

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 807** Session of
2001

INTRODUCED BY PICCOLA, EARLL, GREENLEAF, JUBELIRER, COSTA,
BOSCOLA, SCHWARTZ, M. WHITE, TOMLINSON, BELL, LOGAN, PUNT,
DENT, THOMPSON, STOUT, HOLL, ARMSTRONG, O'PAKE, SCARNATI,
ROBBINS, GERLACH, STACK AND ORIE, APRIL 23, 2001

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
JUNE 5, 2001

AN ACT

1 Amending the act of November 24, 1998 (P.L.882, No.111),
2 entitled "An act providing for victims' rights; imposing
3 penalties; establishing remedies; establishing the Office of
4 Victim Advocate, the Bureau of Victims' Services, the
5 Victims' Services Advisory Committee, the State Offender
6 Supervision Fund and other funds; and making repeals,"
7 further providing for definitions, for responsibilities of
8 State and local law enforcement agencies and for powers and
9 duties of bureau; amending provisions relating to
10 compensation; and further providing for establishment of
11 basic services for victims of crime.

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

14 Section 1. Sections 103 and 212 of the act of November 24,
15 1998 (P.L.882, No.111), known as the Crime Victims Act, amended
16 October 30, 2000 (P.L.641, No.86), are amended to read:

17 Section 103. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Adult." Any of the following:

1 (1) An individual charged with a crime who is 18 years
2 of age or older.

3 (2) An individual who is subject to criminal court
4 jurisdiction following the transfer of a case to criminal
5 proceedings.

6 (3) An individual who is subject to criminal court
7 jurisdiction after having been charged with a crime excluded
8 from the definition of "delinquent act" pursuant to 42
9 Pa.C.S. § 6302 "delinquent act" (2)(i), (ii), (iii) or (v)
10 (relating to definitions).

11 "Board." The Pennsylvania Board of Probation and Parole.

12 "Bureau." The Bureau of Victims' Services in the
13 Pennsylvania Commission on Crime and Delinquency.

14 "Claimant." The person filing a claim under Chapter 7.

15 "Commission." The Pennsylvania Commission on Crime and
16 Delinquency.

17 "Committee." The Victims' Services Advisory Committee
18 established in section 321.

19 "Crime." An act[, including an act resulting in injury
20 intentionally inflicted through the use of a motor vehicle,]
21 which was committed:

22 (1) In this Commonwealth by a person, including a
23 juvenile, without regard to legal exemption or defense which
24 would constitute a crime under:

25 (i) the act of April 14, 1972 (P.L.233, No.64),
26 known as The Controlled Substance, Drug, Device and
27 Cosmetic Act;

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

(relating to homicide by watercraft while operating under influence) and 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance), 3732 (relating to homicide by vehicle), 3735 (relating to homicide by vehicle while driving under influence), 3735.1 (relating to aggravated assault by vehicle while driving under the influence) or 3742 (relating to accidents involving death or personal injury); or (iii) the laws of the United States.

(2) Against a resident of this Commonwealth which would be a crime under paragraph (1) but for its occurrence in a [state] location other than this Commonwealth.

(3) Against a resident of this Commonwealth which is an act of international terrorism.

"Department." The Department of Corrections of the Commonwealth.

"Direct victim." An individual against whom a crime has been committed or attempted and who as a direct result of the criminal act or attempt suffers physical or mental injury, death or the loss of earnings under this act. The term shall not include the alleged offender. The term includes a resident of this Commonwealth against whom an act has been committed or attempted which otherwise would constitute a crime as defined in this act but for its occurrence in a [state] location other than this Commonwealth and for which the [person] individual would otherwise be compensated by the crime victim compensation program of the [state] location where the act occurred but for the ineligibility of such program under the provisions of the Victims of Crime Act of 1984 (Public Law 98-473, 42 U.S.C. § 10601 et seq.).

1 "Dispositional proceeding." A proceeding which occurs in
2 open common pleas court which potentially could dispose of the
3 case. The term includes Accelerated Rehabilitative Disposition,
4 pleas, trial and sentence.

5 "Diversionary program." A program which is used to divert
6 the defendant to an alternative form of disposition under the
7 Pennsylvania Rules of Criminal Procedure or statutory authority.
8 The term includes dispositions authorized by Rules 160, 176 and
9 314 of the Pennsylvania Rules of Criminal Procedure and sections
10 17 and 18 of the act of April 14, 1972 (P.L.233, No.64), known
11 as The Controlled Substance, Drug, Device and Cosmetic Act.

