

HOUSE BILL NO. 4674

April 21, 2021, Introduced by Reps. Kahle, Slagh, Posthumus and Tyrone Carter 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, 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, 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.~~

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

3 ~~(g) "Replacement services" means homemaking tasks, child care,~~
4 ~~transportation, and other services previously performed by the~~
5 ~~victim that, because of the victim's injury, must temporarily or~~
6 ~~permanently be performed by a person other than the victim.~~

7 (f) ~~(h)~~—"Support" means actual monetary payments made by a
8 victim or intervenor to or for a person principally dependent on
9 the victim or intervenor.

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

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

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

15 (b) A ~~surviving~~ spouse, **fiancé or fiancée**, parent, **stepparent**,
16 grandparent, child, **stepchild**, sibling, **stepsibling**, or grandchild
17 of a victim of a crime; **an individual with a child in common with a**
18 **victim of a crime; or an individual for whom a victim of a crime**
19 **stands or stood in loco parentis.** ~~who died as a direct result of~~
20 ~~the crime.~~

21 (c) A surviving person related ~~to the victim~~ by blood or
22 affinity **to a victim who died as a direct result of a crime, or a**
23 guardian ~~, or~~ personal representative **of a victim of a crime.** ~~, or a~~
24 ~~member of the same household as the victim.~~

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

26 (e) **An individual who, at the time the crime occurred, was**
27 **living in the same household as the victim or intervenor of the**
28 **crime and for whom either of the following applies:**

29 (i) **The individual is related to the victim or intervenor by**

1 blood or affinity.

2 (ii) The individual has an established and emotionally
3 significant relationship with the victim or intervenor.

4 (f) An individual who lived in the same household as the
5 victim or intervenor of a crime for not less than 2 years and who
6 is related to the victim or intervenor by blood or affinity.

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

9 (a) Criminally responsible for the crime.

10 (b) An accomplice to the crime.

11 (3) An award ~~shall~~**must** not be made on a claim unless the
12 claimant has incurred ~~a minimum~~**an** out-of-pocket loss ~~of~~**listed in**
13 **section 11(2) of not less than** \$200.00, ~~or has lost at least 2~~
14 ~~continuous weeks' earnings or support,~~ but the commission may waive
15 ~~the limitations of this subsection in the case of~~**this limitation**
16 **if** a claimant **is** retired by reason of age or disability. If the
17 claimant is a victim of criminal sexual conduct in the first,
18 second, or third degree, the commission may waive the limitations
19 of this subsection. The commission shall waive this limitation for
20 health care providers seeking payment under section 5a.

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

28 (2) The amount of ~~the~~**an** emergency award ~~shall~~**under this**
29 **section must** not exceed \$500.00. ~~The amount of the emergency award~~

1 ~~shall~~ **\$5,000.00 and must** be deducted from the final award made to
2 the claimant. The excess of the amount of the emergency award over
3 the amount of the final award, if any, ~~shall~~ **must** be repaid by the
4 claimant to the commission.

5 **(3) Not more than 2 business days after receiving an**
6 **application or request for an emergency award under subsection (1),**
7 **the commission shall determine whether to grant an emergency award**
8 **under this section.**

9 Sec. 11. (1) Except for a claim under section 5a **and an award**
10 **under subsection (4),** an award made under this act ~~shall~~ **must** be an
11 amount not more than an out-of-pocket loss ~~, including indebtedness~~
12 ~~reasonably incurred for medical or other services necessary as a~~
13 ~~result of the injury upon which the claim is based,~~ together with
14 loss of earnings or support resulting from the ~~injury.~~ **crime.** The
15 aggregate award under this act ~~shall~~ **must** not exceed ~~\$25,000.00~~
16 **\$45,000.00** per claimant.

17 **(2) Unless reduced under this act, an award made for an out-**
18 **of-pocket loss must be in an amount equal to unreimbursed and**
19 **unreimbursable expenses or indebtedness reasonably incurred for any**
20 **of the following:**

21 **(a) Medical care for the victim or intervenor.**

22 **(b) Subject to subsection (5), psychological counseling for an**
23 **individual listed in section 4(1)(a), (b), (e), or (f).**

24 **(c) Temporary or permanent relocation for an individual listed**
25 **in section 4(1)(a), (b), (e), or (f), including, but not limited**
26 **to, the first month of rent and a security deposit.**

27 **(d) Loss of tuition for the victim or intervenor.**

28 **(e) Replacement services for homemaking tasks, child care, and**
29 **other services previously performed by an individual listed in**

1 section 4(1)(a), (b), (e), or (f), that, because of the victim's
2 injury, or because of the victim's attendance at a court proceeding
3 or victim service related to the crime, must temporarily or
4 permanently be performed by a person other than an individual
5 listed in section 4(1)(a), (b), (e), or (f).

6 (f) Job training and vocational rehabilitation for the victim
7 or intervenor, made necessary as a result of the injury.

8 (g) Transportation expenses for the purpose of an individual
9 listed in section 4(1)(a), (b), (e), or (f) to access victim
10 services, medical care, or mental health care, including, but not
11 limited to, psychological counseling, and to attend a court
12 proceeding related to the crime.

13 (h) Reasonable costs of installing or increasing residential
14 security at the residence of an individual listed in section
15 4(1)(a), (b), (e), or (f), including, but not limited to,
16 installing a home security device or system, or replacing or
17 increasing the number of locks on residential entryways.

