

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 1192** Session of  
1997

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INTRODUCED BY EARLL, LOEPER, BELL, BRIGHTBILL, GERLACH, HART,  
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THOMPSON, TOMLINSON, WILLIAMS, WOZNIAK AND MURPHY,  
NOVEMBER 17, 1997

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AS AMENDED ON THIRD CONSIDERATION, MARCH 30, 1998

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## AN ACT

1 Providing for victims' rights; imposing penalties; establishing  
2 remedies; establishing the Office of Victim Advocate, the  
3 Bureau of Victims' Services, the Victims' Services Advisory  
4 Committee, the State Offender Supervision Fund and other  
5 funds; and making repeals.

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20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 CHAPTER 1

23 PRELIMINARY PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the Crime Victims  
26 Act.

27 Section 102. Legislative intent.

28 The General Assembly finds and declares as follows:

29 (1) In recognition of the civic and moral duty of  
30 victims of crime to fully and voluntarily cooperate with law

1 enforcement and prosecutorial agencies and in further  
2 recognition of the continuing importance of victim  
3 cooperation to State and local law enforcement efforts and  
4 the general effectiveness and well-being of the criminal  
5 justice system of this Commonwealth, all victims of crime are  
6 to be treated with dignity, respect, courtesy and  
7 sensitivity.

8 (2) The rights extended to victims of crime in Chapter 2  
9 are to be honored and protected by law enforcement agencies,  
10 prosecutors and judges in a manner no less vigorous than the  
11 protections afforded criminal defendants.

12 Section 103. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Board." The Pennsylvania Board of Probation and Parole.

17 "Bureau." The Bureau of Victims' Services in the  
18 Pennsylvania Commission on Crime and Delinquency.

19 "Claimant." The person filing a claim under Chapter 7.

20 "Commission." The Pennsylvania Commission on Crime and  
21 Delinquency.

22 "Committee." The Victims' Services Advisory Committee  
23 established in section 321.

24 "Crime." An act, including an act resulting in injury  
25 intentionally inflicted through the use of a motor vehicle,  
26 which was committed:

27 (1) In this Commonwealth by a person, without regard to  
28 legal exemption or defense which would constitute a crime  
29 under:

30 (i) the act of April 14, 1972 (P.L.233, No.64),

known as The Controlled Substance, Drug, Device and  
Cosmetic Act;

(ii) 18 Pa.C.S. (relating to crimes and offenses),  
30 Pa.C.S. § 5502 (relating to operating watercraft under  
influence of alcohol or controlled substance) or 5502.1  
(relating to homicide by watercraft while operating under  
influence) and 75 Pa.C.S. § 3731 (relating to driving  
under influence of alcohol or controlled substance) ~~or~~,  
3735 (relating to homicide by vehicle while driving under  
influence) OR 3735.1 (RELATING TO AGGRAVATED ASSAULT BY  
VEHICLE WHILE DRIVING UNDER THE INFLUENCE); or

(iii) the laws of the United States.

(2) Against a resident of this Commonwealth which would  
be a crime under paragraph (1) but for its occurrence in a  
state other than this Commonwealth.

(3) Against a resident of this Commonwealth which is an  
act of international terrorism.

"Department." The Department of Corrections of the  
Commonwealth.

"Direct victim." An individual against whom a crime has been  
committed OR ATTEMPTED, and who, as a direct result of the ~~crime~~  
CRIMINAL ACT OR ATTEMPT, suffers physical or mental injury,  
death or the loss of earnings under this act. The term shall not  
include the alleged offender. The term includes: a resident of  
this Commonwealth against whom an act has been committed OR  
ATTEMPTED which otherwise would constitute a crime as defined in  
this act but for its occurrence in a state other than this  
Commonwealth and for which the person would otherwise be  
compensated by the crime victim compensation program of the  
state where the act occurred but for the ineligibility of such

1 program under the provisions of the Victims of Crime Act of 1984  
2 (Public Law 98-473, 42 U.S.C. § 10601 et seq.).

3 "Dispositional proceeding." A proceeding which occurs in  
4 open common pleas court which potentially could dispose of the  
5 case. The term includes Accelerated Rehabilitative Disposition,  
6 pleas, trial and sentence.

7 "Diversionary program." A program which is used to divert  
8 the defendant to an alternative form of disposition under the  
9 Pennsylvania Rules of Criminal Procedure or statutory authority.  
10 The term includes dispositions authorized by Rules 160, 176 and  
11 314 of the Pennsylvania Rules of Criminal Procedure and sections  
12 17 and 18 of the act of April 14, 1972 (P.L.233, No.64), known  
13 as The Controlled Substance, Drug, Device and Cosmetic Act.

14 "Family." When used in reference to an individual:

15 (1) anyone related to that individual within the third  
16 degree of consanguinity or affinity;

17 (2) anyone maintaining a common-law relationship with  
18 that individual; or

19 (3) anyone residing in the same household with that  
20 individual.

21 "Injury." Includes physical or mental damages incurred as a  
22 direct result of the crime and aggravation of existing injuries  
23 if additional losses can be attributed to the direct result of  
24 the crime. Compensation for mental damages is limited to  
25 expenses incurred for psychological or psychiatric services  
26 which became necessary as a direct result of the crime.

27 "International terrorism." Activities which meet all of the  
28 following:

29 (1) Involve violent acts or acts dangerous to human life  
30 that are a violation of the criminal laws of the United

1 States or of any state, or that would be a criminal violation  
2 if committed within the jurisdiction of the United States or  
3 of any state.

4 (2) Appear to be intended:

5 (i) to intimidate or coerce a civilian population;

6 (ii) to influence the policy of a government by  
7 intimidation or coercion; or

8 (iii) to affect the conduct of a government by  
9 assassination or kidnapping.

10 (3) Occur primarily outside of the territorial  
11 jurisdiction of the United States, or transcend national  
12 boundaries in terms of the means by which they are  
13 accomplished, the persons they appear intended to intimidate  
14 or coerce or the locale in which their perpetrators operate  
15 or seek asylum.

16 "Intervenor." An individual who goes to the aid of another  
17 and suffers physical or mental injury or death as a direct  
18 result of acting not recklessly to prevent the commission of a  
19 crime, to lawfully apprehend a person reasonably suspected of  
20 having committed such crime, or to aid the victim of such crime.

21 "Law enforcement agency." The Pennsylvania State Police and  
22 a local law enforcement agency.

23 "Local correctional facility." A jail, prison or detention  
24 facility operated by a county or jointly by more than one county  
25 and used for the confinement of individuals for safe custody.  
26 The term does not include any facility used for the detention or  
27 confinement of juveniles.

28 "Local law enforcement agency." A police department of a  
29 city, borough, incorporated town or township.