12 "Family." When used in reference to an individual:

13 (1) anyone related to that individual within the third
14 degree of consanguinity or affinity;

15 (2) anyone maintaining a common-law relationship with
16 that individual; or

17 (3) anyone residing in the same household with that
18 individual.

19 "Injury." Includes physical or mental damages incurred as a
20 direct result of the crime and aggravation of existing injuries
21 if additional losses can be attributed to the direct result of
22 the crime. [Compensation for mental damages is limited to
23 expenses incurred for psychological or psychiatric services
24 which became necessary as a direct result of the crime.]

25 "International terrorism." Activities which meet all of the
26 following:

27 (1) Involve violent acts or acts dangerous to human life
28 that are a violation of the criminal laws of the United
29 States or of any state or that would be a criminal violation
30 if committed within the jurisdiction of the United States or

1 of any state.

2 (2) Appear to be intended:

3 (i) to intimidate or coerce a civilian population;

4 (ii) to influence the policy of a government by
5 intimidation or coercion; or

6 (iii) to affect the conduct of a government by
7 assassination or kidnapping.

8 (3) Occur primarily outside of the territorial
9 jurisdiction of the United States or transcend national
10 boundaries in terms of the means by which they are
11 accomplished, the persons they appear intended to intimidate
12 or coerce or the locale in which their perpetrators operate
13 or seek asylum.

14 "Intervenor." An individual who goes to the aid of another
15 and suffers physical or mental injury or death as a direct
16 result of acting not recklessly to prevent the commission of a
17 crime, to lawfully apprehend a person reasonably suspected of
18 having committed such crime or to aid the victim of such crime.

19 "Juvenile." An individual who is alleged or has been
20 determined to be a "delinquent child" as defined in 42 Pa.C.S. §
21 6302 (relating to definitions).

22 "Law enforcement agency." The Pennsylvania State Police and
23 a local law enforcement agency.

24 "Local correctional facility." A jail, prison or detention
25 facility operated by a county or jointly by more than one county
26 and used for the confinement of individuals for safe custody.
27 The term does not include any facility used for the detention or
28 confinement of juveniles.

29 "Local law enforcement agency." A police department of a
30 city, borough, incorporated town or township.

1 "Loss of earnings." Includes the loss of the cash equivalent
2 of one month's worth of Social Security, railroad retirement,
3 pension plan, retirement plan, disability, veteran's retirement,
4 court-ordered child support or court-ordered spousal support
5 [payment if the payment is] payments if the payments are the
6 primary source of the victim's income and the victim is deprived
7 of [the] money as a direct result of a crime.

8 "Office." The Office of Victim Advocate established in
9 section 302.

10 "Out-of-pocket loss." [The unreimbursed and unreimbursable
11 expenses or indebtedness incurred for medical care, nonmedical
12 remedial care and treatment rendered in accordance with a
13 religious method of healing as approved by the board, or other
14 services. The term includes psychological counseling, prosthetic
15 devices, eyeglasses or other corrective lenses and dental
16 devices reasonably necessary as a result of the injury upon
17 which the claim is based and for which the claimant either has
18 paid or is liable. The term includes expenses for physical
19 examinations and materials used to obtain evidence. The term
20 does not include property damage or pain and suffering.] The
21 term includes the following losses which shall be reimbursed at
22 a rate set by the bureau:

23 (1) expenses for unreimbursed and unreimbursable
24 expenses or indebtedness incurred for medical care,
25 nonmedical remedial care and treatment as approved by the
26 bureau or other services;

27 (2) expenses for psychological counseling, prosthetic
28 devices, wheelchairs, canes, walkers, hearing aids,
29 eyeglasses or other corrective lenses or dental devices
30 reasonably necessary as a result of the crime upon which the

claim is based and for which the claimant either has paid or is liable;

(3) expenses related to the reasonable and necessary costs of cleaning the crime scene of a private residence.

"Cleaning" means to remove or attempt to remove stains or blood caused by the crime, or other dirt or debris caused by the processing of the crime scene;

(4) expenses resulting from the temporary or permanent relocation of a direct victim and individuals residing in the household of the direct victim due to the incident forming the basis of the victim's claim, when there is an immediate need to protect the safety and health of the victim and individuals residing in the household, as verified by a medical provider, human services provider or law enforcement;

(5) expenses for physical examinations and materials used to obtain evidence; or

(6) other reasonable expenses which are deemed necessary as a direct result of the criminal incident.

Except as otherwise provided, the term does not include property damage or pain and suffering.

"Personal injury crime." An act, attempt or threat to commit an act which would constitute a misdemeanor or felony under the following:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. Ch. 27 (relating to assault).

