

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 126

Special Session No. 1 of
1995

INTRODUCED BY SCHRODER, E. Z. TAYLOR, STABACK, STRITTMATTER,
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OLIVER, GLADECK, CORNELL, B. SMITH, HERSHEY, STAIRS,
DIGIROLAMO, RYAN, PERZEL, EGOLF, D. W. SNYDER, PITTS AND
RAMOS, MAY 19, 1995

REFERRED TO COMMITTEE ON JUDICIARY, MAY 19, 1995

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 and for definitions; establishing the
22 Bureau of Victims Services; further providing for the
23 existence and powers and duties of the Crime Victim's
24 Compensation Board, for crime victims' compensation
25 eligibility and claims, for crime victims' compensation
26 awards and subrogation, for crime victims' compensation
27 costs, for law enforcement responsibilities relating to crime
28 victims' compensation, for proceeds from crimes, for

responsibilities of employers, service providers and insurers as to crime victims' compensation and for the Basic Bill of Rights for Victims; imposing duties on the Department of Corrections, the Pennsylvania Board of Probation and Parole and the Department of Public Welfare; and providing for a transfer of the functions of the Crime Victim's Compensation Board to the Bureau of Victims Services.

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

Section 1. Section 477 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, amended August 14, 1991 (P.L.331, No.35), is amended to read:

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

["Board" means the Crime Victim's Compensation Board.]

"Bureau" means the Bureau of Victims Services in the Pennsylvania Commission on Crime and Delinquency.

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

"Commission" means the Pennsylvania Commission on Crime and Delinquency established under the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law.

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

(1) In Pennsylvania by a person without regard to legal exemption or defense and which would constitute a crime only as defined in, proscribed by or enumerated in:

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

1 by watercraft while operating under influence) and 75 Pa.C.S. §
2 3731 (relating to driving under influence of alcohol or
3 controlled substance) or 3735 (relating to homicide by vehicle
4 while driving under influence);

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

7 (iii) the laws of the United States.

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

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

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

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

29 "Intervenor" shall mean a person, other than a law
30 enforcement or correctional officer during the performance of

1 official duties, who goes to the aid of another and suffers
2 physical or mental injury or death as a direct result of acting
3 not recklessly to prevent the commission of a crime, or to
4 lawfully apprehend a person reasonably suspected of having
5 committed such crime, or to aid the victim 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 [one month's]
10 social security, railroad retirement, pension plan, retirement
11 plan, disability, veteran's retirement, court-ordered child
12 support or court-ordered spousal support [payment], where said
13 payment is the primary source of the victim's income and where
14 the victim is deprived of the money as a direct result of a
15 crime. In the case of social security, railroad retirement,
16 veteran's retirement, pension plan, disability, child support or
17 spousal support, loss shall not exceed one thousand five hundred
18 dollars (\$1,500).

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

1 "Victim" shall mean a person against whom a crime has been
2 committed, other than the alleged offender or a law enforcement
3 or correctional officer during the performance of official
4 duties, who, as a direct result of the crime, suffers physical
5 or mental injury, death or the loss of earnings as herein
6 defined, and shall include a resident of Pennsylvania against
7 whom an act has been committed which otherwise would constitute
8 a crime as defined in this act but for its occurrence in a state
9 other than Pennsylvania and for which the person would otherwise
10 be compensated by the crime victim compensation program of the
11 state where the act occurred but for the ineligibility of such
12 program under the provisions of the Victim's of Crime Act of
13 1984 (42 U.S.C. § 10601, et seq.), as amended.

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

16 Section 477.1. [Crime Victim's Compensation Board.--(a)
17 There is hereby created a departmental administrative board for
18 the administration of this act, which shall be known as the
19 Crime Victim's Compensation Board. Such board shall consist of
20 three members no more than two of whom shall belong to the same
21 political party, who shall be appointed by the Governor by and
22 with the consent of a majority of the Senate.

23 (b) The term of office of each member shall be six years,
24 except that the members first appointed shall serve for terms of
25 six years, four years and two years, respectively. Any member
26 appointed to fill a vacancy occurring otherwise than by
27 expiration of a term shall be appointed for the remainder of the
28 unexpired term.

29 (c) Each member of the board shall be eligible for
30 reappointment and any member of the board may be removed by the

1 Governor for inefficiency, neglect of duty, or malfeasance in
2 office.

3 (d) The Governor shall designate one member of the board as
4 chairman thereof, to serve as such at the pleasure of the
5 Governor.

6 (e) The members of the board shall devote their full time
7 and capacity to their duties. The members of the board shall
8 receive an annual starting salary of twenty-five thousand
9 dollars (\$25,000). Thereafter they shall receive an annual
10 salary to be fixed by the Executive Board of the Commonwealth
11 within the amount made available by appropriation. The chairman
12 shall receive five hundred dollars (\$500) additional
13 compensation per annum.] Bureau of Victims Services.--(a) There
14 is hereby created within the Pennsylvania Commission on Crime
15 and Delinquency the Bureau of Victims Services. The bureau shall
16 be responsible for administering sections 477 through 477.22 as
17 well as sections 479.4 and 479.5 of this act. The Bureau of
18 Victims Services shall also be responsible for the disposition
19 of all claims for victim compensation filed pursuant to this
20 act.

