

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1672

Session of  
1983

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INTRODUCED BY SWEET, RAPPAPORT, SPENCER, HAGARTY, LASHINGER, COY, O'DONNELL, MANDERINO, EVANS, MAIALE, HOEFFEL, WOGAN, KASUNIC, BURD, KUKOVICH, FATTAH, WOZNIAK, BELFANTI, TRUMAN, WACHOB, CALTAGIRONE, WAMBACH, PISTELLA, KOSINSKI, RYBAK, KOWALYSHYN, MRKONIC, PHILLIPS, MORRIS, CAWLEY, TIGUE, MICHLOVIC, GEIST, PRATT, CIMINI, JOHNSON, DeLUCA, COLAFELLA, VAN HORNE, OLASZ, DEAL, GALLAGHER, WIGGINS, LINTON, OLIVER, CARN, HARPER, BARBER, LESCOVITZ, DOMBROWSKI, DALEY, LEHR, ARTY, BELOFF, PETRARCA, TRELLO, McVERRY, SAURMAN, D. R. WRIGHT, PETRONE, MAYERNIK, AFFLERBACH, E. Z. TAYLOR, PRESTON, DAWIDA, BLAUM, WILLIAMS, LEVIN, CORDISCO, R. C. WRIGHT, REBER AND STEVENS, OCTOBER 26, 1983

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AS AMENDED ON THIRD CONSIDERATION, DECEMBER 7, 1983

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## AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; and prescribing the manner in which the  
18 number and compensation of the deputies and all other  
19 assistants and employes of certain departments, boards and  
20 commissions shall be determined," further providing for  
21 provisions relating to crime victims' compensation;  
22 reestablishing and continuing the Crime Victim's Compensation  
23 Board; and making an editorial change.

24 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 477 of the act of April 9, 1929 (P.L.177,  
3 No.175), known as The Administrative Code of 1929, amended  
4 December 10, 1976 (P.L.1305, No.287) and December 13, 1979  
5 (P.L.519, No.114), is amended to read:

6 Section 477. Definitions.--So far as it relates to the crime  
7 victim's compensation provisions, the following terms shall be  
8 defined as:

9 "Board" means the Crime Victim's Compensation Board.

10 "Claimant" means the person filing a claim pursuant to this  
11 act.

12 "Crime" means an act committed in Pennsylvania which, if  
13 committed by a mentally competent, criminally responsible adult,  
14 who had no legal exemption or defense, would constitute a crime  
15 as defined in and proscribed by Title 18 of the "Pennsylvania  
16 Consolidated Statutes," (relating to crimes and offenses) or any  
17 other penal law of the Commonwealth: Provided, however, That no  
18 act involving the operation of a motor vehicle which results in  
19 injury shall constitute a crime for the purpose of this act  
20 unless such injury was intentionally inflicted through the use  
21 of a motor vehicle.

22 "Family," when used in reference to a person, shall mean (i)  
23 anyone related to such person within the third degree of  
24 consanguinity or affinity, (ii) anyone maintaining a common-law  
25 relationship with such person, or (iii) anyone residing in the  
26 same household with such person.

27 "Intervenor" shall mean a person who goes to the aid of  
28 another and suffers bodily injury or death as a direct result of  
29 acting not recklessly to prevent the commission of a crime, or  
30 to lawfully apprehend a person reasonably suspected of having

1 committed such crime, or to aid the victim of such crime.

2 "Local law enforcement agency" means a police department of a  
3 city, borough, incorporated town or township.

4 "Loss of earnings" in addition to its ordinary meaning, shall  
5 mean the loss of the cash equivalent of a social security  
6 payment where social security is the sole source of the victim's  
7 income and where the victim is deprived of the money as a direct  
8 result of a crime.

9 "Out-of-pocket loss" means the unreimbursed and  
10 unreimbursable expenses or indebtedness incurred for medical  
11 care, nonmedical remedial care and treatment rendered in  
12 accordance with a religious method of healing as approved by the  
13 board, or other services, including psychological counseling,  
14 reasonably necessary as a result of the injury upon which the  
15 claim is based and for which the claimant either has paid or is  
16 liable to include expenses for physical examinations and  
17 materials used to obtain evidence. In no case shall property  
18 damages or compensation for pain and suffering be included.