18 Pa.C.S. Ch. 29 (relating to kidnapping).

18 Pa.C.S. Ch. 31 (relating to sexual offenses).

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. Ch. 37 (relating to robbery).

1 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and
2 witness intimidation).

3 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft
4 while operating under influence).

5 75 Pa.C.S. § 3731 (relating to driving under influence of
6 alcohol or controlled substance) in cases involving bodily
7 injury.

8 75 Pa.C.S. § 3732 (relating to homicide by vehicle).

9 75 Pa.C.S. § 3735 (relating to homicide by vehicle while
10 driving under influence).

11 75 Pa.C.S. § 3735.1 (relating to aggravated assault by
12 vehicle while driving under the influence).

13 75 Pa.C.S. § 3742 (relating to accidents involving death
14 or personal injury).

15 The term includes violations of any protective order issued as a
16 result of an act related to domestic violence.

17 "Preadjudication disposition." Any of the following:

18 (1) Disposition of an adult without a trial. This
19 paragraph includes accelerated rehabilitative disposition.

20 (2) Disposition of a juvenile prior to an adjudication
21 of delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile
22 matters), including informal adjustment as set forth in 42
23 Pa.C.S. § 6323 (relating to informal adjustment), and consent
24 decree as set forth in 42 Pa.C.S. § 6340 (relating to consent
25 decree).

26 "Prosecutor's office." The Office of Attorney General or the
27 office of a district attorney of a county.

28 "Victim." The term means the following:

29 (1) A direct victim.

30 (2) A parent or legal guardian of a child who is a

1 direct victim, except when the parent or legal guardian of
2 the child is the alleged offender.

3 (3) A minor child who is a material witness to any of
4 the following crimes and offenses under 18 Pa.C.S. (relating
5 to crimes and offenses) committed or attempted against a
6 member of the child's family:

7 Chapter 25 (relating to criminal homicide).

8 Section 2702 (relating to aggravated assault).

9 Section 3121 (relating to rape).

10 (4) A family member of a homicide victim, including
11 stepbrothers or stepsisters, stepchildren, stepparents or a
12 fiancée, one of whom is to be identified to receive
13 communication as provided for in this act, except where the
14 family member is the alleged offender.

15 "Victim advocate." The victim advocate in the Office of
16 Victim Advocate within the Pennsylvania Board of Probation and
17 Parole.

18 Section 212. Responsibilities of State and local law
19 enforcement agencies.

20 (a) Training.--A law enforcement agency shall insure that
21 all of its officers and employees are familiar with crime
22 victims' compensation as provided for in Chapter 7. Instruction
23 concerning crime victims' compensation shall be made a part of
24 the training curriculum for all trainee officers.

25 (b) Notice.--

26 (1) Law enforcement agencies shall within 48 hours of
27 reporting give notice to the direct victim or, if
28 appropriate, a member of the direct victim's family of the
29 availability of crime victims' compensation. The notice
30 required under this subsection shall be in writing [and shall

1 include the following paragraph:

2 If you have sustained injury as a direct result of a
3 crime, including drunk driving, or are legally dependent
4 for support upon a person who has sustained physical
5 injury or death as a direct result of a crime or, in the
6 event of a death caused by a crime, you have legally
7 assumed or voluntarily paid the medical or burial
8 expenses incurred as a direct result thereof or if you
9 have sustained a loss of a primary source of income, you
10 may qualify for indemnification by the Commonwealth of
11 Pennsylvania for the out-of-pocket wages, other out-of-
12 pocket losses and medical or burial expenses which you
13 have incurred as a result of the crime. Claims must be
14 filed with the Bureau of Victims' Services for the
15 Commonwealth of Pennsylvania. For further information
16 regarding this program, please contact:

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

20 or

21 Bureau of Victims' Services
22 (at the address of the bureau as
23 published from time to time in
24 the Pennsylvania Bulletin)
25 Harrisburg, Pennsylvania

26 Important: The statute provides that, absent certain
27 extenuating circumstances, a claimant has one year from
28 the date of the crime to file a claim with the Bureau of
29 Victims' Services.] and in a manner and form developed by
30 the bureau.

1 (2) Law enforcement agencies shall provide basic
2 information on the rights and services available for crime
3 victims. The information shall be in writing and shall be
4 provided to the victim within 24 hours of the law enforcement
5 agency's first contact with the victim in a manner and form
6 to be developed by the bureau.