30 "Loss of earnings." Includes the loss of the cash equivalent

1 of one month's worth of Social Security, railroad retirement,  
2 pension plan, retirement plan, disability, veteran's retirement,  
3 court-ordered child support or court-ordered spousal support  
4 payment, if the payment is the primary source of the victim's  
5 income and the victim is deprived of the money as a direct  
6 result of a crime.

7 "Office." The Office of Victim Advocate established in  
8 section 302.

9 "Out-of-pocket loss." The unreimbursed and unreimbursable  
10 expenses or indebtedness incurred for medical care, nonmedical  
11 remedial care and treatment rendered in accordance with a  
12 religious method of healing as approved by the board, or other  
13 services. The term includes psychological counseling, prosthetic  
14 devices, eyeglasses or other corrective lenses and dental  
15 devices, reasonably necessary as a result of the injury upon  
16 which the claim is based and for which the claimant either has  
17 paid or is liable. The term includes expenses for physical  
18 examinations and materials used to obtain evidence. The term  
19 does not include property damage or pain and suffering.

20 "Personal injury crime." An act, attempt or threat to commit  
21 an act which would constitute a misdemeanor or felony under the  
22 following:

23 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

24 18 Pa.C.S. Ch. 27 (relating to assault).

25 18 Pa.C.S. Ch. 29 (relating to kidnapping).

26 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

27 18 Pa.C.S. § 3301 (relating to arson and related  
28 offenses).

29 18 Pa.C.S. Ch. 37 (relating to robbery).

30 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and



witness intimidation).

30 PA.C.S. § 5502.1 (RELATING TO HOMICIDE BY WATERCRAFT  
WHILE OPERATING UNDER INFLUENCE).

75 Pa.C.S. § 3735 (relating to homicide by vehicle while  
driving under influence).

75 PA.C.S. § 3735.1 (RELATING TO AGGRAVATED ASSAULT BY  
VEHICLE WHILE DRIVING UNDER THE INFLUENCE).

The term includes violations of any protective order issued as a  
result of an act related to domestic violence.

"Prosecutor's office." The Office of Attorney General or the  
office of a district attorney of a county.

"Victim." The term means the following:

~~(1) An individual against whom a crime is being or has  
been perpetrated or attempted under this act.~~

(1) A DIRECT VICTIM.

(2) A parent or legal guardian of a child ~~so victimized~~  
WHO IS A DIRECT VICTIM, except when the parent or legal  
guardian of the child is the alleged offender.

(3) A family member of a homicide victim, including  
stepbrothers or stepsisters, stepchildren, stepparents or a  
fiance, one of whom is to be identified to receive  
communication as provided for in this act, except where the  
family member is the alleged offender.

"Victim advocate." The victim advocate in the Office of  
Victim Advocate within the Pennsylvania Board of Probation and  
Parole.

## CHAPTER 2

## CRIME VICTIMS

## SUBCHAPTER A

## BILL OF RIGHTS

1 Section 201. Rights.

2 Victims of crime have the following rights:

3 (1) To receive basic information concerning the services  
4 available for victims of crime.

5 (2) To be notified of certain significant actions and  
6 proceedings within the criminal justice system pertaining to  
7 their case.

8 (3) To be accompanied at all public criminal proceedings  
9 by a family member, a victim advocate or another person.

10 (4) In cases involving personal injury crimes, burglary  
11 or violations of 75 Pa.C.S. § 3731 (relating to driving under  
12 influence of alcohol or controlled substance) which involve  
13 bodily injury, to submit prior comment to the prosecutor's  
14 office on the potential reduction or dropping of any charge  
15 or changing of a plea.

16 (5) To have opportunity to offer prior comment on the  
17 sentencing of a defendant, to include the submission of a  
18 written victim impact statement detailing the physical,  
19 psychological and economic effects of the crime on the victim  
20 and the victim's family and to have such comment considered  
21 by the judge when determining the defendant's sentence.

22 (6) To be restored, to the extent possible, to the  
23 precrime economic status through the provision of  
24 restitution; compensation; and the expeditious return of  
25 property which is seized as evidence in the case when, in the  
26 judgment of the prosecutor, the evidence is no longer needed  
27 for prosecution of the case.

28 (7) In personal injury crimes where the offender is  
29 sentenced to a State correctional facility, to be:

30 (i) given the opportunity to provide prior comment

1 on and to receive State postsentencing release decisions,  
2 including work release, furlough, parole, pardon or  
3 community treatment center placement; and

4 (ii) provided immediate notice of an escape of the  
5 offender.

6 (8) In personal injury crimes where the offender is  
7 sentenced to a local correctional facility, to:

8 (i) receive notice of the date of the release of the  
9 offender, including work release, furlough, parole or  
10 community treatment center placement; and

11 (ii) be provided with immediate notice of an escape  
12 of the offender.

13 (9) If the offender is subject to an order under 23  
14 Pa.C.S. Ch. 61 (relating to protection from abuse) and is  
15 committed to a local correctional facility for a violation of  
16 the order or for a personal injury crime against a victim  
17 protected by the order, to receive immediate notice of the  
18 release of the offender on bail.

19 (10) To receive notice if an offender is committed to a  
20 mental health facility from a State correctional institution  
21 and notice of the discharge, transfer or escape of the  
22 offender from the mental health facility.

23 (11) To have assistance in the preparation of,  
24 submission of and follow-up on financial assistance claims to  
25 the bureau.

## 26 SUBCHAPTER B

### 27 RESPONSIBILITIES

28 Section 211. Responsibilities of victims of crime under basic  
29 bill of rights.

30 A victim shall provide a valid address and telephone number

1 and any other required information to all agencies responsible  
2 for providing information and notice to the victim. The victim  
3 shall be responsible for providing timely notice of any changes  
4 in the status of the information. The information provided shall  
5 not be disclosed to any person other than a law enforcement  
6 agency, corrections agency or prosecutor's office without the  
7 prior written consent of the victim.

8 Section 212. Responsibilities of State and local law  
9 enforcement agencies.

10 (a) Training.--A law enforcement agency shall insure that  
11 all of its officers and employees are familiar with crime  
12 victims' compensation as provided for in Chapter 7. Instruction  
13 concerning crime victims' compensation shall be made a part of  
14 the training curriculum for all trainee officers.