19 "Victim" shall mean a person, other than the alleged  
20 offender, who suffers bodily injury [or], death or the loss of  
21 the proceeds of a social security payment which is the sole  
22 income of the recipient as a direct result of a crime.

23 Section 2. Section 477.1(e) of the act, added July 9, 1976  
24 (P.L.574, No.139), is amended to read:

25 Section 477.1. Crime Victim's Compensation Board.--\* \* \*

26 (e) [The members of the board shall devote their full time  
27 and capacity to their duties. The members of the board shall  
28 receive an annual starting salary of twenty-five thousand  
29 dollars (\$25,000). Thereafter they shall receive an annual  
30 salary to be fixed by the Executive Board of the Commonwealth

1 within the amount made available by appropriation. The chairman  
2 shall receive five hundred dollars (\$500) additional  
3 compensation per annum.] The chairman shall devote his full time  
4 and capacity to his duties. The remaining members of the board  
5 shall serve on a part-time basis. The chairman shall receive a  
6 starting salary of twenty-five thousand five hundred dollars  
7 (\$25,500). Thereafter he or she shall receive an annual salary  
8 to be fixed by the Executive Board of the Commonwealth within  
9 the amount made available by appropriation. The remaining  
10 members of the board shall receive a per diem salary of one  
11 hundred dollars (\$100) per day based on guidelines set forth by  
12 the Executive Board plus reasonable expenses for travel, lodging  
13 and meals.

14 Section 3. Section 477.2(a) of the act, added July 9, 1976  
15 (P.L.574, No.139), is amended and a subsection is added to read:  
16 Section 477.2. Powers and Duties of Board.--The board shall  
17 have the following powers and duties:

18 (a) To establish and maintain a principal office in or near  
19 Harrisburg [and such other offices within the Commonwealth as it  
20 may deem necessary].

21 \* \* \*

22 (1) To administer the Crime Victim's Compensation Fund,  
23 created under 42 Pa.C.S. § 1725.3 (relating to mandatory costs),  
24 for the payment of claims filed under this act and for all  
25 reasonable and necessary administrative expenses.

26 Section 4. Section 477.3 of the act, added July 9, 1976  
27 (P.L.574, No.139), is amended to read:

28 Section 477.3. Persons Eligible for Compensation.--(a)  
29 Except as provided in subsection (b) of this section, the  
30 following persons shall be eligible for compensation:

- 1       (1) A victim.
- 2       (2) An intervenor.
- 3       (3) A surviving spouse, parent or child of a deceased victim  
4 or intervenor.
- 5       (4) Any other person dependent for his principal support  
6 upon a deceased victim or intervenor.
- 7       (5) Any person who legally assumes the obligation or who  
8 voluntarily pays the funeral or burial expenses incurred as a  
9 direct result of the crime.

10       (b) A person who is criminally responsible for the crime  
11 upon which a claim is based or an accomplice of such person  
12 shall not be eligible to receive compensation with respect to  
13 such claim. A member of the family of the person who [allegedly]  
14 committed the crime shall not be eligible [under any  
15 circumstances] if, at the rendering of a verdict in the criminal  
16 proceeding, the offender is living in the same household as the  
17 victim and will benefit from the award. The Attorney General may  
18 sue the offender or the victim or both to recover the award if  
19 the offender at any time benefits from the award.

20       (c) A person who is not a resident of Pennsylvania at the  
21 time of occurrence of the crime upon which the claim is based,  
22 shall be eligible for compensation only if the law of the state  
23 of which he is a resident at the time of occurrence of the crime  
24 upon which the claim is based provides for compensation to  
25 Pennsylvania residents who are victims of crime in such state.

26       (d) If the victim's state of residence provides payments to  
27 its residents injured in Pennsylvania, primary responsibility  
28 for payment to the victim shall rest with the victim's state of  
29 residence.