7 (c) Application.--The written notification provided for in
8 subsection [(b)] (b)(1) shall be accompanied by one copy of the
9 application form for crime victims' compensation. Application
10 forms shall be supplied by the bureau to law enforcement
11 agencies. A record of the date of notification shall be
12 maintained by the law enforcement agency. The bureau shall
13 maintain a mailing list of all local law enforcement agencies
14 and provide law enforcement agencies with forms by which they
15 can order additional claim forms. The bureau shall also provide
16 updates to law enforcement agencies on changes which affect
17 their responsibilities under this act.

18 [(d) Information.--Law enforcement agencies are responsible
19 for providing basic information on services available for crime
20 victims. The information shall be in writing and shall be
21 provided to the victim within 24 hours of the law enforcement
22 agency's first contact with the victim in a form to be developed
23 by the commission.]

24 (e) Forms.--The form developed by the [commission] bureau
25 shall be attached to the police report and shall include a
26 victim checkoff signifying that the information has been
27 provided to the crime victim.

28 (f) Notice in personal injury crimes.--

29 (1) In personal injury crimes, the law enforcement
30 agency shall make reasonable efforts to notify the victim of

1 the arrest of the suspect and of the filing or forwarding of
2 a complaint relating to the crime as soon as possible. Unless
3 the victim cannot be located, notice of the arrest shall be
4 provided not more than 24 hours after the preliminary
5 arraignment. In cases alleging delinquency, notice of the
6 filing or forwarding of a complaint shall be provided not
7 more than 24 hours after the complaint has been filed or
8 forwarded to the juvenile probation office or district
9 attorney.

10 (2) In personal injury crimes, a law enforcement agency,
11 sheriff, deputy sheriff or constable shall notify the victim
12 of an inmate's escape from the custody of the law enforcement
13 agency, sheriff, deputy sheriff or constable.

14 (g) Return of property.--The appropriate law enforcement
15 agency shall return to the victim property seized as evidence if
16 the prosecutor's office determines that the evidence is no
17 longer needed for prosecution.

18 Section 2. Sections 312(7) and (9), 701, 702, 703, 704(d),
19 705, 706, 707, 708, 709, 710 and 902 of the act are amended to
20 read:

21 Section 312. Powers and duties of bureau.

22 The bureau, subject to approval of the commission, has the
23 following powers and duties:

24 * * *

25 (7) To appoint hearing officers authorized to administer
26 oaths or affirmations, to examine any person under oath or
27 affirmation and to issue subpoenas requiring attendance of
28 witnesses, testimony of witnesses and production of evidence.
29 Except where a claim is determined to be frivolous, [the
30 bureau shall reimburse] claimants shall receive reimbursement

1 at a rate to be determined by the bureau for attending
2 hearings, regardless of the disposition of the claim[, at the
3 rate of 20¢ per mile and at the rate of \$20 for each day of
4 hearing].

5 * * *

6 (9) To render each year to the Governor and to the
7 General Assembly a written report of its activities. [In
8 every third annual report, the bureau upon investigation and
9 study shall include its findings and recommendations with
10 respect to the limits on compensation whether or not an
11 increase is being requested. The annual report shall include
12 a summary of an audit by the Auditor General or an
13 independent accounting firm of a statistically valid sample
14 of the amounts paid to direct victims so as to avoid
15 duplications, other possible errors or fraud. The bureau
16 shall formalize agreements with the Auditor General for the
17 provision of the annual audit.]

18 * * *

19 Section 701. Persons eligible for compensation.

20 (a) General rule.--Except as otherwise provided in
21 [subsection (b)] this act, the following persons shall be
22 eligible for compensation:

23 (1) A direct victim.

24 (2) An intervenor.

25 (3) A surviving spouse, parent or child of a deceased
26 direct victim or intervenor.

27 (4) Any other individual dependent for principal support
28 upon a deceased direct victim or intervenor.

29 [(5) Any individual related to the direct victim who
30 assumes the obligation or who pays the funeral or burial

1 expense incurred as a direct result of the crime or, if no
2 relative assumes the obligation, the person who makes the
3 payment.]

4 (6) Any person who assumes the obligation or who pays
5 for the crime scene cleanup, funeral or burial expenses
6 incurred as a direct result of the crime.

7 (b) Exception.--A person who is criminally responsible for
8 the crime upon which a claim is based or an accomplice of the
9 person shall not be eligible to receive compensation with
10 respect to the claim. A member of the family of the individual
11 who committed the crime shall not be eligible if the offender is
12 living in the same household as the direct victim and will
13 substantially benefit from the award. The Attorney General may
14 at any time sue the offender or the direct victim, or both, to
15 recover the award if the offender benefits from the award.