21 (b) A director of the bureau shall be appointed by the
22 Governor. The director shall be paid such compensation as the
23 executive board may determine.

24 (c) The director of the bureau may employ such personnel and
25 contract for such services as may be necessary and authorized to
26 carry out the purposes of the bureau.

27 Section 3. Section 477.1a of the act is repealed.

28 Section 4. Section 477.2 of the act, amended or added July
29 9, 1976 (P.L.574, No.139) and June 30, 1984 (P.L.458, No.96), is
30 amended to read:

1 Section 477.2. Powers and Duties of [Board.--The board]
2 Bureau.--The bureau, subject to approval of the commission,
3 shall have the following powers and duties:

4 (a) To establish and maintain a principal office in or near
5 Harrisburg and such other offices within the Commonwealth as it
6 may deem necessary.

7 (b) To appoint [a secretary,] counsel, clerks, claims
8 verifiers, hearing officers and such other employees and agents
9 as it may deem necessary, fix their compensation within the
10 limits provided by law, and prescribe their duties.

11 (c) To adopt, promulgate, amend and rescind suitable rules
12 and regulations to carry out the provisions and purposes of this
13 act, including rules for the approval of attorney's fees for
14 representation before [the board] the bureau, a hearing examiner
15 or before the Commonwealth Court upon judicial review as
16 provided for in section 477.7 of this act. Awards of the
17 attorney's fees shall be in addition to awards made to victims.
18 Awards of attorney's fees shall in no case exceed fifteen per
19 centum of the award to the victim or victims. It shall be
20 unlawful for an attorney to contract for or receive any sum
21 larger than the amount allowed. Regulations under this
22 subsection shall include policies, procedures and standards of
23 review regarding claims for compensation; approval or denial of
24 claims, including contributory conduct by victims; verification
25 of information and documents; prioritization of review; and all
26 other matters related to the processing. Regulations shall be
27 developed in consultation with the Victims Services Advisory
28 Committee and the commission.

29 (d) To request from the Pennsylvania State Police, from any
30 county, municipal or township police departments and agencies

1 and from any other State, municipal or township department or
2 agency, or public authority, and the same [are hereby authorized
3 to] shall provide such assistance and data as will enable the
4 [board] bureau to carry out its function and duties.

5 (e) To [hear and] determine all claims for awards filed with
6 the [board] bureau pursuant to this act, and to reinvestigate or
7 reopen cases as the [board] bureau deems necessary.

8 (f) To direct medical examinations of victims.

9 (g) To [hold hearings,] appoint hearing officers who shall
10 be authorized to administer oaths or affirmations, examine any
11 person under oath or affirmation and to issue subpoenas
12 requiring the attendance and giving of testimony of witnesses
13 and require the production of any books, papers, documentary or
14 other evidence. [The powers provided in this section may be
15 delegated by the board to any member thereof.] The bureau shall
16 reimburse claimants for attending hearings, regardless of the
17 disposition of the claim, at the rate of twenty cents (20¢) per
18 mile and at the rate of twenty dollars (\$20) for each day of
19 hearing.

20 (h) To take or cause to be taken affidavits or depositions
21 within or without the State.

22 (i) To render each year to the Governor and to the General
23 Assembly a written report of its activities. In its third annual
24 report and in every third annual report thereafter, the [board]
25 bureau, upon investigation and study, shall include its findings
26 and recommendations with respect to the limits on compensation[.
27 The investigation and study], whether or not an increase is
28 being requested. The annual report shall include, but not be
29 limited to, a summary of an audit by the Auditor General or an
30 independent accounting firm of a statistically valid sample of

1 the amounts paid to [each person compensated] crime victims so
2 as to avoid duplications, other possible errors, or fraud. The
3 bureau shall formalize agreements with the Auditor General for
4 the provision of the annual audit.

5 (j) To arrange with the heads of other State agencies for
6 the performance of any of its functions under this act with or
7 without reimbursement and, with the approval of the Governor,
8 delegate and authorize the redelegation of any of its powers
9 under this act.

10 (k) To establish a program to assure extensive and
11 continuing publicity for the provisions relating to compensation
12 under this act, including information on the right to file a
13 claim, the scope of coverage, and procedures to be utilized
14 incident thereto. The bureau shall develop a written publicity
15 plan in conjunction with the Victims Services Advisory
16 Committee. The plan shall take into consideration geographic
17 areas of this Commonwealth which may require additional
18 publicity based on crime rates and claims filed from those
19 areas.

20 (k.1) To develop a program to certify not-for-profit victim
21 witness service providers located within a county. Certified
22 victim witness service providers shall be authorized to verify
23 claims for compensation totaling one thousand five hundred
24 dollars (\$1,500) or less pursuant to procedures set forth by the
25 bureau for intake, verification and processing. If the certified
26 victim witness service provider approves a claim pursuant to
27 this clause based upon supporting documents and verification,
28 the claim shall be deemed approved by the bureau and an award
29 granted. Awards deemed approved pursuant to this clause shall be
30 appealable in the same manner as claims verified and granted by

1 the bureau.

