

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 2464

**PRINTER NO.** 3326

**AMOUNT**

See Fiscal Impact

**FUND**

Crime Victims Compensation Fund  
Victim Witness Services Fund  
Crime Victim Services and  
Compensation Fund

**DATE INTRODUCED**

March 29, 2022

**PRIME SPONSOR**

Representative Delozier

**DESCRIPTION**

House Bill 2464 amends the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, to better provide information and compensation to victims and to provide for responsibilities of state and local law enforcement agencies, prosecutor’s office, Department of Corrections, local correctional facilities, Parole Board and juvenile probation office.

Specifically, this legislation provides for all of the following in the Crime Victims Act:

- Adds the following offenses as an eligible crime:
  - I. 30 Pa.C.S. § 5502.2 (relating to homicide by watercraft);
  - II. 30 Pa.C.S. § 5502.3 (relating to aggravated assault by watercraft while operating under influence);
  - III. 30 Pa.C.S. § 5502.4 (relating to aggravated assault by watercraft);
  - IV. 75 Pa.C.S. § 3732.1 (relating to aggravated assault by vehicle);
  - V. 75 Pa.C.S. § 3733 (relating to fleeing or attempting to elude police officer);
  - VI. 75 Pa.C.S. § 3734 (relating to driving without lights to avoid identification or arrest); and
  - VII. 75 Pa.C.S. § 3742.1 (relating to accidents involving death or personal injury while not properly licensed) is added as an eligible crime if the nature and circumstances of the offense committed are substantially similar to an offense under 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
- Adds law enforcement officers as “intervenor;”
- Expands the definition of “personal injury crime” to include solicitation or conspiracy to commit an act which would constitute a misdemeanor or felony under the following:
  - I. 18 Pa. C.S. § 2803 (relating to aggravated hazing);

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- II. 18 Pa.C.S. Chapter 30 (relating to human trafficking);
  - III. 18 Pa.C.S. § 6312 (relating to sexual abuse of children);
  - IV. 18 Pa.C.S. § 6318 (relating to unlawful contact with minor);
  - V. 18 Pa.C.S. § 6320 (relating to sexual exploitation of children);
  - VI. 30 Pa.C.S. § 5502.2 (relating to homicide by watercraft);
  - VII. 30 Pa.C.S. § 5502.3 (relating to aggravated assault by watercraft while operating under influence);
  - VIII. 30 Pa.C.S. § 5502.4 (relating to aggravated assault by watercraft);
  - IX. 75 Pa.C.S. § 3732.1 (relating to aggravated assault by vehicle);
  - X. Violations of protective orders issued under 23 Pa.C.S. Chapter 61 (relating to protection from abuse) or 42 Pa.C.S. Chapter 62A (relating to protection of victims of sexual violence or intimidation) or a similar protective order issued outside this Commonwealth; and
  - XI. Any crime of violence as defined in 42 Pa. C.S. § 9714 (g) (relating to sentences for second and subsequent offenses).
- Adds the definition of "personal injury rights crime" as a personal injury crime or act, attempt, solicitation or conspiracy to commit an act which would constitute a misdemeanor or felony under the following:
    - I. 18 Pa.C.S. § 2802 (relating to hazing), if graded as a misdemeanor of the third degree;
    - II. 18 Pa.C.S. § 5131 (relating to recruiting criminal gang members);
    - III. 75 Pa.C.S. § 3733 (relating to fleeing or attempting to elude police officer);
    - IV. 75 Pa.C.S. § 3734 (relating to driving without lights to avoid identification or arrest);
    - V. 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury); and
    - VI. 75 Pa.C.S. § 3742.1 (relating to accidents involving death or personal injury while not properly licensed) if the nature and circumstance of the offense committed are substantially similar to an offense under 75 Pa.C.S. § 3742.
  - Adds the definition of "sexual abuse" as conduct which occurs in this Commonwealth and would constitute an offense under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):
    - I. Section 3011(a)(1) or (2) and (b) (relating to trafficking in individuals);
    - II. Section 3012 (relating to involuntary servitude) as it relates to sexual servitude;
    - III. Section 3121 (relating to rape);