16 [(c) Family.--If a crime results in death, the spouse,
17 children, parents or siblings of the direct victim who resided
18 within the same household as the direct victim shall be eligible
19 for compensation for the cost of psychological counseling and
20 other reasonable out-of-pocket losses which are deemed necessary
21 as a direct result of the criminal incident.]

22 Section 702. Filing of claims for compensation.

23 (a) General rule.--[A] Except as otherwise provided in this
24 act, a claim for compensation may be filed by an individual
25 eligible for compensation as provided in section 701[.] or as
26 follows:

27 (1) If the individual is a minor, the claim may be filed
28 by a parent or guardian. If the parent or guardian of a minor
29 who is eligible for compensation is unavailable or fails to
30 assume financial responsibility for the minor's care, a

1 person who assumes financial responsibility for services
2 eligible for compensation may file a claim on behalf of the
3 minor and may receive compensation for eligible services
4 provided to the minor.

5 (2) If the individual is mentally incompetent, the claim
6 may be filed by a guardian or legal representative. If the
7 guardian or legal representative of a mentally incompetent
8 individual who is eligible for compensation is unavailable or
9 fails to assume financial responsibility for the individual's
10 care, a person who assumes financial responsibility for
11 services eligible for compensation may file a claim on behalf
12 of the individual and may receive compensation for eligible
13 services provided to the individual.

14 (b) Time.--

15 (1) Except as set forth in paragraph (2), a claim must
16 be filed not later than [one year] two years after the
17 occurrence of the crime upon which the claim is based or not
18 later than [one year] two years after the death of the direct
19 victim or intervenor as a result of the crime or the
20 discovery and identification of the body of a murder victim.

21 (2) [Extensions] Exceptions shall be as follows:

22 [(i) For good cause, the bureau may extend the time
23 for filing for a period of not more than two years after
24 the occurrence.]

25 (ii) If a direct victim is under 18 years of age at
26 the time of the occurrence of the crime and the alleged
27 offender is the direct victim's parent or a person
28 responsible for the direct victim's welfare, an
29 individual residing in the same home as the direct victim
30 or a paramour of the direct victim's parent, [the bureau

1 may, for good cause, extend the time for filing for a
2 period of not more than five years after the occurrence.]

3 ~~the time for filing is extended and begins to toll at 21~~ <—
4 ~~years of age or based on the current statute of~~
5 ~~limitations, whichever time period is greater.~~ ALL OF THE <—
6 FOLLOWING SHALL APPLY:

7 (A) THE LIMITATION PERIOD UNDER THIS SUBSECTION
8 IS TOLLED UNTIL THE DIRECT VICTIM REACHES 21 YEARS OF
9 AGE.

10 (B) THE LIMITATION PERIOD SHALL RUN UNTIL THE
11 LATER OF:

12 (I) THE END OF THE LIMITATION PERIOD FOR THE
13 OFFENSE AS SET FORTH IN 42 PA.C.S. CH. 55 SUBCH.
14 C (RELATING TO CRIMINAL PROCEEDINGS); OR

15 (II) THE END OF THE LIMITATION PERIOD UNDER
16 PARAGRAPH (1).

17 (ii.1) If a direct victim is under 18 years of age
18 at the time of the occurrence of the crime and the direct
19 victim is seeking reimbursement for counseling services
20 only, the filing time is extended and begins to toll when <—
21 the direct victim reaches 21 years of age or based on the
22 current statute of limitations, whichever time period is
23 greater. ALL OF THE FOLLOWING SHALL APPLY: <—

24 (A) THE LIMITATION PERIOD UNDER THIS SUBSECTION
25 IS TOLLED UNTIL THE DIRECT VICTIM REACHES 21 YEARS OF
26 AGE.

27 (B) THE LIMITATION PERIOD SHALL RUN UNTIL THE
28 LATER OF:

29 (I) THE END OF THE LIMITATION PERIOD FOR THE
30 OFFENSE AS SET FORTH IN 42 PA.C.S. CH. 55 SUBCH.

1 C (RELATING TO CRIMINAL PROCEEDINGS); OR

2 (II) THE END OF THE LIMITATION PERIOD UNDER

3 PARAGRAPH (1).

4 [(iii)] (b.1) Returned claims.--If a claim has been
5 filed but subsequently returned to the claimant for
6 correction or for additional verification or information,
7 the date the claim was first received by the bureau shall
8 be the permanent filing date for purposes of [this
9 subsection] subsection (b). The correction or additional
10 verification or information must be filed within [six
11 months of the date of return] a period of time
12 established by the bureau.

13 (c) Manner.--Claims must be filed [in the office of] with
14 the bureau [or by mail] in person, by mail or by any electronic
15 means authorized by the bureau.