2 (1) To administer the Crime Victim's Compensation Fund,
3 created under section 477.15, for the payment of claims filed
4 under this act and for all reasonable and necessary
5 administrative expenses.

6 Section 5. Section 477.3 of the act, amended June 30, 1984
7 (P.L.458, No.96), December 11, 1986 (P.L.1485, No.153), December
8 11, 1986 (P.L.1490, No.155) and August 14, 1991 (P.L.331,
9 No.35), is amended to read:

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

13 (1) A victim. This clause shall not apply to a successor in
14 interest.

15 (2) An intervenor.

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

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

20 (5) Any person related to the victim [within the third
21 degree of consanguinity or affinity] who assumes the obligation
22 or who pays the funeral or burial expense incurred as a direct
23 result of the crime[.] or, if no relative assumes the
24 obligation, to the person who makes the payment.

25 (b) A person who is criminally responsible for the crime
26 upon which a claim is based or an accomplice of such person
27 shall not be eligible to receive compensation with respect to
28 such claim. A member of the family of the person who committed
29 the crime shall not be eligible if the offender is living in the
30 same household as the victim and will substantially benefit from

1 the award. The Attorney General may sue the offender or the
2 victim or both to recover the award if the offender at any time
3 benefits from the award.

4 [(c) A person who is a resident of the United States,
5 including the District of Columbia, the Commonwealth of Puerto
6 Rico and all territories and possessions of the United States,
7 shall be eligible for compensation.]

8 (d) Where a crime results in death, the spouse, children,
9 parents or siblings of the victim, who reside within the same
10 household as the victim, shall be eligible for compensation for
11 the cost of psychological counseling and other reasonable out-
12 of-pocket losses which are deemed necessary as a direct result
13 of the criminal incident.

14 Section 6. Section 477.4 of the act, amended or added July
15 9, 1976 (P.L.574, No.139) and December 11, 1986 (P.L.1490,
16 No.155), is amended to read:

17 Section 477.4. Filing of Claims for Compensation.--(a) A
18 claim for compensation may be filed by a person eligible for
19 compensation, as provided in section 477.3 of this act, or, if
20 such person is a minor, by his parent or guardian, or if the
21 person entitled to make a claim is mentally incompetent, by his
22 guardian or such other individual authorized to administer his
23 estate.

24 (b) A claim must be filed not later than one year after the
25 occurrence of the crime upon which the claim is based, or not
26 later than one year after the death of the victim or intervenor:
27 Provided, however, That for good cause the board may extend the
28 time for filing for a period not exceeding two years after such
29 occurrence. Where a victim is under the age of eighteen at the
30 time of the occurrence of the crime and the alleged offender is

1 the victim's parent or a person responsible for the victim's
2 welfare, or any individual residing in the same home as the
3 victim, or a paramour of the victim's parent, the [board] bureau
4 may, for good cause, extend the time for filing for a period not
5 exceeding five years after such occurrence. If a claim has been
6 filed but subsequently returned to the claimant for correction
7 or for additional verification or information, the date the
8 claim was first received by the bureau shall be the permanent
9 filing date for purposes of this subsection: Provided, however,
10 That the correction or additional verification or information
11 must be filed within six months of the date of return.

12 (c) Claims shall be filed in the office of the [secretary of
13 the board] bureau or by mail.

14 (d) Upon filing of a claim pursuant to this act, the [board]
15 bureau shall promptly notify the district attorney of the county
16 wherein the crime is alleged to have occurred. If, within ten
17 days after such notification, such district attorney advises the
18 [board] bureau that a criminal prosecution is pending upon the
19 same alleged crime and requests that action by the [board]
20 bureau be deferred, the [board] bureau shall defer all
21 proceedings under this act until such time as a trial verdict
22 has been rendered, and shall so notify such district attorney
23 and claimant. When a trial verdict has been rendered, such
24 district attorney shall promptly so notify the [board] bureau.
25 Nothing in this section shall limit the authority of the [board]
26 bureau to grant emergency awards pursuant to section 477.8 of
27 this act.

28 Section 7. Sections 477.6, 477.7 and 477.8 of the act, added
29 July 9, 1976 (P.L.574, No.139), are amended to read:

30 Section 477.6. Determination of Claims.--(a) [A claim, when

1 accepted for filing, shall be assigned by the chairman to
2 himself or to another member of the board. All claims arising
3 from the death of an individual as a direct result of a single
4 crime, shall be considered together by a single board member.]
5 The bureau shall establish functional procedures for the intake,
6 verification and processing of claims. Regulations promulgated
7 regarding verification of claims shall take into consideration
8 the dollar amount of the claim in determining the extent to
9 which the claim must be verified.

10 (b) The [board member to whom such claim is assigned shall
11 examine the papers filed in support of the claim and shall
12 thereupon cause an investigation to be conducted into the
13 validity of the claim.] bureau shall review the claim and all
14 supporting documents and investigate the validity thereof. The
15 investigation shall include, but not be limited to, an
16 examination of police, court and official records and reports
17 concerning the crime and an examination of medical and hospital
18 reports relating to the injury upon which the claim is based.
19 The bureau may not request or review counseling notes of mental
20 health service providers. The bureau shall request an assessment
21 from the mental health service provider as to the extent the
22 service provided is needed as a direct result of the crime.

