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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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SENATOR SNYDER, JUDICIARY, IN SENATE, AS AMENDED, MARCH 27, 1984

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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.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

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

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

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

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

13 "Crime" means an act committed in Pennsylvania which, if  
14 committed by a mentally competent, criminally responsible adult,  
15 who had no legal exemption or defense, would constitute a crime  
16 as defined in and proscribed by Title 18 of the "Pennsylvania  
17 Consolidated Statutes," (relating to crimes and offenses) or any <—  
18 other penal law of the Commonwealth ENUMERATED IN THE ACT OF <—  
19 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE CONTROLLED  
20 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT": Provided, however,  
21 That no act involving the operation of a motor vehicle which  
22 results in injury shall constitute a crime for the purpose of  
23 this act unless such injury was intentionally inflicted through  
24 the use of a motor vehicle.

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

30 "Intervenor" shall mean a person who goes to the aid of

1 another and suffers bodily injury or death as a direct result of  
2 acting not recklessly to prevent the commission of a crime, or  
3 to lawfully apprehend a person reasonably suspected of having  
4 committed such crime, or to aid the victim of such crime.

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

7 "Loss of earnings" in addition to its ordinary meaning, shall  
8 mean the loss of the cash equivalent of a social security  
9 payment where social security is the ~~sole~~ PRIMARY source of the <—  
10 victim's income and where the victim is deprived of the money as  
11 a direct result of a crime.

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

22 "Victim" shall mean a person, other than the alleged  
23 offender, who suffers bodily injury [or], death or the loss of  
24 the proceeds of a social security payment which is the ~~sole~~ <—  
25 PRIMARY income of the recipient as a direct result of a crime. <—

26 ~~Section 2. Section 477.1(e) of the act, added July 9, 1976~~ <—  
27 ~~(P.L.574, No.139), is amended to read:~~

28 ~~Section 477.1. Crime Victim's Compensation Board. \* \* \*~~

29 ~~(e) [The members of the board shall devote their full time~~  
30 ~~and capacity to their duties. The members of the board shall~~

1 ~~receive an annual starting salary of twenty five thousand~~  
2 ~~dollars (\$25,000). Thereafter they shall receive an annual~~  
3 ~~salary to be fixed by the Executive Board of the Commonwealth~~  
4 ~~within the amount made available by appropriation. The chairman~~  
5 ~~shall receive five hundred dollars (\$500) additional~~  
6 ~~compensation per annum.] The chairman shall devote his full time~~  
7 ~~and capacity to his duties. The remaining members of the board~~  
8 ~~shall serve on a part time basis. The chairman shall receive a~~  
9 ~~starting salary of twenty five thousand five hundred dollars~~  
10 ~~(\$25,500). Thereafter he or she shall receive an annual salary~~  
11 ~~to be fixed by the Executive Board of the Commonwealth within~~  
12 ~~the amount made available by appropriation. The remaining~~  
13 ~~members of the board shall receive a per diem salary of one~~  
14 ~~hundred dollars (\$100) per day based on guidelines set forth by~~  
15 ~~the Executive Board plus reasonable expenses for travel, lodging~~  
16 ~~and meals.~~

17 Section 3. ~~Section 477.2(a)~~ 2. SECTION 477.2 of the act, <—  
18 added July 9, 1976 (P.L.574, No.139), is amended ~~and a~~ <—  
19 ~~subsection is added~~ BY ADDING A SUBSECTION to read: <—

20 Section 477.2. Powers and Duties of Board.--The board shall  
21 have the following powers and duties:

22 ~~(a) To establish and maintain a principal office in or near~~ <—  
23 ~~Harrisburg [and such other offices within the Commonwealth as it~~  
24 ~~may deem necessary].~~

25 \* \* \*

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

30 Section 4 3. Section 477.3 of the act, added July 9, 1976 <—

1 (P.L.574, No.139), is amended to read:

2 Section 477.3. Persons Eligible for Compensation.--(a)

3 Except as provided in subsection (b) of this section, the  
4 following persons shall be eligible for compensation:

5 (1) A victim.

