

**SUBSTITUTE FOR
SENATE BILL NO. 535**

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, 10, and 11 (MCL 18.351, 18.354, 18.360,
and 18.361), 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.

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 that causes an injury within this state.

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

13 (iii) An act of international terrorism as **that term is** defined
14 in ~~section 2331 of title 18 of the United States code, 18 U.S.C.~~
15 **USC 2331**, committed outside the territorial jurisdiction of the
16 United States that causes an injury to a resident of this state.

17 (d) **"Financial injury" means the payment of towing fees or**
18 **storage fees to recover an automobile.**

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

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

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



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

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

8 (j) ~~(i)~~ "Victim" means ~~a person~~ **an individual** who suffers a
9 personal physical injury as a direct result of a crime **or a**
10 **financial injury as a result of a crime described in section 529a**
11 **of the Michigan penal code, 1931 PA 328, MCL 750.529a.**

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, parent, grandparent, child, sibling,
16 or grandchild of a victim of a crime who died as a direct result of
17 the crime.

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

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

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

24 (a) Criminally responsible for the crime.

25 (b) An accomplice to the crime.

26 (3) An award ~~shall~~ **must** not be made on a claim unless the
27 claimant has incurred a minimum out-of-pocket loss of \$200.00 or
28 has lost at least 2 continuous weeks' earnings or support, but the
29 commission may waive the limitations of this subsection in the case



1 of a claimant retired by reason of age or disability. If the
 2 claimant is a victim of criminal sexual conduct in the first,
 3 second, or third degree, the commission may waive the limitations
 4 of this subsection. The commission shall waive this limitation for
 5 health care providers seeking payment under section 5a, **or a victim**
 6 **seeking payment for a financial injury.**

7 Sec. 10. An award ~~shall~~**must** not be made unless the
 8 investigation of the claim verifies the following facts:

9 (a) A crime was committed.

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

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

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

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

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

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

26 Sec. 11. (1) Except for a claim under section 5a, an award
 27 made under this act ~~shall~~**must** be an amount not more than an out-
 28 of-pocket loss, including indebtedness reasonably incurred for
 29 medical or other services necessary as a result of the injury upon



1 which the claim is based, together with loss of earnings or support
 2 resulting from the injury. The aggregate award under this act ~~shall~~
 3 **must** not exceed \$25,000.00 per claimant.

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

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

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

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

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

29 (5) An award ~~shall~~**must** be reduced by the amount of 1 or more



1 of the following payments received or to be received as a result of
2 the injury:

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

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

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

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

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

26 (7) Except for a claim **for payment of a financial injury or**
27 under section 5a, if the commission finds that the claimant will
28 not suffer serious financial hardship as a result of the loss of
29 earnings or support and the out-of-pocket expenses incurred as a



1 result of the injury if he or she is not granted financial
2 assistance, the commission shall deny the award. In determining the
3 serious financial hardship, the commission shall consider all of
4 the financial resources of the claimant.

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

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