15 (b) Notice.--Law enforcement agencies shall, within 48 hours  
16 of reporting, give notice to the direct victim or, if  
17 appropriate, a member of the direct victim's family of the  
18 availability of crime victims' compensation. The notice required  
19 under this subsection shall be in writing and shall include the  
20 following paragraph:

21 If you have sustained injury as a direct result of a  
22 crime, including drunk driving, or are legally dependent  
23 for support upon a person who has sustained physical  
24 injury or death as a direct result of a crime, or, in the  
25 event of a death caused by a crime, you have legally  
26 assumed or voluntarily paid the medical or burial  
27 expenses incurred as a direct result thereof, or if you  
28 have sustained a loss of a primary source of income, you  
29 may qualify for indemnification by the Commonwealth of  
30 Pennsylvania for the out-of-pocket wages, other out-of-

1 pocket losses, and medical or burial expenses which you  
2 have incurred as a result of the crime. Claims must be  
3 filed with the Bureau of Victims' Services for the  
4 Commonwealth of Pennsylvania. For further information  
5 regarding this program, please contact:

6 (Name, business address and telephone  
7 number of the local law enforcement  
8 agency)

9 or

10 Bureau of Victims' Services  
11 (at the address of the bureau as  
12 published from time to time in  
13 the Pennsylvania Bulletin)  
14 Harrisburg, Pennsylvania

15 Important: The statute provides that, absent certain  
16 extenuating circumstances, a claimant has one year from  
17 the date of the crime to file a claim with the Bureau of  
18 Victims' Services.

19 (c) Application.--The written notification provided for in  
20 subsection (b) shall be accompanied by one copy of the  
21 application form for crime victims' compensation. Application  
22 forms shall be supplied by the bureau to law enforcement  
23 agencies. A record of the date of notification shall be  
24 maintained by the law enforcement agency. The bureau shall  
25 maintain a mailing list of all local law enforcement agencies  
26 and provide law enforcement agencies with forms by which they  
27 can order additional claim forms. The bureau shall also provide  
28 updates to law enforcement agencies on changes which affect  
29 their responsibilities under this act.

30 (d) Information.--Law enforcement agencies are responsible

1 for providing basic information on services available for crime  
2 victims. The information shall be in writing and shall be  
3 provided to the victim within 24 hours of the law enforcement  
4 agency's first contact with the victim in a form to be developed  
5 by the commission.

6 (e) Forms.--The form developed by the commission shall be  
7 attached to the police report and shall include a victim  
8 checkoff signifying that the information has been provided to  
9 the crime victim.

10 (f) Notice.--

11 (1) In personal injury crimes, the law enforcement  
12 agency shall make reasonable efforts to notify the victim of  
13 the arrest of the suspect as soon as possible. Unless the  
14 victim cannot be located, notice of the arrest shall be  
15 provided not more than 24 hours after the preliminary  
16 arraignment.

17 (2) In personal injury crimes, a law enforcement agency,  
18 sheriff, deputy sheriff or constable shall notify the victim  
19 of an inmate's escape from the custody of the law enforcement  
20 agency, sheriff, deputy sheriff or constable.

21 Section 213. Responsibilities of prosecutor's office.

22 (a) Forms.--The prosecutor's office shall provide the victim  
23 of a personal injury crime with all forms developed pursuant to  
24 sections 214 and 215.

25 (b) Pleading.--In a personal injury crime, burglary or  
26 violation of 75 Pa.C.S. § 3731 (relating to driving under  
27 influence of alcohol or controlled substance), the prosecutor's  
28 office shall provide notice of the opportunity to submit prior  
29 comment on the potential reduction or dropping of any charge or  
30 changing of a plea if the victim so requests.

1 (c) Sentencing.--The prosecutor's office shall provide  
2 notice of the opportunity to offer prior comment on the  
3 sentencing of a defendant. This prior comment includes the  
4 submission of a written victim-impact statement. The  
5 prosecutor's office shall assist a victim who requests  
6 assistance to prepare this comment.

7 (d) Release.--In a personal injury crime, the prosecutor's  
8 office shall provide notice of the opportunity to submit input  
9 into State correctional release decisions, to receive notice of  
10 any release of an offender from a State or local correctional  
11 facility and to receive notice of the commitment to a mental  
12 health institution from a State or local correctional  
13 institution.

14 (e) Disposition.--In a personal injury crime, if the  
15 prosecutor's office has advance notice of dispositional  
16 proceeding, the prosecutor shall make reasonable efforts to  
17 notify a victim who has requested notice of the time and place  
18 of the proceeding.

19 (f) Notice.--If the victim has so requested, the  
20 prosecutor's office shall provide notice of the disposition and  
21 sentence of the defendant, including any sentence modifications.  
22 In a personal injury crime, if the victim has so requested, the  
23 prosecutor's office shall make reasonable efforts to notify the  
24 victim as soon as possible when the defendant is released from  
25 incarceration at sentencing.

26 (g) Assistance.--The prosecutor's office shall provide  
27 assistance to the victim in the preparation of, submission of  
28 and follow-up on financial assistance claims filed with the  
29 bureau.

30 Section 214. Responsibilities of department, local correctional

1 facilities and board.

2 (a) Forms.--The department and the board shall develop  
3 standardized forms regarding victim notification. The form shall  
4 include the address where the form is to be sent. The department  
5 shall develop a standardized form which may be used by local  
6 correctional facilities. In the case of counties with victim-  
7 witness coordinators, the local correctional facility shall  
8 perform its responsibilities under this section in cooperation  
9 with the county's victim/witness coordinator.

10 (b) Notice.--If the department and board have received  
11 notice of a victim's desire to have input under section 201(7),  
12 the appropriate agency shall notify the victim sufficiently in  
13 advance of a pending release decision to extend an opportunity  
14 for prior comment. The local correctional facility's notice to  
15 the victim under section 201(9) shall occur immediately.

16 (c) Comment.--The victim's prior comment may be oral or  
17 written and shall be considered by the department or the board  
18 as to the advisability of release and any conditions of release  
19 which may be imposed.

20 (d) Escape notification.--If the department or local  
21 correctional facility has received notice of a victim's desire  
22 to receive notification regarding escape of the offender as  
23 provided for in section 201(8), the superintendent of the State  
24 correctional institution or warden of a local correctional  
25 facility shall immediately notify the victim of the escape.

26 (e) Mental health.--If the department or local correctional  
27 facility has received notice of a victim's desire to receive  
28 notification as provided for in section 201(10), the  
29 superintendent of the State correctional institution or warden  
30 of a local correctional facility shall notify the victim of the



1 commitment of the offender to a mental health facility and the  
2 location of the facility within 24 hours of the commitment.

3 (f) Records.--Records maintained by the department, the  
4 local correctional facility and the board pertaining to victims  
5 shall be kept separate. Current address, telephone number and  
6 any other personal information of the victim and family members  
7 shall be deemed confidential.

8 (g) Release of offender.--The department, the local  
9 correctional facility or the board shall notify the victim of  
10 the final decision rendered, the date of any release and  
11 relevant conditions imposed prior to the release of the  
12 offender.

13 Section 215. Responsibilities of Department of Public Welfare  
14 and mental health institutions under basic bill  
15 of rights.

16 (a) Forms.--The Department of Public Welfare shall develop  
17 standardized forms, which shall include the address where the  
18 completed form is to be sent, for the receipt of notice from the  
19 victim concerning the victim's interest in discharge decisions  
20 and notification of an escape. Sufficient copies of the forms  
21 shall be provided to the office of the district attorney for  
22 distribution to victims upon court-ordered commitment of the  
23 offender to a mental health institution in the State system.