16 [(d) Notice.--Upon filing of a claim, the bureau shall
17 promptly notify the district attorney of the county where the
18 crime is alleged to have occurred. If, within ten days after
19 notification, the district attorney advises the bureau that a
20 criminal prosecution is pending upon the same alleged crime and
21 requests that action by the bureau be deferred, the bureau shall
22 defer all proceedings under this chapter until a trial verdict
23 has been rendered and shall so notify the district attorney and
24 claimant. When a trial verdict has been rendered, the district
25 attorney shall promptly notify the bureau. Nothing in this
26 section shall limit the authority of the bureau to grant
27 emergency awards under section 706.]

28 Section 703. Minimum allowable claim.

29 (a) General rule.--Except as set forth in subsection (b), no
30 award shall be made on a claim unless the claimant has incurred

1 a minimum out-of-pocket loss of \$100 [or has lost at least two
2 continuous weeks' earnings or support].

3 (b) Exception.--Subsection (a) shall not apply if the direct
4 victim was 60 years of age or older at the time the crime
5 occurred.

6 Section 704. Determination of claims.

7 * * *

8 (d) Notice.--The bureau shall promptly notify the claimant
9 [and the State Treasurer] of the final decision of the bureau.

10 * * *

11 Section 705. Judicial review.

12 Within 30 days after receipt of a copy of the report
13 containing a final decision of the bureau, the claimant [or the
14 Attorney General] may appeal the final decision of the bureau in
15 the manner provided for appeals from administrative agencies as
16 provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
17 review of Commonwealth agency action).

18 Section 706. Emergency awards.

19 (a) Authorization.--Notwithstanding the provisions of
20 sections 704 and 707, if it appears to the bureau that the claim
21 is one with respect to which an award probably will be made and
22 that undue hardship will result to the claimant if immediate
23 payment is not made, the bureau may make an emergency award to
24 the claimant pending a final decision in the case. The following
25 shall apply:

26 (1) The total amount of the emergency award shall not
27 exceed [\$1,000 per claim] \$1,500 per claim or at a rate set
28 by the bureau.

29 (2) The amount of the emergency award shall be deducted
30 from any final award made to the claimant.

1 (3) The excess of the amount of the emergency award over
2 the amount of the final award or the full amount of the
3 emergency award if no final award is made shall be repaid by
4 the claimant to the bureau.

5 (b) Reconsideration.--The bureau may reconsider an emergency
6 award at any time prior to the final decision in the case and
7 increase previous orders for emergency compensation up to the
8 overall limit of [\$1,000 per claim] \$1,500 per claim or at a
9 rate set by the bureau.

10 (c) Compilation.--The bureau shall compute the total number
11 and amount of emergency awards given in each fiscal year for
12 inclusion in the annual report.

13 Section 707. Awards.

14 (a) Requirements.--No award shall be made unless it is
15 determined by a preponderance of the evidence that:

16 (1) A crime was committed.

17 (2) The person injured or killed was a direct victim or
18 intervenor.

19 (3) The crime was promptly reported to the proper
20 authorities. In no case may an award be made if the record
21 shows that the report was made more than 72 hours after the
22 occurrence of the crime unless:

23 (i) the victim is under 18 years of age at the time
24 of the occurrence of the crime and the alleged offender
25 is the victim's parent or a person responsible for the
26 victim's welfare, an individual residing in the same home
27 as the victim or a paramour of the victim's parent; or

28 (ii) the bureau finds the delay to have been
29 justified, consistent with bureau regulations. [The
30 bureau, upon finding that any claimant, direct victim or

1 intervenor has not fully cooperated with all law
2 enforcement agencies, may deny or withdraw any award, as
3 the case may be.]

4 (4) The direct victim, intervenor or claimant has not <—
5 fully cooperated with all law enforcement agencies and the
6 bureau, unless the bureau finds the noncompliance to have
7 been justified consistent with bureau regulations.

8 (b) Amount.--

9 (1) Any award made under this chapter shall be in an
10 amount not exceeding out-of-pocket loss, together with loss
11 of past, present or future earnings or support resulting from
12 such injury. In no case shall the total amount of an award
13 exceed \$35,000[.], except for payment of the following:

14 (i) psychological or psychiatric counseling;

15 (ii) forensic rape examination and medications
16 directly related to the sexual assault or rape; or

17 (iii) reasonable and necessary costs of cleaning the
18 crime scene of a private residence.