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- IV. Section 3122.1 (relating to statutory sexual assault);
  - V. Section 3123 (relating to involuntary deviate sexual intercourse);
  - VI. Section 3124.1 (relating to sexual assault);
  - VII. Section 3124.2 (relating to institutional sexual assault);
  - VIII. Section 3125 (relating to aggravated indecent assault);
  - IX. Section 3126 (relating to indecent assault);
  - X. Section 3127 (relating to indecent exposure);
  - XI. Section 3133 (relating to sexual extortion);
  - XII. Section 4302 (relating to incest);
  - XIII. Section 6312 (relating to sexual abuse of children); and
  - XIV. Section 6320 (relating to sexual exploitation of children).
- Adds the right, if eligible to apply, to be notified of the Address Confidentiality Program under 23 Pa.C.S. Chapter 67 (relating to domestic and sexual violence victim address confidentiality);
  - Affords victims who receive protective orders under 42 Pa.C.S. Chapter 62A (relating to protection of victims of sexual violence or intimidation) to be given rights to immediate notice of release of their offenders for a violation of the order or for a personal injury rights crime against a victim protected by the order;
  - Requires law enforcement agencies responding to or investigating an incident to provide basic information of available rights, compensation and services to a crime victim during the first contact with the victim or as soon as reasonably possible and ensure the police report indicates such notification;
  - Requires prosecutors to notify the Office of Victim Advocate if an offender in a personal injury rights crime is sentenced to a state correctional institution, released from a county jail, or committed to a mental health institution from a local correctional facility;
  - Grants victims legal standing to assert and enforce a right enumerated in the Crime Victims Act;
  - Clarifies that this legislation shall not:
    - I. Grant party status to a victim;
    - II. Provide grounds for an individual accused of a crime or act of delinquency to obtain any form of relief in the proceeding in which the individual is accused of a crime or act of delinquency; and
    - III. Create a cause of action for compensation or damages against the Commonwealth, a political subdivision, or an employee or agent of either entity.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- Prohibits the Commonwealth from asserting on behalf of a victim that the victim has waived a right without a showing that the victim has knowingly agreed to the waiver;
- Clarifies that the Office of Victim Advocate (OVA) shall function independently of the Department of Corrections (department) regarding all of the office's decision-making functions, including other powers and duties specified in law;
- Prohibits disclosure under the Right-to-Know Law the home address of an employee of the OVA and any record or data identifying an individual victim;
- Exempts victim related records maintained by the OVA from subpoena or discovery in a judicial or administrative proceeding and clarifies that they are prohibited from being released to the inmate, parolee or probationer;
- Clarifies that the powers and duties of the victim advocate include advocating for the interests of crime victims generally, including the victims of crimes committed by juveniles;
- The Office of Victims' Services (OVS), subject to approval of the Pennsylvania Commission on Crime and Delinquency (commission), shall have the power and duty to promulgate regulations providing for:
  - I. Approval of attorney fees for representation before OVS, a hearing examiner or Commonwealth Court relating to a claim for compensation;
  - II. Awards that are in addition to any compensation paid to victims and that may not exceed 15% of the total compensation awarded;
  - III. Policies, procedures and standards of review regarding claims for compensation;
  - IV. Approval or denial of claims, including contributory conduct by direct victims;
  - V. Verification of information and documents;
  - VI. Prioritization of review; and
  - VII. All other matters relating to the processing of compensation claims.
- Clarifies that hospitals or other licensed health care providers and those entitled to counseling under the Crime Victims Act are eligible to receive compensation for services provided to a crime victim;
- For victim compensation, the bill changes the statute of limitations for making a claim from two to five years and allows for a good faith extension;
- Decreases the minimum loss from \$100 to \$50 (no minimum amount for victim or claimant 60 years of age or older);
- Removes the current \$1,500 limitation on emergency awards, leaving the decision to the discretion of OVS to set a rate for emergency compensation;
- Permits compensation, which is currently generally limited to \$35,000, to be further limited by the availability of money in the compensation fund;

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

- Grants flexibility in the amount of emergency awards, adds eligibility for recipients of sexual violence and intimidation orders, adds crime scene clean-up for vehicles and excuses victims under 18 from the requirement to use insurance;
- Codifies current practice under which 70% of any costs which exceed \$60 collected for the Crime Victims Compensation Fund or Crime Victims Services Fund are paid into a local victim services fund in each county for distribution by the District Attorney of that county;
- Eliminates the 50% share of the minimum \$25 supervision fee assessed against an offender that currently is deposited into the State Offender Supervision Fund. All funds will go to the county supervision fund;
- Clarifies the reporting requirement to be eligible for compensation; and
- Merges the Crime Victims Compensation Fund and Victim Witness Services Fund into a single, non-lapsing fund, known as the Crime Victim Services and Compensation Fund and transfers all remaining funds into the newly established fund.

The effective dates of this legislation are as follows:

- Immediate for merging the Crime Victims Compensation Fund and Victim Witness Services Fund, establishing the Crime Victim Services and Compensation Fund and the transfer of funds into the newly established fund;
- 60 days for the amendment or addition of definitions, the grant of legal standing, the authority of OVS to update regulations, the victim sexual abuse counseling program, the expansion of and easing of restrictions over victim claims for which compensation may be paid, and creation of the County Supervision Fee Restricted Receipts Account; and
- 270 days for the remainder of the act.

### **FISCAL IMPACT:**

House Bill 2464 may increase the number of claims filed with the Office of Victims Services at the Pennsylvania Commission on Crime and Delinquency, with all funds being dispersed through the Crime Victims Compensation Fund and the Victim Witness Services Fund. Under this legislation, these funds will be merged to form a new, non-lapsing fund known as the Crime Victim Services and Compensation Fund. The following chart shows the average annual revenues, expenditures and year-end fund balances for both funds during the period of FY 2017-18 through FY 2019-20.

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

| Fund                             | Revenue               | Expenditures          | Fund Balance         |
|----------------------------------|-----------------------|-----------------------|----------------------|
| Crime Victims Compensation Fund: | \$8.9 Million         | \$10.3 Million        | \$5.1 Million        |
| Victim Witness Services Fund:    | \$5.7 Million         | \$5.8 Million         | \$3.7 Million        |
| <b>Total:</b>                    | <b>\$14.6 Million</b> | <b>\$16.1 Million</b> | <b>\$8.8 Million</b> |

These funds are derived from the collection of certain court costs. Historically, there are more funds being expended from the funds than revenue being produced annually. With the additional claims that may be filed with the enactment of this legislation, the victim assistance programs may become unsustainable in future years.

There were 8,369 claims filed in FY 2019-20, which were paid at an average of approximately \$1,484 per claim. Based on information provided by the Pennsylvania Commission on Crime and Delinquency, enactment of the provisions in this legislation may result in estimated costs of \$1,510,148. The federal Crime Victims Fund was established by the Victims of Crime Act of 1984 (VOCA) and serves as a major funding source for victim services throughout the country. The VOCA reimbursement for these additional costs is estimated to be \$906,089. Therefore, enactment of this legislation may result in an additional fiscal impact to the newly established Crime Victim Services and Compensation Fund in the amount of \$604,059.