23 (c) Claims shall be investigated and determined, regardless
24 of whether the alleged criminal has been apprehended or
25 prosecuted for or convicted of any crime based upon the same
26 incident, or has been acquitted, or found not guilty of the
27 crime in question owing to criminal responsibility or other
28 legal exemption or defense.

29 (d) [The board member to whom a claim is assigned may make
30 his recommendation regarding the claim on the basis of the

1 papers filed in support thereof and the report of the
2 investigation of the claim. If the board member is unable to
3 decide his recommendation upon the basis of the said papers and
4 report, he shall order a hearing. At the hearing any relevant
5 evidence, not legally privileged, shall be admissible.] The
6 bureau shall determine whether to grant an award, increase or
7 decrease an award or deny the claim based on the supporting
8 documents, the report of the investigation and staff
9 recommendations. If the bureau is unable to determine if a claim
10 is justified based upon the supporting documents, it may direct
11 a hearing before a hearing examiner designated by the
12 commission. At the hearing any relevant evidence not legally
13 privileged shall be admissible.

14 [(e) After examining the papers filed in support of the
15 claim and the report of investigation, and after a hearing, if
16 any, the board member to whom the claim was assigned shall make
17 a recommendation to the entire board either granting an award or
18 denying the claim.

19 (f) The entire board shall act upon the recommendation of
20 the board member. The board, by majority vote, may affirm,
21 increase, decrease or deny the award. No decision shall be valid
22 unless at least two members are in agreement on the decision.]

23 (g) The [secretary of the board] bureau shall promptly
24 notify the claimant[, the Attorney General] and the State
25 Treasurer of the final decision of the [board and furnish each
26 with a copy of the report setting forth the decision] bureau.

27 (h) The bureau shall maintain complete records and histories
28 on all claims filed, supplemental awards paid to claimants,
29 claims status and third-party entitlements and recoveries.

30 Section 477.7. Judicial Review.--Within thirty days after

1 receipt of a copy of such report containing a final decision of
2 the [board] bureau, the claimant or the Attorney General may
3 appeal the final decision of the [board] bureau in the manner
4 provided for appeals from administrative agencies as provided in
5 [the act of June 4, 1945 (P.L.1388, No.442), known as the
6 "Administrative Agency Law."] 2 Pa.C.S. (relating to
7 administrative law and procedure).

8 Section 477.8. Emergency Awards.--(a) Notwithstanding the
9 provisions of sections 477.6 and 477.9 of this act, if it
10 appears to the [board member to whom a claim is assigned,]
11 bureau that such claim is one with respect to which an award
12 probably will be made, and undue hardship will result to the
13 claimant or claimants if immediate payment is not made, [such
14 board member] the bureau may make an emergency award to the
15 claimant or claimants pending a final decision in the case:
16 Provided, however, That the total amount of such emergency award
17 shall not exceed one thousand dollars (\$1,000) per claim, the
18 amount of such emergency award shall be deducted from any final
19 award made to the claimant or claimants, and the excess of the
20 amount of such emergency award over the amount of the final
21 award, or the full amount of the emergency award if no final
22 award is made, shall be repaid by the claimant or claimants to
23 the [board] bureau.

24 (b) The [board member to whom a claim was originally
25 assigned] bureau may reconsider an emergency award at any time
26 prior to the final decision in the case and increase previous
27 orders for emergency compensation up to the overall limit of one
28 thousand dollars (\$1,000) per claim.

29 (c) The bureau shall compute the total number and amount of
30 emergency awards given in each fiscal year.

1 Section 8. Section 477.9 of the act, amended June 30, 1984
2 (P.L.458, No.96), December 11, 1986 (P.L.1490, No.155) and
3 August 14, 1991 (P.L.331, No.35), 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] it is
6 determined by a 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,] bureau finds the delay to have been justified
15 consistent with bureau regulation. The [board] bureau, upon
16 finding that any claimant, victim or intervenor has not fully
17 cooperated with all law enforcement agencies, may deny or
18 withdraw any award, as the case may be.

19 (b) Any award made pursuant to the provisions of this act
20 shall be in an amount not exceeding out-of-pocket loss, together
21 with loss of past, present or future earnings or support
22 resulting from such injury. If the injury causes death, the
23 award shall include a maximum of four thousand dollars (\$4,000)
24 for out-of-pocket burial expenses. In no case shall the total
25 amount of an award exceed thirty-five thousand dollars
26 (\$35,000).

27 (c) Any award made for loss of earnings or support shall,
28 unless reduced pursuant to other provisions of this act, be in
29 an amount equal to the actual loss sustained: Provided, however,
30 That no such award shall exceed the average weekly wage for all

1 persons covered by the act of December 5, 1936 (2nd Sp.Sess.,
2 1937 P.L.2897, No.1), known as the "Unemployment Compensation
3 Law," in Pennsylvania as determined annually by the Department
4 of Labor and Industry for each week of lost earnings or support:
5 And, provided further, That the aggregate award for such loss
6 shall not exceed fifteen thousand dollars (\$15,000) except that
7 in the case of death of a victim or intervenor, the aggregate
8 award shall not exceed twenty thousand dollars (\$20,000).