6 (2) An intervenor.

7 (3) A surviving spouse, parent or child of a deceased victim  
8 or intervenor.

9 (4) Any other person dependent for his principal support  
10 upon a deceased victim or intervenor.

11 ~~(5) Any person who legally assumes the obligation or who~~ <—  
12 ~~voluntarily pays the funeral or burial expenses incurred as a~~  
13 ~~direct result of the crime.~~

14 (5) ANY PERSON RELATED TO THE VICTIM WITHIN THE THIRD DEGREE <—  
15 OF CONSANGUINITY OR AFFINITY WHO ASSUMES THE OBLIGATION OR WHO  
16 PAYS THE FUNERAL OR BURIAL EXPENSE INCURRED AS A DIRECT RESULT  
17 OF THE CRIME.

18 (b) A person who is criminally responsible for the crime  
19 upon which a claim is based or an accomplice of such person  
20 shall not be eligible to receive compensation with respect to  
21 such claim. A member of the family of the person who [allegedly]  
22 committed the crime shall not be eligible [under any  
23 circumstances] ~~if, at the rendering of a verdict in the criminal~~ <—  
24 ~~proceeding,~~ the offender is living in the same household as the  
25 victim and will benefit from the award. The Attorney General may  
26 sue the offender or the victim or both to recover the award if  
27 the offender at any time benefits from the award.

28 (c) A person who is not a resident of Pennsylvania at the  
29 time of occurrence of the crime upon which the claim is based,  
30 shall be eligible for compensation only if the law of the state

1 of which he is a resident at the time of occurrence of the crime  
2 upon which the claim is based provides for compensation to  
3 Pennsylvania residents who are victims of crime in such state.

4 (d) If the victim's state of residence provides payments to  
5 its residents injured in Pennsylvania, primary responsibility  
6 for payment to the victim shall rest with the victim's state of  
7 residence.

8 Section ~~5~~ 4. Section 477.5 of the act is repealed. <—

9 Section ~~6~~ 5. Section 477.9 of the act, added July 9, 1976 <—  
10 (P.L.574, No.139) and amended December 13, 1979 (P.L.519,  
11 No.114), is amended to read:

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

15 (1) A crime was committed.

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

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

26 (b) Any award made pursuant to [sections 477 to 477.15] the  
27 provisions of this act shall be in an amount not exceeding out-  
28 of-pocket loss, together with loss of past, present or future  
29 earnings or support resulting from such injury. In no case shall  
30 the total amount of an award exceed [twenty-five thousand

1 dollars (\$25,000)] thirty-five thousand dollars (\$35,000).

2 (c) Any award made for loss of earnings or support shall,  
3 unless reduced pursuant to other provisions of this act, be in  
4 an amount equal to the actual loss sustained: Provided, however,  
5 That no such award shall exceed [two hundred dollars (\$200)] the  
6 average weekly wage FOR ALL PERSONS COVERED BY THE ACT OF <—  
7 DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS  
8 THE "UNEMPLOYMENT COMPENSATION LAW," in Pennsylvania as  
9 determined annually by the Department of Labor and Industry at <—  
10 the time the crime was committed for each week of lost earnings  
11 or support: And, provided further, That the aggregate award for  
12 such loss shall not exceed [ten thousand dollars (\$10,000)]  
13 fifteen thousand dollars (\$15,000) except that in the case of  
14 death of a victim or intervenor, the aggregate award shall not  
15 exceed [fifteen thousand dollars (\$15,000)] twenty thousand  
16 dollars (\$20,000).

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

20 (e) Except for [claims involving] any payments or proceeds  
21 that are specifically denominated as compensation for  
22 dismemberment or loss of an eye, any award made pursuant to this  
23 act shall be reduced by the amount of any payments received or  
24 to be received by the claimant as a result of the injury (i)  
25 from or on behalf of the person who committed the crime, (ii)  
26 under any insurance programs including those mandated by law,  
27 (iii) under any contract of insurance wherein the claimant is  
28 the insured beneficiary, (iv) from public funds, or (v) as an  
29 emergency award pursuant to section 477.8 of this act.

