

2016 -- S 2937

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- CRIMINAL INJURIES COMPENSATION

Introduced By: Senators McCaffrey, Lombardi, Conley, Lynch Prata, and Metts

Date Introduced: May 03, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-25-17, 12-25-19, 12-25-21.1 and 12-25-22 of the General Laws
2 in Chapter 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as
3 follows:

4 **12-25-17. Definitions.** -- As used in this chapter:

5 (1) "Administrator" means the program administrator of this chapter.

6 (2) "Child" means an unmarried person who is under eighteen (18) years of age and
7 includes a stepchild or an adopted child.

8 (3) "Court" means the superior court.

9 (4) "Dependent" means a person wholly or partially dependent upon the income of the
10 victim at the time of his or her death or would have been so dependent but for the incapacity due
11 to the injury from which the death resulted. The term includes a child of the victim born after the
12 death of the victim.

13 (5) "Office" means the office of the general treasurer.

14 (6) "Pecuniary loss" includes:

15 (i) For personal injury:

16 (A) Medical expenses (including psychiatric care) for which the victim is not
17 compensated by any other source;

18 (B) Hospital expenses for which the victim is not compensated by any other source;

19 (C) Loss of past earnings for which the victim is not compensated by any other source;

1 (D) Loss of future earnings because of a disability resulting from the personal injury for
2 which the victim is not compensated by any other source;

3 (E) Direct expenses related to the delivery or obtainment of medical or counseling
4 services, or to participate in criminal justice proceedings.

5 (ii) For death:

6 (A) Funeral and burial expenses for which the victim's estate is not compensated by any
7 other source; ~~and~~

8 (B) Loss of support to the dependents of the victim for which the dependents are not
9 compensated by any other source-; and

10 (C) Direct expenses related to the participation in funeral services, counseling, or
11 criminal justice proceedings.

12 (iii) Any other expenses actually and necessarily incurred as a result of the personal
13 injury or death for which the victim or his or her estate is not compensated by any other source,
14 but it does not include property damage.

15 (7) "Personal injury" means actual bodily harm, mental or nervous shock, and a
16 pregnancy resulting from sexual attack.

17 (8) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child,
18 grandchild, brother, sister, half-brother, half-sister, and a spouse's parents.

19 (9) "Resident" means any person who has his or her residence within the state of Rhode
20 Island.

21 (10) "State" includes the District of Columbia, the fifty (50) states, and the United States'
22 territories and possessions.

23 (11) "Treasurer" means the general treasurer of the state of Rhode Island or his or her
24 designee.

25 (12) "Victim" means a person who is injured or killed by any act of a person or persons
26 which is within the description of any of the offenses specified in § 12-25-20 and which act
27 occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode Island
28 who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331 occurring outside the United
29 States.

30 (13) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established
31 pursuant to former §§ 12-25-1 -- 12-25-12.1.

32 (14) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established
33 pursuant to §§ 12-25-16 -- 12-25-30.

34 **12-25-19. Awarding compensation.** -- (a) In any case in which a person is injured or

1 killed by any act of a person or persons which is within the description of the offenses listed in §
2 12-25-20, the victim, his or her guardian, the child advocate as provided in § 42-73-9.1, or in the
3 case of his or her death, a legal representative, may apply to the office for compensation. The
4 office shall provide notice of the application to the attorney general. The office may award
5 compensation in accordance with the provisions of this chapter if the act occurs:

- 6 (1) Within the physical confines of the state of Rhode Island;
- 7 (2) Within the maritime jurisdiction of the state of Rhode Island;
- 8 (3) Outside the state of Rhode Island to any victim who has his or her residence in the
9 state of Rhode Island and had the residence in the state at the time that the offense occurred, and
10 is not entitled to compensation of any kind from the state, possession, or territory or district of the
11 United States in which the offense occurred; or
- 12 (4) Outside the state of Rhode Island to any victim who had his or her residence in the
13 state of Rhode Island at the time the offense occurred who is injured or killed by an act of
14 terrorism occurring either outside of the United States, as defined in 18 U.S.C. § 2331, or within
15 the United States as referred to in 42 U.S.C. § 10603b.

16 (b) The office may award compensation as described in this section:

- 17 (1) To or on behalf of the injured person, or his or her guardian;
- 18 (2) In the case of the personal injury of the victim where the compensation is for
19 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the
20 victim, to that person; or
- 21 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest
22 relative of the deceased victim, or any one or more of the dependents or to the legal representative
23 of the victim.

24 (c) For the purposes of this chapter, a person shall be deemed to have intended an act
25 notwithstanding that, by reason of age, insanity, drunkenness, or otherwise, he or she was legally
26 incapable of forming a criminal intent.

27 (d) (1) In determining whether to award compensation as described in this section and
28 the amount of compensation, the office shall consider any circumstances it determines to be
29 relevant, including, but not limited to:

- 30 (i) compliance by the victim with the reasonable requests of law enforcement agencies
31 and personnel;
- 32 (ii) ~~violent felonious criminal conduct of the victim committed within the past five (5)~~
33 ~~years or subsequent to his or her injury~~ [any conviction of a crime pursuant to 42 U.S.C.](#)
34 [§10602\(b\)\(8\); and](#)

1 (iii) ~~any conviction of a crime of violence by the victim; and~~

2 (iv) the behavior of the victim ~~which~~ including past behavior that directly or indirectly
3 contributed to his or her injury or death, unless the injury or death resulted from the victim's
4 lawful attempt to prevent the commission of a crime or to apprehend an offender. The office may
5 reduce or deny an award based on these circumstances.