9 (c.1) Where an order of restitution has been entered on
10 behalf of the victim, those amounts actually collected shall be
11 applied first to property losses incident to the crime and
12 secondly to personal injury losses as set forth in subsection
13 (f) of this section.

14 (c.2) Provisions of awards made pursuant to this or any
15 other act compensating or benefiting a victim or claimant as
16 defined by this act shall in no way affect the claimant or
17 victim's eligibility under public assistance or any other State
18 or federally created social benefit or assistance program.

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

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

1 claims, the first five thousand dollars (\$5,000) shall not be
2 included in the reduction computation; (iv) from public funds,
3 [or] except for social security survivor and widow/widower
4 benefits paid for funeral expenses; (v) as an emergency award
5 pursuant to section 477.8 of this act[,]; or (vi) under any
6 pension program, including those providing for disability or
7 survivor's benefits.

8 (f) In determining the amount of an award, the [board or
9 board member, as the case may be,] bureau shall determine
10 whether, because of his or her conduct, the victim or intervenor
11 contributed to the infliction of his injury, except where the
12 crime was rape, sexual assault or a crime related to an incident
13 of domestic violence, except where the alleged victim was the
14 primary aggressor, in which case the conduct of the victim shall
15 not be considered, and the [board or board member] bureau shall
16 reduce the amount of the award or deny the claim altogether in
17 accordance with such determination: Provided, however, That the
18 [board or board member, as the case may be,] bureau may
19 disregard for this purpose the contribution of the intervenor to
20 his own injury where the record shows that such contribution was
21 attributed to efforts by an intervenor as set forth in section
22 477.

23 Section 9. Sections 477.10, 477.11, 477.12 and 477.13 of the
24 act, added July 9, 1976 (P.L.574, No.139), are amended to read:

25 Section 477.10. Manner of Payment.--The award shall be paid
26 in a lump sum, except that in the case of death or protracted
27 disability the award may provide for periodic payments. No award
28 made pursuant to this act shall be subject to execution or
29 attachment other than for expenses resulting from the injury
30 which is the basis for the claim. All awards shall be paid by

1 the State Treasurer. An award shall not be considered as
2 compensation taxable as income under Article III, Personal
3 Income Tax, of the act of March 4, 1971 (P.L.6, No.2), known as
4 the "Tax Reform Code of 1971," added August 31, 1971 (P.L.362,
5 No.93). The [board] bureau shall reconsider, at least annually,
6 every award being paid in installments. The [board may] bureau
7 may reconsider a claim at any time and modify or rescind
8 previous orders for compensation based upon a change in
9 financial circumstances of a victim or one or more of his
10 surviving dependents.

11 Section 477.11. Confidentiality of Records.--The record of a
12 proceeding before the [board or board member] bureau or a
13 hearing examiner shall be a public record: Provided, however,
14 That any record or report obtained by the [board or board
15 member] bureau or a hearing examiner, the confidentiality of
16 which is protected by any other law or regulation, shall remain
17 confidential subject to such law or regulation.

18 Section 477.12. Subrogation.--Payment of an award made
19 pursuant to this act shall subrogate the Commonwealth, to the
20 extent of such payment, to any right of action against any
21 person accruing to the claimant [or], the victim or the
22 intervenor to recover losses resulting from the crime with
23 respect to which the award is made. In such case, the
24 Commonwealth shall be entitled to bring an action against the
25 person or persons causing or otherwise liable for the personal
26 injuries or death for which said payment was made. Money
27 recovered under this section shall be deposited in the Crime
28 Victim's Compensation Fund.

29 If an amount greater than that paid pursuant to these
30 provisions is recovered and collected in such action, the

1 Commonwealth shall pay the balance to the claimant. The Attorney
2 General shall enforce any subrogation. A claimant who fails to
3 notify the bureau of the receipt of funds from any other claim
4 or award arising out of the crime shall forfeit and pay to the
5 Commonwealth an amount equal to all awards paid by the bureau to
6 the claimant or on the claimant's behalf.

7 Section 477.13. Restitution.--To the extent that restitution
8 is ordered pursuant to any other existing law, either prior to
9 or subsequent to the making of an award by [this board] the
10 bureau, such restitution shall be paid to the Commonwealth to
11 the extent of the award by the [board] bureau.

12 Section 10. Section 477.15 of the act, amended August 14,
13 1991 (P.L.331, No.35), is amended to read:

14 Section 477.15. Costs.--(a) Any person who pleads guilty or
15 nolo contendere or who is convicted of any crime, as defined in
16 section 477 shall, in addition to costs imposed pursuant to 42
17 Pa.C.S. § 3571(c) (relating to Commonwealth portion of fines,
18 etc.), [be sentenced to] pay costs of at least thirty dollars
19 (\$30), and may be sentenced to pay additional costs in an amount
20 up to the statutory maximum monetary penalty for the offense
21 committed.

