

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 153

Session of
1975

INTRODUCED BY HILL, REIBMAN, LEWIS, NOLAN, MCKINNEY, MESSINGER,
ORLANDO, FLEMING, HAGER AND STAUFFER, FEBRUARY 10, 1975

REFERRED TO JUDICIARY, FEBRUARY 10, 1975

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," creating the Crime Victim's
21 Compensation Board, prescribing its powers and duties,
22 providing for filing, consideration and payments of claims to
23 persons who are victims of crimes, their dependents and
24 survivors, providing for appeals, and making an
25 appropriation.

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

28 Section 1. As much as applies to the Department of Justice
29 in section 202, act of April 9, 1929 (P.L.177, No.175), known as

1 "The Administrative Code of 1929," amended July 31, 1968
2 (P.L.754, No.235), is amended to read:

3 Section 202. Departmental Administrative Boards,
4 Commissions, and Offices.--The following boards, commissions,
5 and offices are hereby placed and made departmental
6 administrative boards, commissions, or offices, as the case may
7 be, in the respective administrative departments mentioned in
8 the preceding section, as follows:

9 * * *

10 In the Department of Justice,
11 Board of Pardons,
12 Crime Victim's Compensation Board,
13 Board of Commissioners on Uniform State Laws,
14 Pennsylvania Crime Commission,
15 Board of Trustees of State Correctional Institution
16 at Philadelphia,
17 Board of Trustees of State Correctional Institution
18 at Pittsburgh,
19 Board of Trustees of State Correctional Institution
20 at Rockview,
21 Board of Trustees of State Correctional Institution
22 at Graterford,
23 Board of Trustees of State Correctional Institution
24 at Huntingdon,
25 Board of Trustees of State Correctional Institution
26 at Camp Hill,
27 Board of Trustees of State Correctional Institution
28 at Muncy.

29 * * *

30 All of the foregoing departmental administrative boards and

1 commissions shall be organized or reorganized as provided in
2 this act.

3 Section 2. The act is amended by adding sections to read:

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

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

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

10 "Crime" means an act committed in Pennsylvania which, if
11 committed by a mentally competent, criminally responsible adult,
12 who had no legal exemption or defense, would constitute a crime
13 as defined in and proscribed by Title 18 (relating to crimes),
14 act of November 25, 1970 (P.L.707, No.230), known as the
15 "Consolidated Pennsylvania Statutes," or other penal law of the
16 Commonwealth: Provided, however, That no act involving the
17 operation of a motor vehicle which results in injury shall
18 constitute a crime for the purpose of this act unless such
19 injury was intentionally inflicted through the use of a motor
20 vehicle.

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

26 "Intervenor" shall mean a person who goes to the aid of
27 another and suffers bodily injury or death as a direct result of
28 acting not recklessly to prevent the commission of a crime, or
29 to lawfully apprehend a person reasonably suspected of having
30 committed such crime, or to aid the victim of such crime.

1 "Out-of-pocket loss" means the unreimbursed and
2 unreimbursable expenses or indebtedness incurred for medical
3 care or other services reasonably necessary as a result of the
4 injury upon which the claim is based and for which the claimant
5 either has paid or is liable.

6 "Victim" shall mean a person, other than the alleged
7 offender, who suffers bodily injury or death as a direct result
8 of a crime.

9 Section 477.1. Crime Victim's Compensation Board.--(a) There
10 is hereby created a departmental administrative board for the
11 administration of this act, which shall be known as the Crime
12 Victim's Compensation Board. Such board shall consist of three
13 members no more than two of whom shall belong to the same
14 political party, who shall be appointed by the Governor by and
15 with the consent of the Senate. At least two members of the
16 board shall have been admitted to practice law in the
17 Commonwealth of Pennsylvania for not less than five years.