24 (b) Designated staff.--If the Department of Public Welfare  
25 has received notice of a victim's desire to receive notification  
26 as provided for in section 201(10) regarding release, placement  
27 or escape of the offender, the Department of Public Welfare  
28 shall designate the appropriate official to notify the victim of  
29 the discharge of the offender from the mental health institution  
30 and the facility to which the offender was discharged within 24

1 hours of the discharge. The Department of Public Welfare or the  
2 designated official shall immediately notify the victim of an  
3 escape of the offender from the mental health institution.

4 CHAPTER 3

5 ADMINISTRATION

6 SUBCHAPTER A

7 VICTIM ADVOCATE

8 Section 301. Office.

9 (a) Establishment.--There is established within the board  
10 the Office of Victim Advocate to represent the interests of  
11 crime victims before the board or department. The office shall  
12 operate under the direction of the victim advocate as provided  
13 in this section.

14 (b) Appointment.--The victim advocate must be an individual  
15 who, by reason of training and experience, is qualified to  
16 represent the interests of individual crime victims before the  
17 board. The victim advocate shall be appointed by the Governor,  
18 by and with the consent of a majority of all of the members of  
19 the Senate. The victim advocate shall hold office for a term of  
20 six years and until a successor shall have been duly appointed  
21 and qualified, but in no event more than 90 days beyond the  
22 expiration of the appointed term. A vacancy occurring for any  
23 reason shall be filled in the manner provided by section 8 of  
24 Article IV of the Constitution of Pennsylvania for the remainder  
25 of the term. Whenever the victim advocate's term expires, that  
26 position shall be immediately deemed a vacancy, and the Governor  
27 shall nominate a person to fill that position within 90 days of  
28 the date of expiration, even if the victim advocate continues in  
29 office. To be eligible to be appointed by the Governor as victim  
30 advocate, an individual must have at least six years of

1 professional experience in victim advocacy, social work or  
2 related areas, including one year in a supervisory or  
3 administrative capacity, and a bachelor's degree. Any equivalent  
4 combination of experience and training shall be acceptable.  
5 Compensation shall be set by the Executive Board as defined by  
6 the act of April 9, 1929 (P.L.177, No.175), known as The  
7 Administrative Code of 1929.

8 (c) Service and employees.--The victim advocate shall  
9 operate from the central office of the board with such clerical,  
10 technical and professional staff as may be available within the  
11 budget of the board. The compensation of employees of the office  
12 shall be set by the Executive Board.

13 Section 302. Powers and duties of victim advocate.

14 The victim advocate has the following powers and duties:

15 (1) To represent the interests of individual crime  
16 victims before the board, department or hearing examiner.

17 (2) To supervise the victim notification duties  
18 presently conducted by the board.

19 (3) To assist in and coordinate the preparation of oral  
20 testimony by the crime victims or the submission of written  
21 comments by crime victims prior to a release decision.

22 (4) To represent the interests of a crime victim under  
23 section 502.

24 (5) To act as a liaison with the victim notification  
25 program director in the department to coordinate victim  
26 notification and services for the department and the board.

27 The victim advocate is authorized to address the interests of  
28 all victims before the board, department or hearing examiner  
29 concerning any issues determined appropriate by the victim  
30 advocate.

1 SUBCHAPTER B

2 BUREAU OF VICTIMS' SERVICES

3 Section 311. Bureau.

4 (a) Establishment.--There is established within the  
5 commission the Bureau of Victims' Services. The bureau shall be  
6 responsible for administering Chapter 7. The bureau shall also  
7 be responsible for the disposition of all claims for direct  
8 victim compensation filed under Chapter 7.

9 (b) Director.--A director of the bureau shall be appointed  
10 by the chairman of the commission. The director shall be paid  
11 compensation as the executive board may determine.

12 (c) Staff.--The director of the bureau may employ personnel  
13 and contract for services as necessary and authorized to carry  
14 out the purposes of the bureau.

15 Section 312. Powers and duties of bureau.

16 The bureau, subject to approval of the commission, has the  
17 following powers and duties:

18 (1) To establish and maintain a principal office in or  
19 near Harrisburg and such other offices within this  
20 Commonwealth as it may deem necessary.

21 (2) To appoint counsel, clerks, claims verifiers,  
22 hearing officers and other employees and agents as it may  
23 deem necessary; to fix their compensation within the limits  
24 provided by law; and to prescribe their duties.

25 (3) To ~~promulgate~~ ADOPT, PROMULGATE, AMEND AND RESCIND  
26 SUITABLE RULES AND regulations to carry out the provisions  
27 and purposes of Chapter 7. These regulations shall provide  
28 for the approval of attorney fees for representation before  
29 the bureau, a hearing examiner or before the Commonwealth  
30 Court upon judicial review under section 705. Awards of the

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1 attorney fees shall be in addition to awards made to direct  
2 victims. Awards of attorney fees shall in no case exceed 15%  
3 of the award to the direct victim or victims. It shall be  
4 unlawful for an attorney to contract for or receive any sum  
5 larger than the amount allowed. Regulations under this  
6 paragraph shall include policies, procedures and standards of  
7 review regarding claims for compensation; approval or denial  
8 of claims, including contributory conduct by direct victims;  
9 verification of information and documents; prioritization of  
10 review; and all other matters related to the processing.

11 (4) To request and review from law enforcement agencies  
12 and from any other state or municipal department, agency or  
13 public authority assistance and data as will enable the  
14 bureau to carry out its powers and duties.

15 (5) To determine all claims for awards filed with the  
16 bureau under Chapter 7 and to reinvestigate or reopen cases  
17 as the bureau deems necessary.

18 (6) To direct medical examinations of direct victims.

19 (7) To appoint hearing officers authorized to administer  
20 oaths or affirmations, to examine any person under oath or  
21 affirmation and to issue subpoenas requiring attendance of  
22 witnesses, testimony of witnesses and production of evidence.  
23 Except where a claim is determined to be frivolous, the  
24 bureau shall reimburse claimants for attending hearings,  
25 regardless of the disposition of the claim, at the rate of  
26 20¢ per mile and at the rate of \$20 for each day of hearing.

27 (8) To take or cause to be taken affidavits or  
28 depositions in or outside of this Commonwealth.

29 (9) To render each year to the Governor and to the  
30 General Assembly a written report of its activities. In every

1 third annual report, the bureau, upon investigation and  
2 study, shall include its findings and recommendations with  
3 respect to the limits on compensation, whether or not an  
4 increase is being requested. The annual report shall include  
5 a summary of an audit by the Auditor General or an  
6 independent accounting firm of a statistically valid sample  
7 of the amounts paid to direct victims so as to avoid  
8 duplications, other possible errors or fraud. The bureau  
9 shall formalize agreements with the Auditor General for the  
10 provision of the annual audit.