19 (2) An award made for loss of earnings or support shall,
20 unless reduced pursuant to other provisions of this chapter,
21 be in an amount equal to the actual loss sustained. The
22 following shall apply:

23 (i) No such award shall exceed the average weekly
24 wage for all persons covered by the act of December 5,
25 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
26 Unemployment Compensation Law, in this Commonwealth as
27 determined annually by the Department of Labor and
28 Industry for each week of lost earnings or support.

29 (ii) Except as set forth in subparagraph (iii), the
30 aggregate award for the loss shall not exceed \$15,000.

(iii) In the case of death of a direct victim or intervenor, the aggregate award shall not exceed \$20,000.

(3) If an order of restitution has been entered on behalf of the direct victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f).

(4) An award for psychological or psychiatric counseling, in an amount to be set by the bureau, may be made to:

(i) a direct victim;

(ii) an individual responsible for the direct victim's welfare;

(iii) an individual who witnesses a violent crime;

(iv) in the case of a homicide, an individual who discovers the body;

(v) anyone related to the direct victim within the second degree of consanguinity or affinity;

(vi) anyone maintaining a common-law relationship with the direct victim;

(vii) anyone residing in the same household with that individual; or

(viii) anyone engaged to be married to the direct victim.

(5) An award for the reasonable and necessary costs for the replacement of prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications damaged or stolen as a result of the crime shall be at a rate set by the bureau. Expenses for prosthetic devices, wheelchairs, canes,

1 walkers, hearing aids, eyeglasses or other corrective lenses,
2 dental devices or prescription medications needed as a result
3 of the crime shall be counted against the \$35,000 award
4 limitation.

5 (c) Public assistance.--Provisions of awards made pursuant
6 to a statute compensating or benefiting a direct victim or
7 claimant shall in no way affect the claimant's or direct
8 victim's eligibility under public assistance or any other
9 Federal or Commonwealth social benefit or assistance program.

10 (d) Apportionment.--If there are two or more [persons]
11 individuals entitled to an award as a result of the death of a
12 direct victim or intervenor, the award shall be apportioned
13 among the claimants.

14 (e) Reduction.--Except [for payments or proceeds that are
15 specifically denominated as compensation for dismemberment or
16 loss of an eye] as otherwise provided in this act, an award made
17 under this chapter shall be reduced by the amount of any
18 payments received or to be received by the claimant as a result
19 of the injury:

20 (1) from or on behalf of the [person] individual who
21 committed the crime;

22 (2) under any insurance or health and welfare programs,
23 including those mandated by law;

24 (3) under any contract of insurance wherein the claimant
25 is the beneficiary;

26 (4) from public funds;

27 (5) as an emergency award under section 706; [or]

28 (6) under any pension program, including those providing
29 for disability or survivor's benefits[.]; or

30 (7) under a settlement or award made by or on behalf of

1 a party alleged to be responsible in whole or in part for the
2 injury, without regard to the party's criminal culpability.

3 (f) Direct victim responsibility.--

4 (1) Except as set forth in [paragraph (2)] paragraphs
5 (2) and (3), in determining the amount of an award, the
6 bureau shall determine whether the direct victim or
7 intervenor, because of conduct, contributed to the infliction
8 of the injury. The bureau shall reduce the amount or deny the
9 claim altogether in accordance with the determination.

10 (2) If the crime involved is rape or sexual assault, the
11 conduct of the direct victim shall not be considered. If the
12 crime involved is related to domestic violence, the conduct
13 of the direct victim shall not be considered unless the
14 direct victim was the primary aggressor.

15 (3) If the crime involved is a homicide, the conduct of
16 the direct victim shall not be considered for claims by
17 eligible claimants for psychological or psychiatric
18 counseling.

19 (g) Intervenor responsibility.--In determining the amount of
20 an award to an intervenor, the bureau may consider whether the
21 intervenor, because of conduct, contributed to the infliction of
22 the injury. The bureau shall reduce the amount or deny the claim
23 altogether in accordance with the determination.

24 (h) Forensic rape investigation.--

25 (1) A hospital or other licensed health care provider
26 may submit a claim for reimbursement for the cost of a
27 forensic rape examination if the cost is not covered by
28 insurance[, upon approval by the district attorney with
29 jurisdiction of the rape or sexual assault investigation and
30 prosecution. In no event shall the bureau pay an amount to

1 exceed \$500 for a forensic rape examination nor \$100 for
2 medications directly related to the sexual assault or rape]
3 or if the victim requests that the insurance carrier not be
4 billed. The reimbursement, where applicable, shall be at a
5 rate set by the bureau.

6 (2) The cost of a forensic rape examination and the cost
7 of medications prescribed to the victim shall not be charged
8 to the victim.

