22 has become a victim of a crime and who suffers personal ~~physical~~
23 injury.

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

(f) "Personal ~~physical injury~~" means ~~actual bodily harm and a~~
physical, mental, or emotional injury. Personal injury includes
 pregnancy **and includes death.**

(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.

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

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

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~~**must**
 be filed by the claimant not later than ~~1 year~~**5 years** 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~~**5 years** after the crime was
 reported.

(b) A claim may be filed within ~~1 year~~**5 years** after the
 discovery by a law enforcement agency that injuries previously
 determined to be accidental, of unknown origin, or resulting from

1 natural causes, were incurred as the result of a crime.

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

5 (4) A claim ~~shall~~**must** be filed in the commission's office in
6 person or by mail, **or be filed by electronic means authorized by**
7 **the commission.** The commission shall accept for filing a claim that
8 is submitted by a person who is eligible, ~~and which~~ alleges the
9 jurisdictional requirements set forth in this act, and meets the
10 requirements as to form as approved by the commission. **The**
11 **commission shall accept a claim for filing regardless of whether**
12 **the claimant has made a claim to cover the cost from another**
13 **source, or has attempted to cover the cost or a portion of the cost**
14 **from another source.**

15 ~~(5) Upon filing of a claim by a person listed in section~~
16 ~~4(1)(a), (b), or (c), the commission shall promptly notify the~~
17 ~~prosecuting attorney of the county in which the crime is alleged to~~
18 ~~have occurred. If, within 20 days after the notification, the~~
19 ~~prosecuting attorney advises the commission that a criminal~~
20 ~~prosecution is pending upon the same alleged crime and requests~~
21 ~~that action by the commission be deferred, the commission shall~~
22 ~~defer the proceedings until the criminal prosecution is concluded.~~
23 ~~When the criminal prosecution is concluded, the prosecuting~~
24 ~~attorney shall promptly notify the commission. This section does~~
25 ~~not prohibit the commission from granting emergency awards pursuant~~
26 ~~to section 9 or from paying a health care provider under section~~
27 ~~5a.~~

28 Sec. 10. ~~An award shall not be made~~**The commission shall not**
29 **grant an award** unless the investigation of the claim verifies the

1 following facts:

2 (a) A crime was committed.

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

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

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

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

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

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

19 Sec. 11. (1) Except for a claim under section 5a, an award
20 made under this act ~~shall~~ **must** be an amount not more than an out-
21 of-pocket loss, including indebtedness reasonably incurred for
22 medical or other services necessary as a result of the injury upon
23 which the claim is based, together with loss of earnings or support
24 resulting from the injury. The aggregate award under this act ~~shall~~
25 **must** not exceed \$25,000.00 per claimant.

26 (2) Unless reduced under this act, an award made for loss of
27 earnings or support ~~shall~~ **must** be in an amount equal to the actual
28 loss sustained. An award ~~shall~~ **must** not exceed \$350.00 for each
29 week of lost earnings or support.

1 (3) An award made for funeral expenses, including burial
2 expenses, ~~shall~~**must** not exceed \$5,000.00 for each victim. An award
3 under this subsection ~~shall~~**must** not exceed an additional \$500.00
4 for each of the following services:

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

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

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

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

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

26 (b) From insurance, but not including disability or death
27 benefits paid or to be paid to a peace officer or a corrections
28 officer on account of injuries sustained in the course of
29 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~~ **an**
7 **individual** listed in section 4(1)(a), (b), or (c) ~~—~~the commission
8 shall determine whether the victim's misconduct contributed to his
9 or her injury and shall reduce the amount of the award or reject
10 the claim altogether, in accordance with the determination. The
11 commission may disregard for this purpose the victim's
12 responsibility for his or her own injury if the record shows that
13 the injury was attributable to the victim's efforts to prevent a
14 crime or an attempted crime from occurring in his or her presence
15 or to 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 under section 5a, if the commission
20 finds that the claimant will not suffer serious financial hardship
21 as a result of the loss of earnings or support and the out-of-
22 pocket expenses incurred as a result of the injury if he or she is
23 not granted financial assistance, the commission shall deny the
24 award. In determining the serious financial hardship, the
25 commission shall consider all of the financial resources of the
26 claimant.

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

1 deny the payment.

2 (9) If a claimant receives a payment described under
3 subsection (5) (a) to (c) for an expense for which the claimant
4 received an award under this section, the claimant shall repay the
5 commission the amount equal to the amount of the award made for
6 that expense.