

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2361 Session of
1990

INTRODUCED BY CALTAGIRONE, MRKONIC, FOX, KUKOVICH, ALLEN, PESCI,
BILLOW, HERMAN, KONDRICH, COLAFELLA, NAHILL, JOHNSON,
KOSINSKI, NAILOR, COY, JOSEPHS, JADLOWIEC, STISH, PRESTON,
PRESSMANN, KASUNIC, RYBAK, LEE, PETRARCA, DEMPSEY, ARGALL,
MERRY, MORRIS, CAPPABIANCA, D. R. WRIGHT, GIGLIOTTI, FREEMAN,
G. SNYDER, BUNT, McVERRY, RITTER, LAUGHLIN, PISTELLA, VEON,
CORRIGAN, SAURMAN, TANGRETTI, ANGSTADT, GODSHALL, MAIALE,
HOWLETT, MAINE, DeWEESE AND ROBINSON, MARCH 20, 1990

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 20, 1990

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 employees 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 employees of certain departments, boards and
20 commissions shall be determined," further providing for crime
21 victims' compensation.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 477 of the act of April 9, 1929 (P.L.177,

1 No.175), known as The Administrative Code of 1929, amended or
2 added June 30, 1984 (P.L.458, No.96) and December 11, 1986
3 (P.L.1490, No.155), is amended to read:

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

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

8 "Claimant" means the person filing a claim pursuant to this
9 act.

10 ["Crime" means an act committed in Pennsylvania which, if
11 committed by a mentally competent, criminally responsible adult,
12 who had no legal exemption or defense, would constitute a crime
13 as defined in and proscribed by Title 18 of the "Pennsylvania
14 Consolidated Statutes," (relating to crimes and offenses) or
15 enumerated in the act of April 14, 1972 (P.L.233, No.64), known
16 as "The Controlled Substance, Drug, Device and Cosmetic Act":
17 Provided, however, That no act involving the operation of a
18 motor vehicle which results in injury shall constitute a crime
19 for the purpose of this act unless such injury was intentionally
20 inflicted through the use of a motor vehicle.]

21 "Crime" means an act, including an act resulting in injury
22 intentionally inflicted through the use of a motor vehicle,
23 which was committed:

24 (1) In Pennsylvania by a person who had no legal exemption
25 or defense and which would constitute a crime only as defined
26 in, proscribed by or enumerated in:

27 (i) 18 Pa.C.S. (relating to crimes and offenses), 30 Pa.C.S.
28 § 5502 (relating to operating watercraft under influence of
29 alcohol or controlled substance) or 5502.1 (relating to homicide
30 by watercraft while operating under influence) and 75 Pa.C.S. §

1 3731 (relating to driving under influence of alcohol or
2 controlled substance) or 3735 (relating to homicide by vehicle
3 while driving under influence);

4 (ii) the act of April 14, 1972 (P.L.233, No.64), known as
5 "The Controlled Substance, Drug, Device and Cosmetic Act"; or

6 (iii) the laws of the United States, except acts which are
7 enumerated in section 10601(f) of the Victim's of Crime Act of
8 1984 (42 U.S.C. § 10601(f)), as amended.

9 (2) Against a resident of Pennsylvania which would be a
10 crime under paragraph (1), but for its occurrence in a state
11 other than Pennsylvania.

12 "Diversionary program" means a program used to divert the
13 defendant to an alternative form of disposition under the
14 Pennsylvania Rules of Criminal Procedure or statutory authority
15 and includes those dispositions authorized by Rules 160, 176 and
16 314 of the Pennsylvania Rules of Criminal Procedure and sections
17 17 and 18 of the act of April 14, 1972 (P.L.233, No.64), known
18 as "The Controlled Substance, Drug, Device and Cosmetic Act."

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

24 "Injury" shall include physical or mental damages incurred as
25 a direct result of the crime and aggravation of existing
26 injuries if additional losses can be attributed to the direct
27 result of the crime. Compensation for mental damages shall be
28 limited to expenses incurred for psychological or psychiatric
29 services which became necessary as a direct result of the crime.