6 (2) Notwithstanding the other provisions of this section, in the case of the death of the
7 victim, the office shall not reduce or deny compensation for burial costs to or for the benefit of
8 the dependents or closest relative of the deceased victim, or any one or more of the dependents or
9 to the legal representative of the victim, without offering an administrative appeal to the closest
10 relative or legal representative of the deceased.

11 (3) Any individual who is incarcerated at any criminal institutional facility at the time of
12 his or her injury shall be deemed ineligible to receive an award of compensation as described in
13 this section.

14 (e) No compensation may be awarded unless the office so directs upon a finding that:

15 (1) The act did occur; and

16 (2) The injury or death resulted from the act.

17 (f) An award may be made under this section whether or not any person is prosecuted or
18 convicted of any offense arising out of the act, or if the act is the subject of any other legal action.
19 Upon application from the attorney general, the office shall suspend proceedings under this
20 chapter until the application is withdrawn or until a prosecution for an offense arising out of the
21 act is no longer pending or imminent. The office may suspend proceedings in the interest of
22 justice if a criminal or civil action arising from the act is pending or imminent.

23 (g) The office shall pay to the person named in the award of compensation, and the
24 payments shall be made from the violent crimes indemnity account and from any federal moneys
25 available as coordinated by the office.

26 (h) Where compensable medical services have been rendered, any award made payable
27 to a medical provider shall be based on the current final adjustment to charge ratio approved by
28 the department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode
29 Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency
30 room charges, and ambulatory surgery charges. Amounts awarded for all other medical services
31 shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the
32 provider employs a sliding scale fee structure for any category of patient or service, the award
33 shall not exceed the amount the applicant would be charged if he or she qualified under the
34 provider's sliding scale fee structure. Medical service providers shall be required to accept these

1 awards as full payment for services rendered and shall be prohibited from assessing any
2 additional charges against the victim.

3 **12-25-21.1. Emergency fund for victims.** -- (a) The office may award emergency
4 compensation under this chapter for the: (1) Burial expenses of a victim who dies as a direct
5 result of a violent crime as defined in this chapter; (2) Cost of the crime scene clean up; and (3)
6 Relocation expenses.

7 (b) The award for emergency compensation shall be awarded at the sole discretion of the
8 program administrator. The administrator may promulgate rules and regulations to administer the
9 provisions of this section.

10 (c) An award for emergency compensation for burial expenses shall not exceed the sum
11 of ~~eight thousand dollars (\$8,000)~~ ten thousand dollars (\$10,000).

12 (d) An award for emergency compensation for crime scene clean up shall not exceed two
13 thousand dollars (\$2,000).

14 (e) An award for emergency compensation for relocation costs shall not exceed ~~two~~
15 ~~thousand five hundred dollars (\$2,500)~~ five thousand dollars (\$5,000).

16 (f) The award for emergency compensation for burial expenses, crime scene clean up,
17 and relocation costs shall be deducted from the final award. In the event the victim is not eligible
18 for an award, the victim shall repay the amount of the emergency award to the fund.

19 (g) Any payments made for the emergency compensation shall be deducted from the
20 final award. In no event shall the final award exceed the maximum award of twenty-five thousand
21 dollars (\$25,000).

22 **12-25-22. Limitations upon awarding compensation.** -- (a) Actions for compensation
23 under this chapter shall be commenced within three (3) years after the date of the personal injury
24 or death, and no compensation shall be awarded for an injury or death resulting from a crime
25 which was not reported to the appropriate law enforcement authority within ~~ten (10)~~ fifteen (15)
26 days of its occurrence; provided, that the office shall have the authority to allow a claim which
27 was not reported pursuant to this section when the victim was below the age of eighteen (18)
28 years of age or of unsound mind, or for good cause shown.

29 (b) No compensation shall be awarded under this chapter to the victim, or in the case of
30 death to dependent relatives or to the legal representative, in a total amount in excess of twenty-
31 five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to
32 the superior court pursuant to § 12-25-25.

33 (c) No compensation shall be awarded when the office, in its discretion, determines that
34 unjust enrichment to or on behalf of the offender would result. Compensation under this chapter

1 shall not be awarded to any victim or dependent relative or legal representative if the award
2 would directly or indirectly inure to the benefit of the offender.

3 (d) No interest shall be included in or added to an award of compensation under this
4 chapter.

5 (e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the
6 victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her
7 estate is not compensated by any other source and for the loss of support to the dependents of the
8 victim.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- CRIMINAL INJURIES COMPENSATION

1 This act would expand the type of direct expenses that crime victims can be reimbursed
2 for pursuant to the criminal injuries compensation act. It would also increase the maximum
3 emergency compensation award for burial costs and relocation and related costs. The three (3)
4 year statute limitations for claims would be removed and eligible victims would have five (5)
5 additional days to report a crime which resulted in their injuries.

6 This act would take effect upon passage.

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