30 (f) In determining the amount of an award, the board or

1 board member, as the case may be, shall determine whether,  
2 because of his conduct, the victim or intervenor contributed to  
3 the infliction of his injury except where the crime was rape in  
4 which case the conduct of the victim shall not be considered,  
5 and the board or board member shall reduce the amount of the  
6 award or deny the claim altogether in accordance with such  
7 determination: Provided, however, That the board or board  
8 member, as the case may be, may disregard for this purpose the  
9 contribution of the intervenor to his own injury where the  
10 record shows that such contribution was attributed to efforts by  
11 an intervenor as set forth in section 477.

12 Section 7 6. Section 477.13 of the act, added July 9, 1976 <—  
13 (P.L.574, No.139), is amended to read:

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

20 Section 8 7. Section 477.17 of the act, added December 13, <—  
21 1979 (P.L.519, No.144), is amended to read:

22 Section 477.17. Responsibilities of Local Law Enforcement  
23 Agencies.--(a) All local law enforcement agencies shall insure  
24 that all of its officers and employees are familiar with crime  
25 victim's compensation as provided for in sections 477 through  
26 477.17 of this act. Instruction concerning crime victim's  
27 compensation shall be made a part of the training curriculum for  
28 all trainee officers.

29 (b) Local law enforcement agencies shall advise the victims  
30 of crimes reported to it of the availability of crime victim's



1 compensation as provided by this act. The term "victim" as used  
2 in this subsection shall be a victim as defined by this act. The  
3 notice required under this subsection shall be in writing and  
4 shall include the following paragraph:

5 "If you have sustained physical injury as a direct result  
6 of a crime of violence, or are legally dependent for support  
7 upon a person who has sustained physical injury or death as a  
8 direct result of a crime of violence, or, in the event of a  
9 death caused by a crime of violence, you have legally assumed  
10 or voluntarily paid the medical or burial expenses incurred  
11 as a direct result thereof, you may qualify for  
12 indemnification by the State of Pennsylvania for the out-of-  
13 pocket wages, medical or burial expenses which you have  
14 incurred as a result of the crime. Claims must be filed with  
15 the Crime Victim's Compensation Board for the State of  
16 Pennsylvania. For further information regarding this program,  
17 please contact:

18 (Name, business address and telephone  
19 number of the local law enforcement  
20 agency)

21 or

22 Crime Victim's Compensation Board

23 [Department of Justice]

24 Office of General Counsel

25 Harrisburg, Pennsylvania

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

30 (c) The written notification provided for in subsection (b)

1 shall be accompanied by [three copies] one copy of the  
2 application form for crime victim's compensation. These forms  
3 shall be supplied by the Crime Victim's Compensation Board to  
4 all local law enforcement agencies. The record of the date and  
5 address of all letters of notification shall be maintained by  
6 every local law enforcement agency.

7 (d) Any officer of a local law enforcement agency whose  
8 duties include the investigation of crimes may notify victims or  
9 their families of the availability of compensation under this  
10 act by giving them a card or sheet bearing the paragraph as  
11 quoted in subsection (b) above. A record of such personal notice  
12 shall be maintained by the local law enforcement agency.

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

17 Section 9 8. Section 477.18 of the act, added December 14, <—  
18 1982 (P.L.1213, No.280), is amended to read:

19 Section 477.18. Distribution of Moneys Received as a Result  
20 of the Commission of Crime.--(a) Every person, contracting with  
21 any person or the representative or assignee of any person[,]  
22 accused or convicted of a crime in this Commonwealth, with  
23 respect to the reenactment of such crime, by way of a movie,  
24 book, magazine article, tape recording, phonograph record, radio  
25 or television presentation, live entertainment of any kind, or  
26 from the expression of [such] the accused or convicted person's  
27 thoughts, feelings, opinions or emotions regarding such crime,  
28 shall notify the board of the contractual arrangements and shall  
29 pay over to the board any moneys which would otherwise, by terms  
30 of such contract, be owing to the person so accused or convicted