18 (b) The term of office of each member shall be six years,
19 except that the members first appointed shall serve for terms of
20 six years, four years and two years, respectively. Any member
21 appointed to fill a vacancy occurring otherwise than by
22 expiration of a term shall be appointed for the remainder of the
23 unexpired term only.

24 (c) Each member of the board shall be eligible for
25 reappointment and any member of the board may be removed by the
26 Governor for inefficiency, neglect of duty, or malfeasance in
27 office.

28 (d) The Governor shall designate one member of the board as
29 chairman thereof, to serve as such at the pleasure of the
30 Governor.

1 (e) The members of the board shall devote their full time
2 and capacity to their duties, and shall receive an annual salary
3 to be fixed by the Executive Board of the Commonwealth within
4 the amount made available by appropriation.

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

7 (a) To establish and maintain a principal office and such
8 other offices within the Commonwealth as it may deem necessary.

9 (b) To appoint a secretary, counsel, clerks and such other
10 employees and agents as it may deem necessary, fix their
11 compensation within the limits provided by law, and prescribe
12 their duties.

13 (c) To adopt, promulgate, amend and rescind suitable rules
14 and regulations to carry out the provisions and purposes of this
15 act, including rules for the approval of attorney's fees for
16 representation before the board or before the Commonwealth Court
17 upon judicial review as provided for in section 477.8 of this
18 act.

19 (d) To request from the Pennsylvania State Police, from any
20 county, municipal or township police departments and agencies
21 and from any other State, municipal or township department or
22 agency, or public authority, and the same are hereby authorized
23 to provide such assistance and data as will enable the board to
24 carry out its function and duties.

25 (e) To hear and determine all claims for awards filed with
26 the board pursuant to this act, and to reinvestigate or reopen
27 cases as the board deems necessary.

28 (f) To direct medical examinations of victims.

29 (g) To hold hearings, administer oaths or affirmations,
30 examine any person under oath or affirmation and to issue

subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this section may be delegated by the board to any member thereof.

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

(i) To render each year to the Governor and to the General Assembly a written report of its activities.

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

(1) A victim.

(2) An intervenor.

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

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

(b) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive compensation with respect to such claim. A member of the family of the person who allegedly committed the crime shall not be eligible under any circumstances.

(c) A person who is not a resident of Pennsylvania at the time of occurrence of the crime upon which the claim is based, shall be eligible for compensation only if the law of the state of which he is a resident at the time of occurrence of the crime upon which the claim is based provides for compensation to Pennsylvania residents who are victims of crime in such state.

Section 477.4. Filing of Claims for Compensation.--(a) A

1 claim for compensation may be filed by a person eligible for
2 compensation, as provided in section 477.3 of this act, or, if
3 such person is a minor, by his parent or guardian, or if the
4 person entitled to make a claim is mentally incompetent, by his
5 guardian or such other individual authorized to administer his
6 estate.

7 (b) A claim must be filed not later than one year after the
8 occurrence of the crime upon which the claim is based, or not
9 later than one year after the death of the victim or intervenor:
10 Provided, however, That for good cause the board may extend the
11 time for filing for a period not exceeding two years after such
12 occurrence.

13 (c) Claims shall be filed in the office of the secretary of
14 the board or by mail.

15 (d) Upon filing of a claim pursuant to this act, the board
16 shall promptly notify the district attorney of the county
17 wherein the crime is alleged to have occurred. If, within ten
18 days after such notification, such district attorney advises the
19 board that a criminal prosecution is pending upon the same
20 alleged crime and requests that action by the board be deferred,
21 the board shall defer all proceedings under this act until such
22 time as such criminal prosecution has been concluded and shall
23 so notify such district attorney and claimant. When such
24 criminal prosecution has been concluded, such district attorney
25 shall promptly so notify the board. Nothing in this section
26 shall limit the authority of the board to grant emergency awards
27 pursuant to section 477.9 of this act.