11 (10) To arrange with the heads of other Commonwealth  
12 agencies for the performance of any of its functions under  
13 this act with or without reimbursement and, with the approval  
14 of the Governor, to delegate and authorize the redelegation  
15 of any of its powers under this act.

16 (11) To establish a program to assure extensive and  
17 continuing publicity of information regarding the  
18 compensation provisions under Chapter 7. This information  
19 shall include the right to file a claim, the scope of  
20 coverage and procedures to be utilized incident thereto.

21 (12) To administer the funds under section 1101(b), for  
22 the payment of claims filed under Chapter 7 and for all  
23 reasonable and necessary administrative expenses.

#### 24 SUBCHAPTER C

#### 25 COMMITTEE

26 Section 321. Committee.

27 (a) Establishment.--There is established the Victims'  
28 Services Advisory Committee within the commission.

29 (b) Membership.--The committee shall consist of 15 members:

30 (1) The Secretary of Aging or a designee.

- (2) The Secretary of Corrections or a designee.
- (3) The Secretary of Public Welfare or a designee.
- (4) The Commissioner of the Pennsylvania State Police.
- (5) The victim advocate.
- (6) A district attorney appointed by the Governor.
- (7) Nine individuals appointed by the Governor.

Members under this paragraph must represent direct victims, Statewide victims' coalitions, prosecution-based victim/witness programs and other victim service or victim advocacy organizations, the courts, members of local government and other victims' organizations or organizations involved in the coordination or delivery of services to direct victims.

(c) Terms.--A member under subsection (b)(1) through (5) shall serve ex officio. A member under subsection (b)(6) or (7) shall serve for a four-year term and may be appointed for no more than one additional consecutive term.

(d) Restrictions.--The committee and its members are subject to the same limitations and conditions imposed upon the commission as prescribed in section 2 of the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law.

(e) Quorum.--A majority of the members shall constitute a quorum. A vote of the majority of the members present shall be sufficient for all actions.

(f) Chair.--The Governor shall appoint a chairperson from among the members of the committee. The chairperson shall serve at the pleasure of the Governor. A vice chairperson shall be designated by the chairperson and preside at meetings in the absence of the chairperson.

1 (g) Meeting.--The committee shall meet at the call of the  
2 chair but no fewer than four times a year.

3 Section 322. Powers and duties of committee.

4 The committee has the following powers and duties:

5 (1) To serve in an advisory capacity to the commission,  
6 including the bureau, through the committee's participation  
7 in the development of that part of the commission's plan  
8 relating to direct victims' services and compensation.

9 (2) To perform those functions related to the direct  
10 approval and disbursement of financial assistance in an  
11 advisory capacity only. The committee shall have the  
12 opportunity to review and comment on applications other than  
13 applications for claims for compensation pursuant to sections  
14 702 and 706 within 30 days after receipt of the application  
15 from the commission.

16 (3) To advise the commission on the definition,  
17 development and correlation of programs and projects and the  
18 establishment of priorities for direct victims' services and  
19 compensation.

20 (4) To develop standards, methods and procedures for  
21 evaluating and monitoring direct victims' services.

22 (5) Upon request, to provide assistance and advice to  
23 the commission on any other matters relating to direct  
24 victims' services and compensation.

25 (6) To receive staff support from the commission and the  
26 bureau in order to adequately perform the duties provided for  
27 in this section.

28 CHAPTER 5

29 PAROLE ADVOCACY

30 Section 501. Preparole notification to victim.



1 (a) Persons to be notified.--No later than 90 days prior to  
2 the parole date of an offender, the victim advocate shall notify  
3 the victim of the offense for which the offender was sentenced,  
4 the parent or legal guardian of a victim who is a minor or a  
5 member of the family if the victim is incapable of communicating  
6 or has died and shall provide the appropriate person with an  
7 opportunity to submit a preparole statement expressing concerns  
8 or recommendations regarding the parole or parole supervision of  
9 the offender.

10 (b) Enrollment.--A victim or member of the family is  
11 responsible for notifying the victim advocate of the victim's or  
12 family member's intent to submit a preparole statement regarding  
13 the parole or parole supervision of the offender. The notice  
14 shall include a mailing address or change of address  
15 notification.

16 (c) Procedure.--The victim advocate shall notify the person  
17 at the person's last known mailing address. The person shall  
18 submit the preparole statement to the victim advocate within 30  
19 days of the date of notice. The preparole statement shall be  
20 considered by the board during preparation of the parole plan.  
21 Section 502. Petitions to deny parole upon expiration of  
22 minimum sentence.

23 (a) Petition.--Upon the request of a victim who has notified  
24 the board in writing of the victim's desire to have input and  
25 make comment prior to a parole release decision, the victim  
26 advocate shall either petition the board as to the special  
27 conditions of release which may be imposed or that the offender  
28 not be paroled based upon the statement that the victim  
29 submitted under section 501.

30 (b) Appearance.--The victim or the victim's representative

1 shall be permitted to appear in person before the board or  
2 hearing examiner. The testimony of a victim before the board  
3 shall be confidential. Records maintained by the department and  
4 the board pertaining to victims shall be kept separate. Current  
5 address, telephone number and any other personal information of  
6 the victim and family members shall be deemed confidential.

7 (c) Action.--The board, upon petition and after an  
8 interview, may do any of the following:

9 (1) Order that special conditions of parole be placed  
10 upon the offender or the offender not be paroled based upon  
11 the continuing effect of the crime on the victim.

12 (2) Order that the offender not be paroled if the board  
13 finds that:

14 (i) the offender would pose a risk or danger to the  
15 victim or the family of the victim if the offender were  
16 released on parole; or

17 (ii) the interests of the Commonwealth would  
18 otherwise be injured.

19 (d) Notice.--The board shall notify the victim of its  
20 decision prior to a release of the offender.

21 (e) District attorney.--Notwithstanding any other statutory  
22 provision, the office of the district attorney of the sentencing  
23 county may notify a crime victim of a pending release decision  
24 and act on the victim's behalf or on its own initiative to  
25 submit comments and represent the interests of a crime victim  
26 before the board prior to a release decision.

## 27 CHAPTER 7

## 28 COMPENSATION

29 Section 701. Persons eligible for compensation.

30 (a) General rule.--Except as provided in subsection (b), the

1 following persons shall be eligible for compensation:

2 (1) A direct victim.

3 (2) An intervenor.

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

6 (4) Any other individual dependent for principal support  
7 upon a deceased direct victim or intervenor.

8 (5) Any individual related to the direct victim who  
9 assumes the obligation or who pays the funeral or burial  
10 expense incurred as a direct result of the crime or, if no  
11 relative assumes the obligation, the person who makes the  
12 payment.