1 or his representatives. The board shall deposit such moneys in  
2 an escrow account for the benefit of and payable to any [victim  
3 of crimes committed by such person, provided that such person is  
4 eventually convicted of the crime] eligible person and provided  
5 [further] that such [victim] eligible person, within five years  
6 of the date of the [crime] establishment of such escrow account,  
7 brings a civil action for damages on any legal theory in a court  
8 of competent jurisdiction and recovers a money judgment against  
9 such accused or convicted person or his representatives[.] and  
10 provided further that in the case of an accused person, such  
11 person is eventually convicted. However, the accused or  
12 convicted person may voluntarily request that the board make  
13 payments to eligible persons who have not recovered money  
14 judgments. In the case of an accused making such a voluntary  
15 request, no payment shall be made until such person is convicted  
16 and, upon conviction, the trial judge presiding over the case  
17 shall determine the proportions of available escrow moneys  
18 payable to each eligible person and shall certify those amounts  
19 to the board. In the case of a convicted person making such a  
20 voluntary request, the board shall determine the proportion of  
21 available escrow moneys payable to eligible persons.

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

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

25 (ii) An intervenor in such crime.

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

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

30 No person who is criminally responsible for the crime in

1 question or was an accomplice of the person who is criminally  
2 responsible shall be an eligible person.

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

7 [(b) The] (c) Upon receiving escrow moneys, the board shall  
8 notify all eligible persons that the escrow money is available  
9 to satisfy money judgments or that the accused or convicted has  
10 voluntarily requested that payments be made in the absence of a  
11 money judgment. If, after a good faith effort, the board is  
12 unable to give personal notice to each such eligible person, the  
13 board, at least once every six months for five years from the  
14 date it receives such moneys, shall cause to have published a  
15 legal notice in newspapers of general circulation in each county  
16 advising such [victims] eligible persons that such escrow moneys  
17 are available to satisfy money judgments pursuant to this  
18 section or that the accused or convicted has voluntarily  
19 requested that payments be made in the absence of a money  
20 judgment.

21 [(c)] (d) Upon disposition of charges favorable to any  
22 person accused of committing a crime, or upon a showing by such  
23 person that five years have elapsed from the establishment of  
24 such escrow account and further that no actions are pending  
25 against such person pursuant to this section, the board shall  
26 immediately pay over any moneys in the escrow account to such  
27 person.

28 [(d)] (e) Notwithstanding any inconsistent provision of law  
29 and rules of civil procedure with respect to the timely bringing  
30 of an action, the five-year period provided for in subsection

1 (a) shall not begin to run until an escrow account has been  
2 established.

3 [(e) Notwithstanding the foregoing provisions of this  
4 section,]

5 (f) No payment to eligible persons shall be made from the  
6 escrow account without official certification by the trial judge  
7 that the criminal charges have been adjudicated finally,  
8 including the disposition of any appeal. However, the board  
9 shall make payments from an escrow account to [any person  
10 accused of crime] an accused person prior to final adjudication  
11 of the criminal charges upon the order of a court of competent  
12 jurisdiction after a showing by such person that such moneys  
13 shall be used for the exclusive purpose of retaining legal  
14 representation at any stage of the proceedings against such  
15 person, including the appeals process. The amount authorized for  
16 attorneys' fees, expert witnesses and other costs of litigation  
17 shall be approved and certified to the board by the judge  
18 presiding at the trial of the accused.

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

24 Section ~~10~~ 9. This act shall constitute the legislation <—  
25 required to reestablish and continue an agency pursuant to the  
26 requirements and provisions of the act of December 22, 1981  
27 (P.L.508, No.142), known as the Sunset Act. The Crime Victim's  
28 Compensation Board is hereby reestablished and continued until  
29 December 31, 1986.

30 Section ~~11~~ 10. The provisions of sections 1 and ~~6~~ 5 of this <—

1 act shall apply to claims arising out of crimes committed on or  
2 after the effective date of this act.

3 Section ~~12~~ 11. This act shall take effect immediately.

<—