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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 31

Session of  
1975

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INTRODUCED BY TAYOUN, GIAMMARCO, MYERS, SALVATORE, PERRI, KATZ  
AND HAMILTON, JANUARY 27, 1975

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 1975

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AN ACT

1 Authorizing and providing for compensation for the innocent  
2 victims of crime in certain cases and making an  
3 appropriation.

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

6 Section 1. This act shall be known and may be cited as the  
7 "Criminal Injuries Compensation Act."

8 Section 2. As used in this act:

9 "Board" means the State Compensation for Victims of Crimes  
10 Board established by this act.

11 "Branch office" means the board's branch office established  
12 in each county and city of the first class.

13 "Child" means an unmarried person who is under 18 years of  
14 age, not emancipated, and includes a stepchild, an illegitimate  
15 child or an adopted child.

16 "Dependents" means such relatives of an injured or deceased  
17 victim as were wholly or partially dependent upon his income at  
18 the time of his death and shall include the child of such victim

1 born after his death.

2 "Personal injury" means actual bodily harm and includes  
3 pregnancy as a result of rape and any ensuing mental or  
4 emotional anguish established by a medical doctor.

5 "Relative" of any person means his spouse, parent,  
6 grandparent, stepfather, stepmother, child, grandchild, brother,  
7 sister, half-brother, half-sister, or spouse's parents.

8 "Victim" means a person who is injured or killed by an act or  
9 omission of any other person which is within the description of  
10 any of the offenses specified in section 11 of this act and, is  
11 specifically but not exclusively intended to include law  
12 enforcement officers and firemen.

13 Section 3. There is hereby established in the executive  
14 branch of the State Government as a departmental administrative  
15 board in the Department of Justice a Compensation for Victims of  
16 Crimes Board which shall be composed of five citizens appointed  
17 by the Governor. Not more than two of the members of the board  
18 shall be members of the same political party. At least one  
19 member of the board shall be an attorney admitted to the  
20 practice of law in the Commonwealth of Pennsylvania and one each  
21 shall be from the social services and psychology fields.

22 Section 4. (a) The term of office of each member of the  
23 board shall be five years and until his successor is appointed  
24 and qualifies, except that of the members first appointed one  
25 shall be appointed for a term of five years, one for a term of  
26 four years and one for a term of three years. All vacancies,  
27 except through the expiration of term, shall be filled for the  
28 unexpired term only.

29 (b) No 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 (c) Each member of the board shall receive annual  
4 compensation of \$10,000 and shall devote full time and capacity  
5 to their duties, and shall not engage in any other occupation,  
6 profession or employment.

7 Section 5. The board may appoint and fix the duties and  
8 compensation of such officers, attorneys, examiners, and other  
9 experts, as may be necessary for carrying out its functions  
10 under this act; and to appoint and fix the duties and  
11 compensation of such other assistants and employees as are  
12 necessary.

13 Section 6. The principal office of the board shall be in  
14 Harrisburg, Pennsylvania, but the board may sit and conduct its  
15 affairs in any place.

16 Section 7. (a) The board shall have a branch office in each  
17 county or city of the first class composed of five residents of  
18 the county or city of the first class with qualifications  
19 similar to those required of board members appointed by the  
20 governing bodies thereof.

21 (b) Compensation for branch office members shall be \$50 per  
22 day for each day or part thereof spent in transacting branch  
23 office business not to exceed \$5,000 per year in any case. Each  
24 county or city of the first class is authorized to appropriate  
25 and will annually appropriate moneys for payment of such  
26 compensation to branch office members.

27 Section 8. Hearings upon applications for compensation under  
28 this act shall be conducted in the following manner:

29 (1) Upon an application made to the branch office or board  
30 where the offense complained of occurred, such branch office

1 shall fix a time and place for a hearing on such application and  
2 shall cause notice thereof to be given to the applicant.