18 (i) Accessibility or rehabilitative equipment or devices,
19 including modifications necessary to make a residence or vehicle
20 accessible for a victim or intervenor as a result of the injury.

21 (j) Nonmedical remedial treatment rendered to an individual
22 listed in section 4(1)(a), (b), (e), or (f) in accordance with a
23 recognized religious method of healing.

24 (k) Other services necessary as a result of the injury or
25 crime upon which a claim is based.

26 (3) ~~(2)~~—Unless reduced under this act, an award made for loss
27 of earnings or support ~~shall~~**must** be in an amount equal to the
28 actual loss sustained. An award ~~shall~~**must** not exceed ~~\$350.00~~
29 **\$700.00** for each week of lost earnings or support. **A claimant may**

1 be awarded for loss of earnings or support under this subsection
2 for not attending work as a result of the crime, including, but not
3 limited to, in the following circumstances:

4 (a) If a claimant listed in section 4(1) (a), (b), (e), or (f)
5 cannot attend work due to any of the following:

6 (i) Seeking medical attention for or recovery from an injury
7 caused by the crime, or providing care to a victim recovering from
8 injury.

9 (ii) Obtaining services or assisting another individual listed
10 in section 4(1) (a), (b), (e), or (f) in obtaining services from a
11 victim services provider, agency, or organization.

12 (iii) Obtaining psychological counseling or mental health
13 services directly related to the crime, or accompanying another
14 individual listed in section 4(1) (a), (b), (e), or (f) in obtaining
15 psychological counseling or mental health services directly related
16 to the crime.

17 (iv) Participating in safety planning and taking other actions
18 to increase safety of an individual listed in section 4(1) (a), (b),
19 (e), or (f) following the crime, including temporary or permanent
20 relocation.

21 (b) If a claimant is an intervenor or is listed in section
22 4(1) (b), (e), or (f) and cannot attend work due to any of the
23 following:

24 (i) Attending the funeral or alternative to a funeral of a
25 victim who died as a result of the crime.

26 (ii) Making arrangements necessitated by the death of a victim
27 who died as a result of the crime.

28 (iii) For a period of not more than 12 weeks, grieving the death
29 of a victim who died as a result of the crime.

1 (4) ~~(3) An~~ **Unless reduced under this act, an** award made for
 2 funeral expenses ~~, including must be in an amount equal to~~
 3 **unreimbursed and unreimbursable expenses or indebtedness incurred**
 4 **for** burial expenses, ~~shall flowers, a gravestone, transporting the~~
 5 **victim's body, travel costs for family members, and other costs for**
 6 **the funeral service or alternative to funeral service, and must not**
 7 exceed ~~\$5,000.00~~ **\$10,000.00** for each victim. An award under this
 8 subsection ~~shall not exceed an additional \$500.00 for each of the~~
 9 ~~following services:~~

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

12 ~~(b) Crime~~ **must not exceed an additional \$500.00 for crime**
 13 scene cleanup services after crime scene cleanup is permitted by
 14 the investigating law enforcement agency, if the crime scene is
 15 located at the residence of the victim or of ~~a person~~ **an individual**
 16 eligible for an award under section 4(1)(b).

17 (5) ~~(4) An~~ award for psychological counseling ~~shall~~ **must** not
 18 exceed 35 hourly sessions per ~~victim or intervenor. The award may~~
 19 ~~include not more than 8 family sessions that include any of the~~
 20 ~~victim's or intervenor's spouse, children, parents, or siblings who~~
 21 ~~are not criminally responsible for or an accomplice to the crime.~~
 22 **individual listed in section 4(1)(a), (b), (e), and (f).** The
 23 maximum hourly reimbursement rate ~~shall~~ **must** not exceed \$80.00 per
 24 hourly session for a therapist or counselor licensed or registered
 25 to practice in this state, except that the maximum hourly
 26 reimbursement rate ~~shall~~ **must** not exceed \$125.00 per hourly session
 27 for a psychologist or physician licensed to practice in this state.

28 (6) ~~(5) An~~ award ~~shall~~ **must** be reduced by the amount of 1 or
 29 more of the following payments received or to be received as a

1 result of the injury:

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

3 (b) From insurance, but not including disability or death
4 benefits paid or to be paid to a peace officer or a corrections
5 officer on account of injuries sustained in the course of
6 employment.

7 (c) From public funds, but not including disability or death
8 benefits paid or to be paid to a peace officer or a corrections
9 officer on account of injuries sustained in the course of
10 employment.

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

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

25 ~~(7) Except for a claim under section 5a, if the commission~~
26 ~~finds that the claimant will not suffer serious financial hardship~~
27 ~~as a result of the loss of earnings or support and the out-of-~~
28 ~~pocket expenses incurred as a result of the injury if he or she is~~
29 ~~not granted financial assistance, the commission shall deny the~~

1 ~~award. In determining the serious financial hardship, the~~
2 ~~commission shall consider all of the financial resources of the~~
3 ~~claimant.~~

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

8 Sec. 15. For purposes of this act, information relating to the
9 filing of a claim by a claimant before the commission or
10 proceedings before the commission, an emergency award made by the
11 commission pursuant to section 9, or final awards made by the
12 commission pursuant to section ~~11(2)~~**11** are inadmissible in a
13 criminal proceeding.