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

22 (c) Family.--If a crime results in death, the spouse,  
23 children, parents or siblings of the direct victim who resided  
24 within the same household as the direct victim shall be eligible  
25 for compensation for the cost of psychological counseling and  
26 other reasonable out-of-pocket losses which are deemed necessary  
27 as a direct result of the criminal incident.

28 Section 702. Filing of claims for compensation.

29 (a) General rule.--A claim for compensation may be filed by  
30 an individual eligible for compensation, as provided in section

1 701. If the individual is a minor, the claim may be filed by a  
2 parent or guardian. If the individual is mentally incompetent,  
3 the claim may be filed by a guardian or legal representative.

4 (b) Time.--

5 (1) Except as set forth in paragraph (2), a claim must  
6 be filed not later than one year after the occurrence of the  
7 crime upon which the claim is based or not later than one  
8 year after the death of the direct victim or intervenor.

9 (2) Extensions shall be as follows:

10 (i) For good cause, the bureau may extend the time  
11 for filing for a period of not more than two years after  
12 the occurrence.

13 (ii) If a direct victim is under 18 years of age at  
14 the time of the occurrence of the crime and the alleged  
15 offender is the direct victim's parent or a person  
16 responsible for the direct victim's welfare, an  
17 individual residing in the same home as the direct victim  
18 or a paramour of the direct victim's parent, the bureau  
19 may, for good cause, extend the time for filing for a  
20 period of not more than five years after the occurrence.

21 (iii) If a claim has been filed but subsequently  
22 returned to the claimant for correction or for additional  
23 verification or information, the date the claim was first  
24 received by the bureau shall be the permanent filing date  
25 for purposes of this subsection. The correction or  
26 additional verification or information must be filed  
27 within six months of the date of return.

28 (c) Manner.--Claims must be filed in the office of the  
29 bureau or by mail.

30 (d) Notice.--Upon filing of a claim, the bureau shall

1 promptly notify the district attorney of the county where the  
2 crime is alleged to have occurred. If, within ten days after  
3 notification, the district attorney advises the bureau that a  
4 criminal prosecution is pending upon the same alleged crime and  
5 requests that action by the bureau be deferred, the bureau shall  
6 defer all proceedings under this chapter until a trial verdict  
7 has been rendered and shall so notify the district attorney and  
8 claimant. When a trial verdict has been rendered, the district  
9 attorney shall promptly notify the bureau. Nothing in this  
10 section shall limit the authority of the bureau to grant  
11 emergency awards under section 706.

12 Section 703. Minimum allowable claim.

13 (a) General rule.--Except as set forth in subsection (b), no  
14 award shall be made on a claim unless the claimant has incurred  
15 a minimum out-of-pocket loss of \$100 or has lost at least two  
16 continuous weeks' earnings or support.

17 (b) Exception.--Subsection (a) shall not apply if the direct  
18 victim was 60 years of age or older at the time the crime  
19 occurred.

20 Section 704. Determination of claims.

21 (a) Processing.--The bureau shall establish functional  
22 procedures for the intake, verification and processing of  
23 claims.

24 (b) Review.--

25 (1) The bureau shall review the claim and all supporting  
26 documents and investigate the validity of the claim. The  
27 investigation shall include an examination of police, court  
28 and official records and reports concerning the crime and an  
29 examination of medical and hospital reports relating to the  
30 injury upon which the claim is based. The bureau may not

1 request or review counseling notes of mental health service  
2 providers. The bureau shall request an assessment from the  
3 mental health service provider as to the extent the service  
4 provided is needed as a direct result of the crime.

5 (2) Claims shall be investigated and determined,  
6 regardless of whether the alleged criminal has been  
7 apprehended, prosecuted or adjudicated for the crime in  
8 question.

9 (c) Determination.--The bureau shall determine whether to  
10 grant an award, increase or decrease an award or deny the claim  
11 based on the supporting documents, the report of the  
12 investigation and staff recommendations. If the bureau is unable  
13 to determine if a claim is justified based upon the supporting  
14 documents, it may direct a hearing before a hearing examiner  
15 designated by the commission. At the hearing, any relevant  
16 evidence not legally privileged shall be admissible.

17 (d) Notice.--The bureau shall promptly notify the claimant  
18 and the State Treasurer of the final decision of the bureau.

19 (e) Records.--The bureau shall maintain complete records and  
20 histories on all claims filed, supplemental awards paid to  
21 claimants, claims status and third-party entitlements and  
22 recoveries.

#### 23 Section 705. Judicial review.

24 Within 30 days after receipt of a copy of the report  
25 containing a final decision of the bureau, the claimant or the  
26 Attorney General may appeal the final decision of the bureau in  
27 the manner provided for appeals from administrative agencies as  
28 provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial  
29 review of Commonwealth agency action).

#### 30 Section 706. Emergency awards.

1 (a) Authorization.--Notwithstanding the provisions of  
2 sections 704 and 707, if it appears to the bureau that the claim  
3 is one with respect to which an award probably will be made and  
4 that undue hardship will result to the claimant if immediate  
5 payment is not made, the bureau may make an emergency award to  
6 the claimant pending a final decision in the case. The following  
7 shall apply:

8 (1) The total amount of the emergency award shall not  
9 exceed \$1,000 per claim.

10 (2) The amount of the emergency award shall be deducted  
11 from any final award made to the claimant.

12 (3) The excess of the amount of the emergency award over  
13 the amount of the final award, or the full amount of the  
14 emergency award if no final award is made, shall be repaid by  
15 the claimant to the bureau.

16 (b) Reconsideration.--The bureau may reconsider an emergency  
17 award at any time prior to the final decision in the case and  
18 increase previous orders for emergency compensation up to the  
19 overall limit of \$1,000 per claim.

20 (c) Compilation.--The bureau shall compute the total number  
21 and amount of emergency awards given in each fiscal year for  
22 inclusion in the annual report.

#### 23 Section 707. Awards.

24 (a) Requirements.--No award shall be made unless it is  
25 determined by a preponderance of the evidence that:

26 (1) A crime was committed.

27 (2) The person injured or killed was a direct victim or  
28 intervenor.

29 (3) The crime was promptly reported to the proper  
30 authorities. In no case may an award be made if the record

1 shows that the report was made more than 72 hours after the  
2 occurrence of the crime unless the bureau finds the delay to  
3 have been justified, consistent with bureau regulations. The  
4 bureau, upon finding that any claimant, direct victim or  
5 intervenor has not fully cooperated with all law enforcement  
6 agencies, may deny or withdraw any award, as the case may be.

7 (b) Amount.--

8 (1) Any award made under this chapter shall be in an  
9 amount not exceeding out-of-pocket loss, together with loss  
10 of past, present or future earnings or support resulting from  
11 such injury. In no case shall the total amount of an award  
12 exceed \$35,000.