28 Section 477.5. Minimum Allowable Claim.--No award shall be
29 made on a claim unless the victim, intervenor or other person
30 set forth in section 477.3 has incurred a minimum out-of-pocket

1 loss of one hundred dollars (\$100) or has lost at least two
2 continuous weeks' earnings or support.

3 Section 477.6. Determination on Claims by Single Board
4 Member.--(a) A claim, when accepted for filing, shall be
5 assigned by the chairman to himself or to another member of the
6 board. All claims arising from the same incident shall be
7 considered together.

8 (b) The board member to whom such claim is assigned shall
9 examine the papers filed in support of such claim. The board
10 member shall if necessary cause an investigation to be conducted
11 into the validity of such claim. Such investigation shall
12 include, but not be limited to, an examination of police, court
13 and official records and reports concerning the crime and an
14 examination of medical and hospital reports relating to the
15 injury upon which such claim is based.

16 (c) Claims shall be determined, regardless of whether the
17 alleged criminal has been apprehended, prosecuted or convicted
18 for the crime in question, or found not guilty of the crime in
19 question owing to criminal non-responsibility or other legal
20 exemption or defense.

21 (d) The board member to whom a claim is assigned may decide
22 such claim on the basis of the papers filed in support thereof
23 and, if necessary, the report of the investigation of such
24 claim. If the board member is unable to decide such claim upon
25 the basis of such papers and such report, if any, he shall order
26 a hearing. At such hearing any relevant evidence, not legally
27 privileged, shall be admissible.

28 (e) After examining the papers filed in support of such
29 claim and the report of the investigation, if any, and after a
30 hearing, if any, the board member to whom such claim was

1 assigned shall make a decision either granting an award pursuant
2 to section 477.10 of this act or denying the claim.

3 (f) The board member making a decision shall file with the
4 secretary a written report setting forth such decision and his
5 reasons therefor. The secretary shall thereupon notify the
6 claimant and furnish him a copy of such report.

7 Section 477.7. Consideration of Decision by Full Board.--(a)
8 The claimant may, within thirty days after receipt of the report
9 of the decision of the board member to whom his claim was
10 assigned, make application in writing to the board for
11 consideration of such decision by the full board.

12 (b) Any member of the board may, within thirty days after
13 filing of such report, make an application in writing to the
14 board for consideration of such decision by the full board.

15 (c) Upon receipt of an application pursuant to subsection
16 (a) or (b) of this section, the board shall review the record
17 and affirm, reverse or modify the decision of the board member
18 to whom the claim was assigned. The action of the board in
19 affirming, reversing or modifying such decision shall be final.
20 The board shall file with the secretary of the board a written
21 report setting forth its decision, and if such decision varies
22 in any respect from the report of the board member to whom the
23 claim was assigned, its reasons for such decision. If the board
24 receives no application pursuant to subsection (a) or (b) of
25 this section the decision of the board member to whom the claim
26 was assigned shall become the final decision of the board.

27 (d) The secretary of the board shall promptly notify the
28 claimant, the Attorney General and the State Treasurer of the
29 final decision of the board and furnish each with a copy of the
30 report setting forth such decision.

1 Section 477.8. Judicial Review.--Within thirty days after
2 receipt of a copy of such report denying compensation in whole
3 or in part the claimant or the Attorney General may appeal the
4 final decision of the board in the manner provided for appeals
5 from administrative agencies as provided in the act of June 4,
6 1945 (P.L.1388, No.442), known as the "Administrative Agency
7 Law."

8 Section 477.9. Emergency Awards.--Notwithstanding the
9 provisions of sections 477.6 and 477.10 of this act, if it
10 appears to the board member to whom a claim is assigned, that
11 such claim is one with respect to which an award probably will
12 be made, and undue hardship will result to the claimant if
13 immediate payment is not made, such board member may make an
14 emergency award to the claimant pending a final decision in the
15 case: Provided, however, That the amount of such emergency award
16 shall not exceed five hundred dollars (\$500), the amount of such
17 emergency award shall be deducted from any final award made to
18 the claimant, and the excess of the amount of such emergency
19 award over the amount of the final award, or the full amount of
20 the emergency award if no final award is made, shall be repaid
21 by the claimant to the board.

