

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2361 Session of
1990

INTRODUCED BY CALTAGIRONE, MRKONIC, FOX, KUKOVICH, ALLEN, PESCI,
BILLOW, HERMAN, KONDRICH, COLAFELLA, NAHILL, JOHNSON,
KOSINSKI, NAILOR, COY, JOSEPHS, JADLOWIEC, STISH, PRESTON,
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E. Z TAYLOR, ACOSTA AND RICHARDSON, MARCH 20, 1990

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 12, 1990

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 crime
21 victims' compensation AND ASSISTANCE. <—

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

1 Section 1. Section 477 of the act of April 9, 1929 (P.L.177,
2 No.175), known as The Administrative Code of 1929, amended or
3 added June 30, 1984 (P.L.458, No.96) and December 11, 1986
4 (P.L.1490, No.155), is amended to read:

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

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

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

11 ["Crime" means an act committed in Pennsylvania which, if
12 committed by a mentally competent, criminally responsible adult,
13 who had no legal exemption or defense, would constitute a crime
14 as defined in and proscribed by Title 18 of the "Pennsylvania
15 Consolidated Statutes," (relating to crimes and offenses) or
16 enumerated in the act of April 14, 1972 (P.L.233, No.64), known
17 as "The Controlled Substance, Drug, Device and Cosmetic Act":
18 Provided, however, That no act involving the operation of a
19 motor vehicle which results in injury shall constitute a crime
20 for the purpose of this act unless such injury was intentionally
21 inflicted through the use of a motor vehicle.]

22 "Crime" means an act, including an act resulting in injury
23 intentionally inflicted through the use of a motor vehicle,
24 which was committed:

25 (1) In Pennsylvania by a person ~~who had no~~ WITHOUT REGARD TO <—
26 legal exemption or defense and which would constitute a crime
27 only as defined in, proscribed by or enumerated in:

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

1 by watercraft while operating under influence) and 75 Pa.C.S. §
2 3731 (relating to driving under influence of alcohol or
3 controlled substance) or 3735 (relating to homicide by vehicle
4 while driving under influence);

5 (ii) the act of April 14, 1972 (P.L.233, No.64), known as
6 "The Controlled Substance, Drug, Device and Cosmetic Act"; or

7 (iii) the laws of the United States. , ~~except acts which are~~ <—
8 ~~enumerated in section 10601(f) of the Victim's of Crime Act of~~
9 ~~1984 (42 U.S.C. § 10601(f)), as amended.~~

10 (2) Against a resident of Pennsylvania which would be a
11 crime under paragraph (1), but for its occurrence in a state
12 other than Pennsylvania.

13 "Diversionary program" means a program used to divert the
14 defendant to an alternative form of disposition under the
15 Pennsylvania Rules of Criminal Procedure or statutory authority
16 and includes those dispositions authorized by Rules 160, 176 and
17 314 of the Pennsylvania Rules of Criminal Procedure and sections
18 17 and 18 of the act of April 14, 1972 (P.L.233, No.64), known
19 as "The Controlled Substance, Drug, Device and Cosmetic Act."

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

25 "Injury" shall include physical or mental damages incurred as
26 a direct result of the crime and aggravation of existing
27 injuries if additional losses can be attributed to the direct
28 result of the crime. Compensation for mental damages shall be
29 limited to expenses incurred for psychological or psychiatric
30 services which became necessary as a direct result of the crime.

1 "Intervenor" shall mean a person who goes to the aid of
2 another and suffers physical or mental injury or death as a
3 direct result of acting not recklessly to prevent the commission
4 of a crime, or to lawfully apprehend a person reasonably
5 suspected of having committed such crime, or to aid the victim
6 of such crime.

7 "Local law enforcement agency" means a police department of a
8 city, borough, incorporated town or township.

9 "Loss of earnings," in addition to its ordinary meaning,
10 shall mean the loss of the cash equivalent of [a] one month's
11 social security, railroad retirement, pension plan, retirement
12 plan, disability, child support or spousal support payment,
13 where said payment is the primary source of the victim's income
14 and where the victim is deprived of the money as a direct result
15 of a crime.