13 (2) An award made for loss of earnings or support shall,  
14 unless reduced pursuant to other provisions of this chapter,  
15 be in an amount equal to the actual loss sustained. The  
16 following shall apply:

17 (i) No such award shall exceed the average weekly  
18 wage for all persons covered by the act of December 5,  
19 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the  
20 Unemployment Compensation Law, in this Commonwealth, as  
21 determined annually by the Department of Labor and  
22 Industry for each week of lost earnings or support.

23 (ii) Except as set forth in subparagraph (iii), the  
24 aggregate award for the loss shall not exceed \$15,000.

25 (iii) In the case of death of a direct victim or  
26 intervenor, the aggregate award shall not exceed \$20,000.

27 (3) If an order of restitution has been entered on  
28 behalf of the direct victim, those amounts actually collected  
29 shall be applied first to property losses incident to the  
30 crime and secondly to personal injury losses as set forth in



subsection (f).

(c) Public assistance.--Provisions of awards made pursuant to a statute compensating or benefiting a direct victim or claimant shall in no way affect the claimant's or direct victim's eligibility under public assistance or any other Federal or Commonwealth social benefit or assistance program.

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

(e) Reduction.--Except for payments or proceeds that are specifically denominated as compensation for dismemberment or loss of an eye, an award made under this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury:

(1) from or on behalf of the person who committed the crime;

(2) under any insurance or health and welfare programs including those mandated by law;

(3) under any contract of insurance wherein the claimant is the beneficiary;

(4) from public funds;

(5) as an emergency award under section 706; or

(6) under any pension program, including those providing for disability or survivor's benefits.

(f) Direct victim responsibility.--

(1) Except as set forth in paragraph (2) in determining the amount of an award, the bureau shall determine whether the direct victim or intervenor, because of conduct, contributed to the infliction of the injury. The bureau shall

1       reduce the amount or deny the claim altogether in accordance  
2       with the determination.

3           (2) If the crime involved is rape or sexual assault, the  
4       conduct of the direct victim shall not be considered. If the  
5       crime involved is related to domestic violence, the conduct  
6       of the direct victim shall not be considered unless the  
7       direct victim was the primary aggressor.

8       (g) Intervenor responsibility.--In determining the amount of  
9       an award to an intervenor, the bureau may consider whether the  
10      intervenor, because of conduct, contributed to the infliction of  
11      the injury. The bureau shall reduce the amount or deny the claim  
12      altogether in accordance with the determination.

13      (h) Forensic rape investigation.--A hospital or other  
14      licensed health care provider may submit a claim for  
15      reimbursement for the cost of a forensic rape examination if the  
16      cost is not covered by insurance, upon approval by the district  
17      attorney with jurisdiction of the rape or sexual assault  
18      investigation and prosecution. In no event shall the bureau pay  
19      an amount to exceed \$500 for a forensic rape examination nor  
20      \$100 for medications directly related to the sexual assault or  
21      rape. A sexual assault or rape victim need not be an applicant  
22      for any other compensation under this chapter.

23      Section 708. Manner of payment.

24      The award shall be paid in a lump sum, except that in the  
25      case of death or protracted disability, the award may provide  
26      for periodic payments. No award made under this chapter shall be  
27      subject to execution or attachment other than for expenses  
28      resulting from the injury which is the basis for the claim. All  
29      awards shall be paid by the State Treasurer. An award shall not  
30      be considered as compensation taxable as income under Article

1 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax  
2 Reform Code of 1971. The bureau shall reconsider, at least  
3 annually, every award being paid in installments. The bureau may  
4 reconsider a claim at any time and modify or rescind previous  
5 orders for compensation based upon a change in financial  
6 circumstances of a direct victim or one or more surviving  
7 dependents.

8 Section 709. Confidentiality of records.

9 The record of a proceeding before the bureau or a hearing  
10 examiner shall be a public record; however, a record or report  
11 obtained by the bureau or a hearing examiner, the  
12 confidentiality of which is protected by any other law or  
13 regulation, shall remain confidential subject to that law or  
14 regulation.

15 Section 710. Responsibilities of service providers and  
16 insurance companies.

17 (a) Response.--Providers of services to direct victims,  
18 including doctors, hospitals, counselors and insurance companies  
19 providing or liable for reimbursement to direct victims or any  
20 other claimants, shall respond in writing to the bureau's  
21 request for confirmation or other information under this chapter  
22 within 30 days of receipt of the bureau's request.

23 (b) Penalty.--Any provider of services or insurance company  
24 who fails to respond within 30 days of receipt of the request  
25 shall be subject to a civil penalty of not more than \$50 per  
26 day, up to and including the date of compliance.

27 (c) Enforcement.--The office of the district attorney of the  
28 county in which the crime occurred and the Attorney General  
29 shall be charged with enforcement of this section.

SERVICES

Section 901. Eligibility of victims.

A victim has the rights and is eligible for the services under sections 201 and 902 only if the victim reported the crime to law enforcement authorities without unreasonable delay after its occurrence or discovery, unless the victim had a reasonable excuse not to do so.

Section 902. Establishment of basic services for victims of crime.

The commission shall provide technical assistance to and make grants to district attorneys and other criminal justice agencies which provide crime victims with the following services:

(1) Notification services, including all of the following:

(i) Information concerning financial assistance and other social services available as a result of being a victim of crime.

(ii) Notification that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the victim an unnecessary trip to court.

(iii) Notification of the final disposition of the case.

(2) Protection services, including all of the following:

(i) Protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.

(ii) A secure waiting area during court proceedings which does not require them to be in close proximity to defendants and families and friends of defendants.

(3) Procedures for the expedited return by law

enforcement officials of personal property of victims which is held for prosecutorial purposes.

(4) Services related to the rights of victims under Chapter 2.

(5) Other services as defined by the commission.  
Section 903. Grant program for services.

(a) Authority.--The commission has the authority to make grants to district attorneys and other criminal justice agencies for the provision of the services under section 902.

(b) Regulations.--The commission shall promulgate regulations necessary to ensure the cost-effective delivery of victim services or victim and witness services consistent with section 902.

(c) Participation.--In determining grant awards, the commission shall promote broad-based participation by a maximum number of criminal justice agencies Statewide.

(d) Data.--An agency which makes application for awards under this section shall provide data in support of the request as the commission requires. An agency which receives an award shall provide the commission with reports as the commission determines necessary to assess the agency's progress in the development of victim services.

(e) Report.--The commission shall submit an annual report to the General Assembly on the progress of services provided for in section 902. The report shall include:

(1) The number of participating agencies and population served.

(2) The extent of services provided.

(3) Any impediments to the progress of the program.

(4) Recommendations for reform.