3 (2) For the purpose of carrying out the provisions of this  
4 act, the particular branch office may hold such hearings, sit  
5 and act at such times and places, and take such testimony as it  
6 may deem advisable. Any member of such proper branch office may  
7 administer oaths or affirmations to witnesses. The branch office  
8 shall have full powers of subpoena and compulsion of attendance  
9 of witnesses and production of documents, except that no  
10 subpoena shall be issued except under the signature of a member  
11 thereof, and application to any court for aid in enforcing such  
12 subpoena may be made in the name of the branch office by any  
13 member thereof. Subpoenas shall be served by any person  
14 designated by the board.

15 (3) In any case in which the person entitled to make an  
16 application is a child, the application may be made on his  
17 behalf by his parent or guardian. In any case in which the  
18 person entitled to make an application is mentally incompetent,  
19 the application may be made on his behalf by his guardian or  
20 such other individual authorized to administer his estate.

21 (4) Any person having a substantial interest in a proceeding  
22 may appear, produce evidence and cross examine witnesses in  
23 person or by his attorney.

24 (5) The branch office may receive in evidence any statement,  
25 document, information, or matter that may in the opinion of the  
26 board contribute to its functions under this act, but shall not  
27 be bound by the rules of evidence.

28 (6) If any person has been convicted of any offense with  
29 respect to an act or omission on which a claim under this act is  
30 based, proof of that conviction shall be taken as conclusive

1 evidence that the offense has been committed.

2 Section 9. The branch office may, as a part of any order  
3 entered under this act, determine and allow reasonable attorney  
4 fees, which shall not exceed 15% of the amount awarded as  
5 compensation under section 12 of this act, to be paid in  
6 addition to the amount of such compensation, to the attorney  
7 representing the applicant, and it shall be unlawful for any  
8 such attorney to ask for, contract for or receive any larger sum  
9 than the amount so allowed.

10 Section 10. Every order for compensation of every branch  
11 office shall in every case be submitted to the board for its  
12 review and approval. Appeals from the board shall be made as  
13 provided by the act of June 4, 1945 (P.L.1388, No.442), known as  
14 the "Administrative Agency Law."

15 Section 11. (a) In the performance of its functions, the  
16 board is authorized to make rules and regulations prescribing  
17 the procedures to be followed in the filing of applications and  
18 the proceedings under this act, and such other matters as the  
19 board deems appropriate.

20 (b) In determining the amounts of compensation payable  
21 pursuant to this act the board shall in so far as practicable  
22 formulate standards for uniform application of this act and  
23 shall take into consideration rates and amounts of compensation  
24 payable for injuries and death under other laws of this State  
25 and of the United States and the availability of funds  
26 appropriated for the purposes of this act.

27 Section 12. (a) In any case in which a person is injured or  
28 killed by any act or omission of any other person which is  
29 within the description of the offenses listed in section 13 of  
30 this act, the branch office and board may, upon application and

1 the concurrence of a majority of the members thereof, order the  
2 payment of compensation in accordance with the provisions of  
3 this act.

4 (1) To or on behalf of the victim,

5 (2) In the case of the personal injury of the victim, where  
6 the compensation is for pecuniary loss suffered or expenses  
7 incurred by any person responsible for the maintenance of the  
8 victim, to that person, or

9 (3) In the case of the death of the victim, to or for the  
10 benefit of the dependents of the deceased victim, or any one or  
11 more of such dependents.

12 (b) In determining whether to make an order under this  
13 section, the branch office or board may consider any  
14 circumstances it determines to be relevant, including  
15 provocation, consent or the behavior of the victim which  
16 directly or indirectly contributed substantially to his or her  
17 injury or death, the prior case history, if any, of the victim  
18 and any other relevant matters.

19 (c) An order may be made under this section whether or not  
20 any person is prosecuted or convicted of any offense arising out  
21 of such act or omission. Upon application made by an appropriate  
22 prosecuting authority, the branch office or board may suspend  
23 proceedings under this act for such period as it deems  
24 appropriate on the ground that a prosecution for an offense  
25 arising out of such act or omission has been commenced or is  
26 imminent. In the event of such suspension, the branch office or  
27 board may make such interim award as it may deem appropriate.

28 (d) For the purposes of this act, a person shall be deemed  
29 to have intended an act or omission notwithstanding that by  
30 reason of age, insanity or otherwise, he was legally incapable

1 of forming a criminal intent.