16 "Out-of-pocket loss" means the unreimbursed and
17 unreimbursable expenses or indebtedness incurred for medical
18 care, nonmedical remedial care and treatment rendered in
19 accordance with a religious method of healing as approved by the
20 board, or other services, including psychological counseling,
21 prosthetic devices, eyeglasses or other corrective lenses, or
22 dental devices, reasonably necessary as a result of the injury
23 upon which the claim is based and for which the claimant either
24 has paid or is liable, to include expenses for physical
25 examinations and materials used to obtain evidence. In no case
26 shall property damages or compensation for pain and suffering be
27 included.

28 "Victim" shall mean a person against whom a crime has been
29 committed, other than the alleged offender, who, as a direct
30 result of the crime, suffers physical or mental injury, death or

1 the loss of earnings as herein defined[.], and shall include a
2 resident of Pennsylvania against whom an act has been committed
3 which otherwise would constitute a crime as defined in this act
4 but for its occurrence in a state other than Pennsylvania and
5 for which the person would otherwise be compensated by the crime
6 victim compensation program of the state where the act occurred
7 but for the ineligibility of such program under the provisions
8 of the Victim's of Crime Act of 1984 (42 U.S.C. § 10601, et
9 seq.), as amended.

10 Section 2. Section 477.3(b) and (d) of the act, amended June
11 30, 1984 (P.L.458, No.96) and December 11, 1986 (P.L.1490,
12 No.155), are amended to read:

13 Section 477.3. Persons Eligible for Compensation.--* * *

14 (b) A person who is criminally responsible for the crime
15 upon which a claim is based or an accomplice of such person
16 shall not be eligible to receive compensation with respect to
17 such claim. A member of the family of the person who committed
18 the crime shall not be eligible if the offender is living in the
19 same household as the victim and will substantially benefit from
20 the award. The Attorney General may sue the offender or the
21 victim or both to recover the award if the offender at any time
22 benefits from the award.

23 * * *

24 (d) Where a crime results in death, the spouse, children,
25 parents or siblings of the victim, who reside within the same
26 household as the victim, shall be eligible for compensation for
27 the cost of psychological counseling [which is] and other
28 reasonable out-of-pocket losses which are deemed necessary as a
29 direct result of the criminal incident.

30 Section 3. Sections 477.9(e) ~~and 477.15~~, 477.15 AND 479.3 of <—

1 the act, amended or added June 30, 1984 (P.L.458, No.96), are
2 amended to read:

3 Section 477.9. Awards.--* * *

4 (e) Except for any payments or proceeds that are
5 specifically denominated as compensation for dismemberment or
6 loss of an eye, any award made pursuant to this act shall be
7 reduced by the amount of any payments received or to be received
8 by the claimant as a result of the injury (i) from or on behalf
9 of the person who committed the crime, (ii) under any insurance
10 programs including those mandated by law, (iii) under any
11 contract of insurance wherein the claimant is the [insured]
12 beneficiary, (iv) from public funds, [or] (v) as an emergency
13 award pursuant to section 477.8 of this act, or (vi) under any
14 pension program, including those providing for disability or
15 survivor's benefits.

16 * * *

17 Section 477.15. [Mandatory] Costs.--(a) Any person who
18 pleads guilty or nolo contendere or who is convicted of any
19 crime, as defined in section 477 shall, in addition to costs
20 imposed pursuant to 42 Pa.C.S. § 3571(c) (relating to
21 Commonwealth portion of fines, etc.), be sentenced to pay costs
22 of at least [fifteen dollars (\$15).] thirty dollars (\$30), and
23 may be sentenced to pay additional costs in an amount up to the
24 statutory maximum monetary penalty for the offense committed.

25 (b) Any person placed in a diversionary program, as defined
26 in section 477, shall be required to pay costs of at least
27 thirty dollars (\$30), in addition to costs imposed pursuant to
28 42 Pa.C.S. § 3571(c).