22 (a.1) Any person placed in a diversionary program, as
23 defined in section 477, shall be required to pay costs of at
24 least thirty dollars (\$30), in addition to costs imposed
25 pursuant to 42 Pa.C.S. § 3571(c).

26 (b) Fifteen dollars (\$15) of the costs imposed under
27 subsections (a) and (a.1) plus thirty per centum of the costs
28 imposed under subsection (a) which exceed thirty dollars (\$30)
29 shall be paid into a special nonlapsing fund, which is hereby
30 established, for use by the [Crime Victim's Compensation Board]

1 bureau for payment to victims and technical assistance.

2 (c) Fifteen dollars (\$15) of the costs imposed under
3 subsections (a) and (a.1) plus seventy per centum of the costs
4 imposed under subsection (a) which exceed thirty dollars (\$30)
5 shall be paid into a special nonlapsing fund, which is hereby
6 established, for use by the Commission on Crime and Delinquency
7 for victim-witness services grants and technical assistance in
8 nonvictim compensation related areas in accordance with this
9 section.

10 (d) This cost shall be imposed notwithstanding any other
11 provision in this act or other act to the contrary.

12 (e) The district attorney, the [Crime Victim's Compensation
13 Board] bureau, the Commission on Crime and Delinquency or any
14 victim of a crime (as defined in section 477) shall have
15 standing to seek a mandamus order requiring the county to
16 collect the costs imposed by this section.

17 (f) No court order shall be necessary in order for the
18 defendant to incur liability for costs under this section. Costs
19 under this section must be paid in order for the defendant to be
20 eligible for probation, parole or accelerated rehabilitative
21 disposition.

22 Section 11. Sections 477.17 and 477.18 of the act, amended
23 June 30, 1984 (P.L.458, No.96), are amended to read:

24 Section 477.17. Responsibilities of State and Local Law
25 Enforcement Agencies.--(a) All State and local law enforcement
26 agencies shall insure that all of its officers and employes are
27 familiar with crime victim's compensation as provided for in
28 sections 477 through [477.17] 477.19 of this act. Instruction
29 concerning crime victim's compensation shall be made a part of
30 the training curriculum for all trainee officers.

1 (b) [Local] All State and local law enforcement agencies
2 shall [advise the victims of crimes reported to it], within
3 forty-eight hours of reporting, give notice to the victim or,
4 where appropriate, a member of the victim's family of the
5 availability of crime victim's compensation [as provided by this
6 act]. The term "victim" as used in this subsection shall be a
7 victim as defined by this act. The notice required under this
8 subsection shall be in writing and shall include the following
9 paragraph:

10 "If you have sustained [physical] injury as a direct
11 result of a crime [of violence], including drunk driving, or
12 are legally dependent for support upon a person who has
13 sustained physical injury or death as a direct result of a
14 crime [of violence], or, in the event of a death caused by a
15 crime [of violence], you have legally assumed or voluntarily
16 paid the medical or burial expenses incurred as a direct
17 result thereof, or if you have sustained a loss of a primary
18 source of income, you may qualify for indemnification by the
19 State of Pennsylvania for the out-of-pocket wages, other out-
20 of-pocket losses, and medical or burial expenses which you
21 have incurred as a result of the crime. Claims must be filed
22 with the [Crime Victim's Compensation Board] Bureau of
23 Victims Services for the State of Pennsylvania. For further
24 information regarding this program, please contact:

25 (Name, business address and telephone
26 number of the local law enforcement
27 agency)

28 or

29 [Crime Victim's Compensation Board
30 Office of General Counsel]

1 Bureau of Victims Services
2 (at the address of the bureau as
3 published from time to time in
4 the Pennsylvania Bulletin)
5 Harrisburg, Pennsylvania

6 Important: The statute provides that, absent certain
7 extenuating circumstances, a claimant has one year from the
8 date of the crime to file [his] a claim with the [Crime
9 Victim's Compensation Board] Bureau of Victims Services."

10 (c) The written notification provided for in subsection (b)
11 shall be accompanied by one copy of the application form for
12 crime victim's compensation. [These] Application forms shall be
13 supplied by the [Crime Victim's Compensation Board to all]
14 bureau to all State and local law enforcement agencies. [The] A
15 record of the date [and address of all letters] of notification
16 shall be maintained by every State and local law enforcement
17 agency. The bureau shall maintain a mailing list of all police
18 departments and provide departments and the Pennsylvania State
19 Police with forms by which they can order additional claim
20 forms. The bureau shall also provide updates to police on
21 changes which affect their responsibilities under this act.

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

28 (e) In municipalities which do not have a local law
29 enforcement agency, the board shall by rule establish procedures
30 whereby it, together with the State Police, shall give the

1 notice to victims of crimes as provided in this section.]