2 Section 13. The branch office or board may order the payment  
3 of compensation in accordance with the provisions of this act  
4 for personal injury, death or property loss which resulted from:

5 (1) An attempt to prevent the commission of crime or to  
6 arrest a suspected criminal or in aiding or attempting to aid a  
7 law enforcement officer or fireman, so to do, or

8 (2) Any crime directed at persons, where such attempt or act  
9 occurred in the Commonwealth of Pennsylvania.

10 Section 14. The branch office or board may order the payment  
11 of compensation under this act for:

12 (1) expenses actually and reasonably incurred as a result of  
13 the personal injury or death of the victim;

14 (2) loss of earning power as a result of total or partial  
15 incapacity of such victim;

16 (3) pecuniary loss to the dependents of the deceased victim;  
17 and

18 (4) any other pecuniary loss resulting from the personal  
19 injury, death or property loss of the victim which the board  
20 determines to be reasonable.

21 Section 15. To assist the branch office and board in  
22 determining the nature, extent or cause of personal injury or  
23 cause of death compensable under this act, the board shall  
24 maintain a panel of impartial medical experts. The specialties  
25 to be represented on the panel and the number of experts in each  
26 specialty shall be determined jointly by the board.

27 Section 16. (a) No order for the payment of compensation  
28 shall be made under section 12 of this act unless the  
29 application has been made within one year after the date of the  
30 personal injury, death or property loss and the personal injury

1 or death was the result of an offense listed in section 13 of  
2 this act which had been reported to the police within three  
3 months after its occurrence.

4 (b) The branch office or board shall not consider any  
5 conduct of the victim contributory toward his injury.

6 (c) No award shall be made on an application unless the  
7 applicant has incurred a minimum out-of-pocket loss of \$50 or  
8 has lost at least two continuous weeks earnings or support. Out-  
9 of-pocket loss shall mean unreimbursed and unreimbursable  
10 expenses or indebtedness reasonably incurred for medical care or  
11 other services necessary as a result of the injury or property  
12 loss upon which such application is based.

13 (d) No compensation shall be awarded under this act in an  
14 amount in excess of:

15 (1) For property damage \$2,500.

16 (2) For death \$25,000 plus \$1,000 for each dependent.

17 (3) For personal injury, the full amount of out-of-pocket,  
18 plus with respect to loss of earnings, not to exceed two years,  
19 the full amount up to \$100 per week, plus 50% of any amount in  
20 excess of \$100 per week but not exceeding \$200 per week up to  
21 two years.

22 (4) Permanent and total disability up to two-thirds of  
23 weekly earnings but not exceeding \$42 per week for ten years.

24 (e) No award made pursuant to this act shall be subject to  
25 execution or attachment other than for expenses resulting from  
26 the injury which is the basis of the claim.

27 Section 17. In determining the amount of compensation to be  
28 allowed by order, the branch office or board shall take into  
29 consideration amounts received or receivable from any other  
30 source or sources by the victim or his dependents as a result of



1 the offense or occurrence giving rise to the application.

2       Section 18. Whenever an order for the payment of  
3 compensation is or has been made for personal injury or death  
4 resulting from an act or omission constituting an offense under  
5 this act, the branch office or board shall, upon payment of the  
6 amount of the order, be subrogated to the cause of action of the  
7 applicant against the person or persons responsible for such  
8 personal injury or death and shall be entitled to bring an  
9 action against such person or persons for the amount of the  
10 damage sustained by the applicant and, in the event that more is  
11 recovered and collected in any such action than the amount paid  
12 by reason of the order for payment of compensation, the branch  
13 office or board shall pay the balance to the applicant.

14       Section 19. Orders for payment of compensation pursuant to  
15 this act may be made only as to injuries, death or property loss  
16 resulting from offenses occurring on and after January 1, 1974.

17       Section 20. The sum of \$100,000 is hereby appropriated to  
18 the State Compensation for Victims of Crime Board for the fiscal  
19 year 1975-1976.

20       Section 21. This act shall take effect immediately.