22 Section 477.10. Awards.--(a) No award shall be made unless
23 the board or board member, as the case may be, finds that:

24 (1) A crime was committed.

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

27 (3) Such crime was promptly reported to the proper
28 authorities; and in no case may an award be made where the
29 record shows that such report was made more than forty-eight
30 hours after the occurrence of such crime unless the board, for

1 good cause shown, finds the delay to have been justified. The
2 board, upon finding that any claimant, victim or intervenor has
3 not fully cooperated with all law enforcement agencies, may deny
4 or withdraw any award, as the case may be.

5 (b) Any award made pursuant to sections 477 to 477.14 shall
6 be in an amount not exceeding out-of-pocket loss, together with
7 loss of earnings or support resulting from such injury.

8 (c) Any award made for loss of earnings or support shall,
9 unless reduced pursuant to other provisions of this act, be in
10 an amount equal to the actual loss sustained: Provided, however,
11 That no such award shall exceed one hundred dollars (\$100) for
12 each week of lost earnings or support: And, provided further,
13 That the aggregate award for such loss shall not exceed ten
14 thousand dollars (\$10,000) except that in the case of death of a
15 victim or intervenor, the aggregate award shall not exceed
16 fifteen thousand dollars (\$15,000).

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

20 (e) Any award made pursuant to this act shall be reduced by
21 the amount of any payments received or to be received by the
22 claimant as a result of the injury (i) from or on behalf of the
23 person who committed the crime, (ii) under any insurance
24 programs including those mandated by law, (iii) from public
25 funds, or (iv) as an emergency award pursuant to section 477.9
26 of this act.

27 (f) In determining the amount of an award, the board or
28 board member, as the case may be, shall determine whether,
29 because of his conduct, the victim or intervenor contributed to
30 the infliction of his injury, and the board or board member

1 shall reduce the amount of the award or deny the claim
2 altogether in accordance with such determination: Provided,
3 however, That the board or board member, as the case may be, may
4 disregard for this purpose the contribution of the intervenor to
5 his own injury where the record shows that such contribution was
6 attributed to efforts by an intervenor as set forth in section
7 477.

8 Section 477.11. Manner of Payment.--The award shall be paid
9 in a lump sum, except that in the case of death or protracted
10 disability the award may provide for periodic payments. No award
11 made pursuant to this act shall be subject to execution or
12 attachment other than for expenses resulting from the injury
13 which is the basis for the claim.

14 Section 477.12. Confidentiality of Records.--The record of a
15 proceeding before the board or board member shall be a public
16 record: Provided, however, That any record or report obtained by
17 the board or board member, the confidentiality of which is
18 protected by any other law or regulation, shall remain
19 confidential subject to such law or regulation.

20 Section 477.13. Subrogation.--Payment of an award made
21 pursuant to this act shall subrogate the Commonwealth, to the
22 extent of such payment, to any right of action accruing to the
23 claimant or the victim the intervenor to recover losses
24 resulting from the crime with respect to which the award is
25 made. In such case, the Commonwealth shall be entitled to bring
26 an action against the person or persons causing the personal
27 injuries or death for which said payment was made.

28 If an amount greater than that paid pursuant to these
29 provisions is recovered and collected in such action, the
30 Commonwealth shall pay the balance to the claimant. The Attorney

1 General shall enforce any subrogation.

2 Section 477.14. Appropriation.--The sum of two hundred
3 thousand dollars (\$200,000), or as much thereof as may be
4 necessary, is hereby appropriated to the Crime Victim's
5 Compensation Board for the purpose of this act.

6 Section 3. This act shall take effect January 1, 1976.