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

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

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

8 "Loss of earnings," in addition to its ordinary meaning,
9 shall mean the loss of the cash equivalent of a social security,
10 railroad retirement, pension plan, retirement plan, disability,
11 child support or spousal support payment, where said payment is
12 the primary source of the victim's income and where the victim
13 is deprived of the money as a direct result of a crime.

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

26 "Victim" shall mean a person against whom a crime has been
27 committed, including the parent, sibling, spouse, or child of
28 such person, other than the alleged offender, who, as a direct
29 result of the crime, suffers physical or mental injury, death or
30 the loss of earnings as herein defined[.], and shall include a

1 resident of Pennsylvania against whom an act has been committed
2 which otherwise would constitute a crime as defined in this act
3 but for its occurrence in a state other than Pennsylvania and
4 for which the person would otherwise be compensated by the crime
5 victim compensation program of the state where the act occurred
6 but for the ineligibility of such program under the provisions
7 of the Victim's of Crime Act of 1984 (42 U.S.C. § 10601, et
8 seq.), as amended.

9 Section 2. Sections 477.3(b), 477.9(e) and 477.15 of the
10 act, amended or added June 30, 1984 (P.L.458, No.96), are
11 amended to read:

12 Section 477.3. Persons Eligible for Compensation.--* * *

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

22 * * *

23 Section 477.9. Awards.--* * *

24 (e) Except for any payments or proceeds that are
25 specifically denominated as compensation for dismemberment or
26 loss of an eye, any award made pursuant to this act shall be
27 reduced by the amount of any payments received or to be received
28 by the claimant as a result of the injury (i) from or on behalf
29 of the person who committed the crime, (ii) under any insurance
30 programs including those mandated by law, (iii) under any

1 contract of insurance wherein the claimant is the [insured]
2 beneficiary, (iv) from public funds, [or] (v) as an emergency
3 award pursuant to section 477.8 of this act, or (vi) under any
4 pension program, including those providing for disability or
5 survivor's benefits.

6 * * *

7 Section 477.15. Mandatory Costs.--(a) Any person who pleads
8 guilty or nolo contendere or who is convicted of any crime, as
9 defined in section 477 shall, in addition to costs imposed
10 pursuant to 42 Pa.C.S. § 3571(c) (relating to Commonwealth
11 portion of fines, etc.), be sentenced to pay costs of at least
12 [fifteen dollars (\$15).] thirty dollars (\$30), but no more than
13 the sum of thirty dollars (\$30) plus the statutory maximum
14 monetary penalty for the offense committed.

15 (b) Any person placed in a diversionary program, as defined
16 in section 477, shall be required to pay costs of at least
17 thirty dollars (\$30), in addition to costs imposed pursuant to
18 42 Pa.C.S. § 3571(c).

19 [(b)] (c) Ten dollars (\$10) of the costs imposed under
20 subsections (a) and (b) plus thirty per centum (30%) of the
21 costs imposed under subsection (a) which exceed thirty dollars
22 (\$30) shall be paid into a special nonlapsing fund, which is
23 hereby established, for use by the Crime Victim's Compensation
24 Board for payment to victims.

25 [(c) Five dollars (\$5)] (d) Twenty dollars (\$20) of the
26 costs imposed under subsections (a) and (b) plus seventy per
27 centum (70%) of the costs imposed under subsection (a) which
28 exceed thirty dollars (\$30) shall be paid into a special
29 nonlapsing fund, which is hereby established, for use by the
30 Commission on Crime and Delinquency for victim-witness services

1 grants and technical assistance in accordance with this section.

2 [(d)] (e) This cost shall be imposed notwithstanding any
3 other provision to this act or other act to the contrary.

4 [(e)] (f) The district attorney, the Crime Victim's
5 Compensation Board, the Commission on Crime and Delinquency or
6 any victim of a crime (as defined in section 477) shall have
7 standing to seek a mandamus order requiring the county to
8 collect the costs imposed by this section.

9 Section 3. This act shall take effect in 60 days.