9 (3) A sexual assault or rape victim need not be an
10 applicant for any other compensation under this chapter.

11 Section 708. Manner of payment.

12 (a) Lump sum.--The award shall be paid in a lump sum, except
13 that, in the case of death or protracted disability, the award
14 may provide for periodic payments. No award made under this
15 chapter shall be subject to execution or attachment other than
16 for expenses resulting from the injury which is the basis for
17 the claim. All awards shall be paid by or under the authority of
18 the State Treasurer. An award shall not be considered as
19 compensation taxable as income under Article III of the act of
20 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
21 1971. The bureau shall reconsider at least annually every award
22 being paid in installments. The bureau may reconsider a claim at
23 any time and modify or rescind previous orders for compensation
24 based upon a change in financial circumstances of a direct
25 victim or one or more surviving dependents.

26 (b) Medical expenses.--Medical expenses shall be paid to a
27 hospital or other licensed health care provider on behalf of the
28 victim at a rate set by the bureau. If the bureau accepts a
29 claim, the hospital or other licensed health care provider shall
30 accept such payment as payment in full and may not attempt to

1 collect from the victim any amount exceeding the amount of
2 reimbursement made by the bureau.

3 Section 709. Confidentiality of records.

4 [The record of a proceeding before the bureau or a hearing
5 examiner shall be a public record; however, a record or report
6 obtained by the bureau or a hearing examiner, the
7 confidentiality of which is protected by any other law or
8 regulation, shall remain confidential subject to that law or
9 regulation.]

10 (a) General rule.--All reports, records or other information
11 obtained or produced by the bureau during the processing or
12 investigation of a claim shall be confidential and privileged,
13 shall not be subject to subpoena or discovery, shall be used for
14 no purpose other than the processing of a claim and except as
15 otherwise provided by law or as provided in this section, shall
16 not be introduced into evidence in any judicial or
17 administrative proceeding.

18 (b) Disclosure restricted.--No person who has had access to
19 a report, record or any other information under this subsection
20 shall disclose the content of such a report, record or other
21 information or testify in a judicial or administrative
22 proceeding without the written consent of the direct victim or
23 intervenor or, if the direct victim or intervenor is deceased,
24 the claimant.

25 (c) Construction.--This section shall not be construed to
26 preclude or limit introduction of the contents of a report,
27 record or other information in an appeal hearing before the
28 bureau, or in an investigation, prosecution or judicial
29 proceeding enforcing section 1303.

30 Section 710. Responsibilities of employers, service providers

1 and insurance companies.

2 (a) Response.--[Providers] Employers, insurance companies or
3 providers of services to direct victims, intervenors or
4 claimants including, but not limited to, doctors, hospitals[,]
5 and counselors [and insurance companies providing or liable for
6 reimbursement to direct victims or any other claimants], shall
7 respond in writing to the bureau's request for confirmation or
8 other information under this chapter within 30 days of receipt
9 of the bureau's request.

10 (b) Penalty.--Any [provider of services or insurance
11 company] person who fails to respond [within 30 days of receipt
12 of the request] to a request under subsection (a) shall be
13 subject to a [civil] penalty of not more than \$50 per day, up to
14 and including the date of compliance.

15 (c) Enforcement.--The office of the district attorney of the
16 county in which the crime occurred and the [Attorney General]
17 bureau shall be charged with enforcement of this section and the
18 collection of penalties, which may be given to local victim
19 service agencies or used for the enforcement and collection of
20 penalties under this section.

21 Section 902. Establishment of basic services for victims of
22 crime.

23 The commission shall provide technical assistance to and make
24 grants to district attorneys [and], other criminal justice
25 agencies or victim service agencies which provide crime victims
26 with the following services:

27 (1) Notification services, including all of the
28 following:

29 (i) Information concerning financial assistance and
30 other social services available as a result of being a

1 victim of crime.

2 (ii) Notification that a court proceeding to which
3 they have been subpoenaed will not go on as scheduled, in
4 order to save the victim an unnecessary trip to court.

5 (iii) Notification of the final disposition of the
6 case.

7 (2) Protection services, including all of the following:

8 (i) Protection from harm and threats of harm arising
9 out of cooperation with law enforcement and prosecution
10 efforts.

11 (ii) A secure waiting area during court proceedings
12 which does not require them to be in close proximity to
13 defendants and families and friends of defendants.

14 (3) Procedures for the expedited return by law
15 enforcement officials of personal property of victims which
16 is held for prosecutorial purposes.

17 (4) Services related to the rights of victims under
18 Chapter 2.

19 (5) Other services as defined by the commission.

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