2 Section 477.18. Distribution of Moneys Received as a Result
3 of the Commission of Crime.--(a) [Every] Any person, or the
4 attorney, representative, assignee or agent of the person,
5 convicted of a crime in this Commonwealth, and any person,
6 contracting with [any person or the representative or assignee
7 of any person accused or convicted of a crime in this
8 Commonwealth] such person, with respect to the reenactment of
9 such crime, by way of a movie, book, magazine article, tape
10 recording, phonograph record, radio or television presentation,
11 live entertainment of any kind, or from the expression of the
12 accused or convicted person's thoughts, feelings, opinions or
13 emotions regarding such crime, shall notify the [board] bureau
14 of the contractual arrangements and shall pay over to the
15 [board] bureau any moneys which would otherwise, by terms of
16 such contract, be owing to the person so accused or convicted or
17 his representatives. The [board] bureau shall deposit such
18 moneys in an escrow account for the benefit of and payable to
19 any eligible person and provided that such eligible person,
20 within five years of the date of the establishment of such
21 escrow account, brings a civil action for damages on any legal
22 theory in a court of competent jurisdiction and recovers a money
23 judgment against such accused or convicted person or his
24 representatives and provided further that, in the case of an
25 accused person, such person is eventually convicted. However,
26 the accused or convicted person may voluntarily request that the
27 [board] bureau make payments to eligible persons who have not
28 recovered money judgments. In the case of an accused making such
29 a voluntary request, no payment shall be made until such person
30 is convicted and, upon conviction, the trial judge presiding

1 over the case shall determine the proportions of available
2 escrow moneys payable to each eligible person and shall certify
3 those amounts to the [board] bureau. In the case of a convicted
4 person making such a voluntary request, the [board] bureau shall
5 determine the proportion of available escrow moneys payable to
6 eligible persons.

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

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

10 (ii) An intervenor in such crime.

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

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

15 No person who is criminally responsible for the crime in
16 question or was an accomplice of the person who is criminally
17 responsible shall be an eligible person.

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

22 (c) Upon receiving escrow moneys, the [board] bureau shall
23 notify all eligible persons that the escrow money is available
24 to satisfy money judgments or that the accused or convicted has
25 voluntarily requested that payments be made in the absence of a
26 money judgment. If, after a good faith effort, the [board]
27 bureau is unable to give personal notice to each such eligible
28 person, the [board] bureau, at least once every six months for
29 five years from the date it receives such moneys, shall cause to
30 have published a legal notice in newspapers of general

1 circulation in each county advising such eligible persons that
2 such escrow moneys are available to satisfy money judgments
3 pursuant to this section or that the accused or convicted has
4 voluntarily requested that payments be made in the absence of a
5 money judgment.

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

13 (e) Notwithstanding any inconsistent provision of law and
14 rules of civil procedure with respect to the timely bringing of
15 an action, the five-year period provided for in subsection (a)
16 shall not begin to run until an escrow account has been
17 established.

18 (f) No payment to eligible persons shall be made from the
19 escrow account without official certification by the trial judge
20 that the criminal charges have been adjudicated finally,
21 including the disposition of any appeal. However, the [board]
22 bureau shall make payments from an escrow account to an accused
23 person prior to final adjudication of the criminal charges upon
24 the order of a court of competent jurisdiction after a showing
25 by such person that such moneys shall be used for the exclusive
26 purpose of retaining legal representation at any stage of the
27 proceedings against such person, including the appeals process.
28 The amount authorized for attorneys' fees, expert witnesses and
29 other costs of litigation shall be approved and certified to the
30 [board] bureau by the judge presiding at the trial of the

1 accused.

2 (g) Any action taken by any person convicted of a crime,
3 whether by way of execution of a power of attorney, creation of
4 corporate entities or otherwise, to defeat the purpose of this
5 section shall be null and void as against the public policy of
6 this Commonwealth.

7 (h) A person who fails to report a contract or negotiations
8 in compliance with subsection (a) shall be guilty of a
9 misdemeanor of the third degree.

10 (i) The bureau shall contact the Department of Corrections
11 and local prison officials to establish procedures whereby
12 information regarding the negotiation or execution of any
13 contract governed by this section would be reported to the
14 board.

15 Section 12. Section 477.19 of the act, added December 11,
16 1986 (P.L.1490, No.155), is amended to read:

17 Section 477.19. Responsibilities of Employers, Service
18 Providers and Insurance Companies.--(a) [Providers] Employers
19 of victims and providers of services to victims, including, but
20 not limited to, doctors, hospitals, counselors and insurance
21 companies providing or liable for reimbursement to victims or
22 any other claimants, shall respond, in writing, to the [board's]
23 bureau's request for confirmation or other information under
24 this act within thirty (30) days of receipt of the [board's]
25 bureau's request.

26 (b) Any employer, provider of services or insurance company
27 who fails to respond within thirty (30) days of receipt of the
28 request shall be subject to a civil penalty of not more than
29 [ten dollars (\$10)] fifty dollars (\$50) per day, up to and
30 including the date of compliance.

1 (c) The office of district attorney of the county in which
2 the [provider is located or] crime occurred and the Attorney
3 General shall be charged with enforcement of this section. The
4 county bringing the enforcement action may retain penalties for
5 the use of the county's victim/witness assistance program.

6 (d) The bureau shall develop a written outreach plan in
7 conjunction with the Victims Services Advisory Committee of the
8 commission. The plan shall provide for ongoing contact with
9 service providers, employers and insurance companies to explain
10 the bureau, the services the bureau provides to victims and the
11 need for verification. The outreach plan shall provide for
12 direct contact by the bureau whenever possible.

