

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1443 Session of
1982

INTRODUCED BY FISHER, MAY 10, 1982

REFERRED TO JUDICIARY, MAY 10, 1982

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," further providing for
 21 eligibility and payment of certain claims.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 477, act of April 9, 1929 (P.L.177,
 25 No.175), known as "The Administrative Code of 1929," is amended
 26 by adding a definition to read:

27 Section 477. Definitions.--So far as it relates to the crime

1 victim's compensation provisions, the following terms shall be
2 defined as:

3 * * *

4 "Wrongfully accused and tried" means a person, other than an
5 accomplice or co-defendant, who has no prior conviction record,
6 who has been tried for a felony where another person was
7 subsequently tried and convicted for that same offense.

8 Section 2. Subsection (c) of section 477.2 of the act is
9 amended to read:

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

12 * * *

13 (c) (1) To adopt, promulgate, amend and rescind suitable
14 rules and regulations to carry out the provisions and purposes
15 of this act, including rules for the approval of attorney's fees
16 for representation before the board or before the Commonwealth
17 Court upon judicial review as provided for in section 477.7 of
18 this act. Awards of the attorney's fees shall be in addition to
19 awards made to victims. Awards of attorney's fees shall in no
20 case exceed fifteen per centum of the award to the victim or
21 victims. It shall be unlawful for an attorney to contract for or
22 receive any sum larger than the amount allowed.

23 (2) The board may also authorize payment of attorney's fees
24 representing the reasonable value of legal services rendered in
25 defense of a person wrongfully accused and tried not to exceed
26 fifteen per centum of the costs incurred or five thousand
27 dollars (\$5,000) whichever is less.

28 * * *

29 Section 3. Subsection (a) of section 477.3 of the act is
30 amended to read:

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

4 (1) A victim.

5 (2) An intervenor.

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

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

10 (5) A person wrongfully accused and tried.

11 * * *

12 Section 4. Subsection (b) of section 477.4 of the act is
13 amended to read:

14 Section 477.4. Filing of Claims for Compensation.--* * *

15 (b) A claim must be filed not later than one year after the
16 occurrence of the crime upon which the claim is based, or not
17 later than one year after the death of the victim or intervenor.

18 A person wrongfully accused and tried must file a claim not
19 later than one year after the conviction of the person

20 subsequently convicted for that same offense: Provided, however,
21 That for good cause the board may extend the time for filing for
22 a period not exceeding two years after such occurrence or
23 conviction.

24 * * *

25 Section 5. Subsection (c) of section 477.6 of the act is
26 amended to read:

27 Section 477.6. Determination of Claims.--* * *

28 (c) Claims shall be investigated and determined, regardless
29 of whether the alleged criminal has been apprehended or
30 prosecuted for or convicted of any crime based upon the same

1 incident, or has been acquitted, or found not guilty of the
2 crime in question owing to criminal responsibility or other
3 legal exemption or defense, except in the case of a wrongfully
4 accused and tried claimant where a subsequent conviction of
5 another person must have occurred.

6 * * *

7 Section 6. Subsection (a) of section 477.9 is amended and a
8 subsection is added to read:

9 Section 477.9. Awards.--(a) No award shall be made unless
10 the board or board member, as the case may be, finds by a
11 preponderance of the evidence that:

12 (1) A crime was committed.

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

15 (3) Such crime was promptly reported to the proper
16 authorities; and in no case may an award be made where the
17 record shows that such report was made more than seventy-two
18 hours after the occurrence of such crime unless the board, for
19 good cause shown, finds the delay to have been justified. The
20 board, upon finding that any claimant, victim or intervenor has
21 not fully cooperated with all law enforcement agencies, may deny
22 or withdraw any award, as the case may be.

23 (4) A claimant, wrongfully accused and tried, cooperated
24 fully with all law enforcement agencies. The board or board
25 members, as the case may be, shall also determine the extent to
26 which any conduct of the claimant may have directly or
27 indirectly contributed to his arrest and trial. The board upon
28 finding that any such claimant has not fully cooperated with all
29 law enforcement agencies or who's conduct contributed to his
30 arrest may deny or reduce any award.

1 * * *

2 (g) A claimant, wrongfully accused and tried, shall only be
3 entitled to awards provided in section 477.2(c) and subsection
4 (c).

5 Section 7. This act shall take effect immediately and shall
6 be retroactive to January 1, 1979. Any person entitled to file a
7 claim pursuant to section 477.4 between January 1, 1979 and the
8 effective date of this amendatory act shall have one year to
9 file the claim from the effective date of this act.