30       Section 5. Section 477.5 of the act is repealed.

1       Section 6.   Section 477.9 of the act, added July 9, 1976  
2   (P.L.574, No.139) and amended December 13, 1979 (P.L.519,  
3   No.114), is amended to read:

4       Section 477.9.   Awards.--(a)   No award shall be made unless  
5   the board or board member, as the case may be, finds by a  
6   preponderance of the evidence that:

7       (1)   A crime was committed.

8       (2)   The person injured or killed was a victim or intervenor  
9   as defined in section 477.

10      (3)   Such crime was promptly reported to the proper  
11   authorities; and in no case may an award be made where the  
12   record shows that such report was made more than seventy-two  
13   hours after the occurrence of such crime unless the board, for  
14   good cause shown, finds the delay to have been justified. The  
15   board, upon finding that any claimant, victim or intervenor has  
16   not fully cooperated with all law enforcement agencies, may deny  
17   or withdraw any award, as the case may be.

18      (b)   Any award made pursuant to [sections 477 to 477.15] the  
19   provisions of this act shall be in an amount not exceeding out-  
20   of-pocket loss, together with loss of past, present or future  
21   earnings or support resulting from such injury. In no case shall  
22   the total amount of an award exceed [twenty-five thousand  
23   dollars (\$25,000)] thirty-five thousand dollars (\$35,000).

24      (c)   Any award made for loss of earnings or support shall,  
25   unless reduced pursuant to other provisions of this act, be in  
26   an amount equal to the actual loss sustained: Provided, however,  
27   That no such award shall exceed [two hundred dollars (\$200)] the  
28   average weekly wage in Pennsylvania as determined annually by  
29   the Department of Labor and Industry at the time the crime was  
30   committed for each week of lost earnings or support: And,

1 provided further, That the aggregate award for such loss shall  
2 not exceed [ten thousand dollars (\$10,000)] fifteen thousand  
3 dollars (\$15,000) except that in the case of death of a victim  
4 or intervenor, the aggregate award shall not exceed [fifteen  
5 thousand dollars (\$15,000)] twenty thousand dollars (\$20,000).

6 (d) If there are two or more persons entitled to an award as  
7 a result of the death of a victim or intervenor, the award shall  
8 be apportioned among the claimants.

9 (e) Except for [claims involving] ANY PAYMENTS OR PROCEEDS <—  
10 THAT ARE SPECIFICALLY DENOMINATED AS COMPENSATION FOR  
11 dismemberment or loss of an eye, any award made pursuant to this  
12 act shall be reduced by the amount of any payments received or  
13 to be received by the claimant as a result of the injury (i)  
14 from or on behalf of the person who committed the crime, (ii)  
15 under any insurance programs including those mandated by law,  
16 (iii) under any contract of insurance wherein the claimant is  
17 the insured beneficiary, (iv) from public funds, or (v) as an  
18 emergency award pursuant to section 477.8 of this act.

19 (f) In determining the amount of an award, the board or  
20 board member, as the case may be, shall determine whether,  
21 because of his conduct, the victim or intervenor contributed to  
22 the infliction of his injury EXCEPT WHERE THE CRIME WAS RAPE IN <—  
23 WHICH CASE THE CONDUCT OF THE VICTIM SHALL NOT BE CONSIDERED,  
24 and the board or board member shall reduce the amount of the  
25 award or deny the claim altogether in accordance with such  
26 determination: Provided, however, That the board or board  
27 member, as the case may be, may disregard for this purpose the  
28 contribution of the intervenor to his own injury where the  
29 record shows that such contribution was attributed to efforts by  
30 an intervenor as set forth in section 477.

Section 7. Section 477.13 of the act, added July 9, 1976 (P.L.574, No.139), is amended to read:

Section 477.13. Restitution.--To the extent that restitution is ordered pursuant to any other existing law, either prior to or subsequent to the making of an award by this board, such restitution shall be paid to the [Commonwealth] Crime Victim's Compensation Fund created under 42 Pa.C.S. § 1725.3 (relating to mandatory costs) to the extent of the award by the board.