29 ~~[(b)]~~ ~~(e)~~ Ten dollars (\$10)] (C) FIFTEEN DOLLARS (\$15) of
30 the costs imposed under subsections (a) and (b) plus thirty per

<—

1 centum (30%) of the costs imposed under subsection (a) which
2 exceed thirty dollars (\$30) shall be paid into a special
3 nonlapsing fund, which is hereby established, for use by the
4 Crime Victim's Compensation Board for payment to victims AND <—
5 TECHNICAL ASSISTANCE.

6 [(c) Five dollars (\$5)] ~~(d) Twenty dollars (\$20)~~ FIFTEEN <—
7 DOLLARS (\$15) of the costs imposed under subsections (a) and (b)
8 plus seventy per centum (70%) of the costs imposed under
9 subsection (a) which exceed thirty dollars (\$30) shall be paid
10 into a special nonlapsing fund, which is hereby established, for
11 use by the Commission on Crime and Delinquency for victim-
12 witness services grants and technical assistance IN NONVICTIM <—
13 COMPENSATION-RELATED AREAS in accordance with this section.

14 [(d)] (e) This cost shall be imposed notwithstanding any
15 other provision to this act or other act to the contrary.

16 [(e)] (f) The district attorney, the Crime Victim's
17 Compensation Board, the Commission on Crime and Delinquency or
18 any victim of a crime (as defined in section 477) shall have
19 standing to seek a mandamus order requiring the county to
20 collect the costs imposed by this section.

21 SECTION 479.3. BASIC BILL OF RIGHTS FOR VICTIMS.--VICTIMS OF <—
22 CRIME HAVE THE FOLLOWING RIGHTS:

23 (1) TO HAVE INCLUDED IN ANY PRESENTENCE REPORT INFORMATION
24 CONCERNING THE EFFECT THAT THE CRIME COMMITTED BY THE DEFENDANT
25 HAS HAD UPON THE VICTIM, INCLUDING ANY PHYSICAL OR PSYCHOLOGICAL
26 HARM OR FINANCIAL LOSS SUFFERED BY THE VICTIM, TO THE EXTENT
27 THAT SUCH INFORMATION IS AVAILABLE FROM THE VICTIM OR OTHER
28 SOURCES.

29 (2) TO HAVE RESTITUTION ORDERED AS A CONDITION OF PROBATION
30 WHENEVER FEASIBLE.

1 (3) UPON REQUEST OF THE VICTIM OF A FELONIOUSLY ASSAULTIVE
2 CRIME, TO BE PROMPTLY INFORMED BY THE DISTRICT ATTORNEY WHENEVER
3 THE ASSAILANT IS TO BE RELEASED ON PAROLE, FURLOUGH OR ANY OTHER
4 FORM OF SUPERVISED OR UNSUPERVISED RELEASE FROM FULL
5 INCARCERATION.

6 (4) TO HAVE ASSISTANCE IN THE PREPARATION OF, SUBMISSION AND
7 FOLLOW-UP ON FINANCIAL ASSISTANCE CLAIMS TO THE BOARD.

8 SECTION 4. SECTION 479.5(F) OF THE ACT, ADDED DECEMBER 11,
9 1986 (P.L.1490, NO.155), IS AMENDED TO READ:

10 SECTION 479.5. GRANT PROGRAM FOR SERVICES.--* * *

11 (F) IN THE ALLOCATION OF FUNDS FOR SERVICES UNDER SECTION
12 479.4, THE COMMISSION SHALL CONSIDER THE REVENUE COLLECTED BY
13 POTENTIAL GRANT RECIPIENTS UNDER THE PENALTY ASSESSMENTS
14 AUTHORIZED IN SECTION 477.15 OF THIS ACT AND SECTION 1203 OF THE
15 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC
16 WELFARE CODE," PERTAINING TO DOMESTIC VIOLENCE AND RAPE CRISIS
17 SERVICES AND THE EXTENT TO WHICH CRIME VICTIMS COMPENSATION
18 CLAIMS ASSISTANCE IS MADE AVAILABLE.

19 Section 4 5. This act shall take effect as follows: <—

20 (1) Section 1 (section 477) shall take effect October 1,
21 1990.

22 (2) The remainder of this act shall take effect in 60
23 days.