13 Section 13. The act is amended by adding sections to read:

14 Section 477.21. Victims Services Advisory Committee.--(a)
15 There is hereby established the Victims Services Advisory
16 Committee within the Pennsylvania Commission on Crime and
17 Delinquency. The members of the committee shall be appointed by
18 the Governor and shall include representation of victims,
19 Statewide victims' coalitions, prosecution based victim/witness
20 programs, and other victim service or victim advocacy
21 organizations, the courts, members of local government and other
22 victims' organizations or organizations involved in the
23 coordination or delivery of services to victims. The Secretary
24 of Public Welfare, the Secretary of Aging, the Secretary of
25 Corrections or their designees shall also be members of the
26 committee. The Victim Advocate within the Board of Probation and
27 Parole shall also be a member of the committee. Members other
28 than the Victim Advocate and the Secretaries of the member State
29 agencies shall serve for four-year terms, and may be appointed
30 for no more than one additional consecutive term.

1 (b) The committee shall consist of thirteen members.

2 (c) The committee and its members are subject to the same
3 limitations and conditions imposed upon the commission as
4 prescribed in section 2 of the act of November 22, 1978
5 (P.L.1166, No.274), referred to as the Pennsylvania Commission
6 on Crime and Delinquency Law.

7 (d) A majority of the members shall constitute a quorum and
8 a vote of the majority of the members present shall be
9 sufficient for all actions.

10 (e) The Governor shall appoint a chairman from among the
11 members of the committee who shall serve at the pleasure of the
12 Governor. A vice chairman shall be designated by the chairman
13 and preside at meetings in the absence of the chairman. The
14 committee shall meet at the call of the chairman, but no fewer
15 than four times a year.

16 Section 477.22. Powers and Duties of the Victims Services
17 Advisory Committee.--The Victims Services Advisory Committee
18 shall have the power, and its duty shall be:

19 (1) To serve in an advisory capacity to the commission,
20 including the Bureau of Victims Compensation through the
21 committee's participation in the development of that part of the
22 commission's plan relating to victims' services and
23 compensation.

24 (2) Those functions related to the direct approval and
25 disbursement of financial assistance shall be in an advisory
26 capacity only but the advisory committee shall have the
27 opportunity to review and comment on such applications within
28 thirty (30) days after receipt of the application from the
29 commission.

30 (3) To advise the commission on the definition, development

1 and correlation of programs and projects and the establishment
2 of priorities for victims' services and compensation.

3 (4) To develop standards, methods and procedures for
4 evaluating and monitoring victims' services.

5 (5) Upon request to provide whatever assistance and advice
6 to the commission on any other matters relating to victims'
7 services and compensation.

8 (6) Staff support shall be made available to the Victims
9 Services Advisory Committee by the executive director of the
10 commission and the executive director of the Bureau of Victims
11 Services in order to adequately perform the duties provided for
12 in this section.

13 Section 14. Section 479.1 of the act is amended by adding a
14 definition to read:

15 Section 479.1. Definitions.--The following words and phrases
16 when used in sections 479 through 479.11 shall have the meanings
17 given to them in this section unless the context clearly
18 indicates otherwise:

19 * * *

20 "Bureau" means the Bureau of Victims Services within the
21 Pennsylvania Commission on Crime and Delinquency.

22 * * *

23 Section 15. (a) All personnel, allocations, appropriations,
24 equipment, supplies, records, contracts, obligations and other
25 materials which are used in connection with the powers, duties
26 or functions transferred by this act from the Crime Victim's
27 Compensation Board to the Bureau of Victims Services are
28 transferred with the same force and effect as if they had been
29 the personnel, allocations, appropriations, equipment, supplies,
30 records, contracts, obligations and materials of the Bureau of

1 Victims Services in the first instance.

2 (b) All present employees of the Crime Victim's Compensation
3 Board whose powers, duties or functions are transferred under
4 subsection (a) shall be transferred to the Bureau of Victims
5 Services. All employees of the Crime Victim's Compensation Board
6 are to continue in their employment with the Bureau of Victims
7 Services with the same pay scales, salaries, seniority benefits,
8 pension rights and other incidents of employment, including
9 civil service status, as if this act had not been effective.

10 Section 16. Each regulation of the Crime Victim's
11 Compensation Board in effect on June 30, 1995, shall remain in
12 effect until it is repealed or amended by the Bureau of Victims
13 Services or until it terminates in accordance with its own
14 terms.

15 Section 17. The Pennsylvania Commission on Crime and
16 Delinquency shall in conjunction with the Crime Victim's
17 Compensation Board implement the transfer of functions under
18 this act from the Crime Victim's Compensation Board to the
19 Bureau of Victims Services.

20 Section 18. This act shall take effect as follows:

21 (1) The following provisions shall take effect July 1,
22 1995:

23 (i) The amendment of section 477.1 of the act.

24 (ii) Sections 15, 16 and 17 of this act.

25 (2) The remainder of this act shall take effect
26 immediately.