Section 8. Section 477.17 of the act, added December 13, 1979 (P.L.519, No.144), is amended to read:

Section 477.17. Responsibilities of Local Law Enforcement Agencies.--(a) All local law enforcement agencies shall insure that all of its officers and employees are familiar with crime victim's compensation as provided for in sections 477 through 477.17 of this act. Instruction concerning crime victim's compensation shall be made a part of the training curriculum for all trainee officers.

(b) Local law enforcement agencies shall advise the victims of crimes reported to it of the availability of crime victim's compensation as provided by this act. The term "victim" as used in this subsection shall be a victim as defined by this act. The notice required under this subsection shall be in writing and shall include the following paragraph:

"If you have sustained physical injury as a direct result of a crime of violence, or are legally dependent for support upon a person who has sustained physical injury or death as a direct result of a crime of violence, or, in the event of a death caused by a crime of violence, you have legally assumed or voluntarily paid the medical or burial expenses incurred as a direct result thereof, you may qualify for



1 indemnification by the State of Pennsylvania for the out-of-  
2 pocket wages, medical or burial expenses which you have  
3 incurred as a result of the crime. Claims must be filed with  
4 the Crime Victim's Compensation Board for the State of  
5 Pennsylvania. For further information regarding this program,  
6 please contact:

7 (Name, business address and telephone  
8 number of the local law enforcement  
9 agency)

10 or

11 Crime Victim's Compensation Board

12 [Department of Justice]

13 Office of General Counsel

14 Harrisburg, Pennsylvania

15 Important: The statute provides that, absent certain  
16 extenuating circumstances, a claimant has one year from the  
17 date of the crime to file his claim with the Crime Victim's  
18 Compensation Board."

19 (c) The written notification provided for in subsection (b)  
20 shall be accompanied by [three copies] one copy of the  
21 application form for crime victim's compensation. These forms  
22 shall be supplied by the Crime Victim's Compensation Board to  
23 all local law enforcement agencies. The record of the date and  
24 address of all letters of notification shall be maintained by  
25 every local law enforcement agency.

26 (d) Any officer of a local law enforcement agency whose  
27 duties include the investigation of crimes may notify victims or  
28 their families of the availability of compensation under this  
29 act by giving them a card or sheet bearing the paragraph as  
30 quoted in subsection (b) above. A record of such personal notice

1 shall be maintained by the local law enforcement agency.

2 (e) In municipalities which do not have a local law  
3 enforcement agency, the board shall by rule establish procedures  
4 whereby it, together with the State Police, shall give the  
5 notice to victims of crimes as provided in this section.

6 Section 9. Section 477.18 of the act, added December 14,  
7 1982 (P.L.1213, No.280), is amended to read:

8 Section 477.18. Distribution of Moneys Received as a Result  
9 of the Commission of Crime.--(a) Every person, contracting with  
10 any person or the representative or assignee of any person[,]  
11 accused or convicted of a crime in this Commonwealth, with  
12 respect to the reenactment of such crime, by way of a movie,  
13 book, magazine article, tape recording, phonograph record, radio  
14 or television presentation, live entertainment of any kind, or  
15 from the expression of [such] the accused or convicted person's  
16 thoughts, feelings, opinions or emotions regarding such crime,  
17 shall notify the board of the contractual arrangements and shall  
18 pay over to the board any moneys which would otherwise, by terms  
19 of such contract, be owing to the person so accused or convicted  
20 or his representatives. The board shall deposit such moneys in  
21 an escrow account for the benefit of and payable to any [victim  
22 of crimes committed by such person, provided that such person is  
23 eventually convicted of the crime] eligible person and provided  
24 [further] that such [victim] eligible person, within five years  
25 of the date of the [crime] establishment of such escrow account,  
26 brings a civil action for damages on any legal theory in a court  
27 of competent jurisdiction and recovers a money judgment against  
28 such accused or convicted person or his representatives[.] and  
29 provided further that in the case of an accused person, such  
30 person is eventually convicted. However, the accused or

1 convicted person may voluntarily request that the board make  
2 payments to eligible persons who have not recovered money  
3 judgments. In the case of an accused making such a voluntary  
4 request, no payment shall be made until such person is convicted  
5 and, upon conviction, the trial judge presiding over the case  
6 shall determine the proportions of available escrow moneys  
7 payable to each eligible person and shall certify those amounts  
8 to the board. In the case of a convicted person making such a  
9 voluntary request, the board shall determine the proportion of  
10 available escrow moneys payable to eligible persons.

11 (b) (1) As used in this section, the term "eligible person"  
12 shall include any of the following persons:

13 (i) A victim of the particular crime in question.

14 (ii) An intervenor in such crime.

15 (iii) A surviving spouse, parent or child of a deceased  
16 victim of, or intervenor in, such crime.

17 (iv) Any other person dependent for his principal support  
18 upon a deceased victim of, or intervenor in, such crime.

19 No person who is criminally responsible for the crime in  
20 question or was an accomplice of the person who is criminally  
21 responsible shall be an eligible person.

22 (2) As used in this section, the term "convicted" includes  
23 conviction by entry of a plea of guilty or nolo contendere,  
24 conviction after trial, and a finding of not guilty due to  
25 insanity or of guilty but mentally ill.

26 [(b) The] (c) Upon receiving escrow moneys, the board shall  
27 notify all eligible persons that the escrow money is available  
28 to satisfy money judgments or that the accused or convicted has  
29 voluntarily requested that payments be made in the absence of a  
30 money judgment. If, after a good faith effort, the board is

1 unable to give personal notice to each such eligible person, the  
2 board, at least once every six months for five years from the  
3 date it receives such moneys, shall cause to have published a  
4 legal notice in newspapers of general circulation in each county  
5 advising such [victims] eligible persons that such escrow moneys  
6 are available to satisfy money judgments pursuant to this  
7 section or that the accused or convicted has voluntarily  
8 requested that payments be made in the absence of a money  
9 judgment.

10 [(c)] (d) Upon disposition of charges favorable to any  
11 person accused of committing a crime, or upon a showing by such  
12 person that five years have elapsed from the establishment of  
13 such escrow account and further that no actions are pending  
14 against such person pursuant to this section, the board shall  
15 immediately pay over any moneys in the escrow account to such  
16 person.

17 [(d)] (e) Notwithstanding any inconsistent provision of law  
18 and rules of civil procedure with respect to the timely bringing  
19 of an action, the five-year period provided for in subsection  
20 (a) shall not begin to run until an escrow account has been  
21 established.

22 [(e) Notwithstanding the foregoing provisions of this  
23 section,]

24 (f) No payment to eligible persons shall be made from the  
25 escrow account without official certification by the trial judge  
26 that the criminal charges have been adjudicated finally,  
27 including the disposition of any appeal. However, the board  
28 shall make payments from an escrow account to [any person  
29 accused of crime] an accused person prior to final adjudication  
30 of the criminal charges upon the order of a court of competent

1 jurisdiction after a showing by such person that such moneys  
2 shall be used for the exclusive purpose of retaining legal  
3 representation at any stage of the proceedings against such  
4 person, including the appeals process. The amount authorized for  
5 attorneys' fees, expert witnesses and other costs of litigation  
6 shall be approved and certified to the board by the judge  
7 presiding at the trial of the accused.

8 [(f)] (g) Any action taken by any person convicted of a  
9 crime, whether by way of execution of a power of attorney,  
10 creation of corporate entities or otherwise, to defeat the  
11 purpose of this section shall be null and void as against the  
12 public policy of this Commonwealth.

13 Section 10. This act shall constitute the legislation  
14 required to reestablish and continue an agency pursuant to the  
15 requirements and provisions of the act of December 22, 1981  
16 (P.L.508, No.142), known as the Sunset Act. The Crime Victim's  
17 Compensation Board is hereby reestablished and continued until  
18 December 31, 1986.

19 Section 11. The provisions of sections 1 and 6 of this act  
20 shall apply to claims arising out of crimes committed on or  
21 after the effective date of this act.

22 Section 12. This act shall take effect immediately.