1 (f) Allocation.--In the allocation of funds for services  
2 under section 902, the commission shall consider the revenue  
3 collected by potential grant recipients under the penalty  
4 assessments authorized in section 1203 of the act of June 13,  
5 1967 (P.L.31, No.21), known as the Public Welfare Code,  
6 pertaining to domestic violence and rape crisis services and the  
7 extent to which crime victims' compensation claims assistance is  
8 made available.

9 CHAPTER 11

10 FINANCIAL MATTERS

11 Section 1101. Costs.

12 (a) Imposition.--

13 (1) A person who pleads guilty or nolo contendere or who  
14 is convicted of a crime shall, in addition to costs imposed  
15 under 42 Pa.C.S. § 3571(c) (relating to Commonwealth portion  
16 of fines, etc.), pay costs of at least \$30 and may be  
17 sentenced to pay additional costs in an amount up to the  
18 statutory maximum monetary penalty for the offense committed.

19 (2) A person placed in a diversionary program shall pay  
20 costs of at least \$30 in addition to costs imposed pursuant  
21 to 42 Pa.C.S. § 3571(c).

22 (b) Disposition.--

23 (1) There is established a special nonlapsing fund,  
24 known as the Crime Victim's Compensation Fund. This fund  
25 shall be used by the bureau for payment to direct victims and  
26 technical assistance. Fifteen dollars of the costs imposed  
27 under subsection (a) plus 30% of the costs imposed under  
28 subsection (a)(1) which exceed \$30 shall be paid into this  
29 fund.

30 (2) There is established a special nonlapsing fund,

1 known as the Victim Witness Services Fund. This fund shall be  
2 used by the commission for victim-witness services and  
3 technical assistance in nonvictim compensation-related areas  
4 in accordance with this section. Fifteen dollars of the costs  
5 imposed under subsection (a) plus 70% of the costs imposed  
6 under subsection (a)(1) which exceed \$30 shall be paid into  
7 this fund.

8 (c) Payment.--This cost shall be imposed notwithstanding any  
9 statutory provision to the contrary.

10 (d) Mandamus.--The district attorney, the bureau, the  
11 commission or any direct victim shall have standing to seek a  
12 mandamus order requiring the county to collect the costs imposed  
13 by this section.

14 (e) Court order.--No court order shall be necessary in order  
15 for the defendant to incur liability for costs under this  
16 section. Costs under this section must be paid in order for the  
17 defendant to be eligible for probation, parole or accelerated  
18 rehabilitative disposition.

19 Section 1102. Costs for offender supervision programs.

20 (a) County fund.--The county treasurer of each county shall  
21 establish and administer a county offender supervision fund  
22 consisting of the fees collected under this section. The county  
23 treasurer shall disperse money from this fund only at the  
24 discretion of the president judge of the court of common pleas.  
25 The money in this fund shall be used to pay the salaries and  
26 employee benefits of all probation and parole personnel employed  
27 by the county probation and parole department and the  
28 operational expenses of that department. Money from this fund  
29 shall be used to supplement Federal, State or county  
30 appropriations for the county adult probation and parole

1 department. The president judge shall, by August 31, provide the  
2 board with an annual statement which fully reflects all  
3 collections deposited into and expenditures from the offender  
4 supervision fund for the preceding fiscal year. The board shall  
5 promulgate regulations to provide for the permanent  
6 administration of this program.

7 (b) State fund.--There is established a State Offender  
8 Supervision Fund to be administered by the board and comprised  
9 of the supervision fees collected by the board under this  
10 section. The money in this fund shall be used to supplement the  
11 Federal or State funds appropriated for the improvement of adult  
12 probation services.

13 (c) Court.--The court shall impose, as a condition of  
14 supervision, a monthly supervision fee of at least \$25 on any  
15 offender placed on probation, parole, accelerated rehabilitative  
16 disposition, probation without verdict or intermediate  
17 punishment unless the court finds that the fee should be  
18 reduced, waived or deferred based on the offender's present  
19 inability to pay. Of the fee collected, 50% shall be deposited  
20 into the County Offender Supervision Fund established in each  
21 county pursuant to this section and the remaining 50% shall be  
22 deposited into the State Offender Supervision Fund established  
23 pursuant to this section.

24 (d) Board.--The board shall impose, as a condition of  
25 supervision, a monthly supervision fee of at least \$25 on any  
26 offender under the board's supervision unless the board finds  
27 that such fee should be reduced, waived or deferred based on the  
28 offender's present inability to pay. All fees collected shall be  
29 deposited into the State Offender Supervision Fund, established  
30 under subsection (b).



1 (e) Continuation.--

2 (1) For offenders under supervision of a county  
3 probation department or the board, as of August 14, 1991, the  
4 fee shall automatically become a part of the supervision  
5 conditions as if the court or board had imposed it unless the  
6 court or board makes a finding that the offender is presently  
7 unable to pay.

8 (2) The court or board may make a finding that the  
9 offender is unable to pay based on any of the following  
10 factors:

11 (i) The offender has diligently attempted but has  
12 been unable to obtain employment that provides the  
13 offender sufficient income to make such payments.

14 (ii) The offender is a student in a school, a  
15 college, a university or a course of vocational or  
16 technical training designed to fit the student for  
17 gainful employment.

18 (iii) The offender has an employment handicap, as  
19 determined by an examination acceptable to or ordered by  
20 the court or board.

21 (iv) The offender's age prevents employment.

22 (v) The offender is responsible for the support of  
23 dependents, and the payment of the assessment constitutes  
24 an undue hardship on the offender.

25 (vi) Other extenuating circumstances as determined  
26 by the court or board.

27 CHAPTER 13

28 ENFORCEMENT

29 Section 1301. Subrogation.

30 (a) General rule.--Payment of an award made under Chapter 7

1 shall subrogate the Commonwealth, to the extent of the payment,  
2 to any right of action against any person accruing to the  
3 claimant, the direct victim or the intervenor to recover losses  
4 resulting from the crime with respect to which the award is  
5 made. In such a case, the Commonwealth shall be entitled to  
6 bring an action against the person causing or otherwise liable  
7 for the personal injuries or death for which the payment was  
8 made. Money recovered under this section shall be deposited in  
9 the Crime Victim's Compensation Fund, established in section  
10 1101(b)(1).

11 (b) Excess.--If an amount greater than that paid under  
12 Chapter 7 is recovered and collected in such an action, the  
13 Commonwealth shall pay the balance to the claimant. The Attorney  
14 General shall enforce any subrogation. A claimant who fails to  
15 notify the bureau of the receipt of funds from any other claim  
16 or award arising out of the crime shall forfeit and pay to the  
17 Commonwealth an amount equal to all awards paid by the bureau to  
18 the claimant or on the claimant's behalf.

19 Section 1302. Restitution.

20 To the extent that restitution is ordered, either prior to or  
21 subsequent to the making of an award by the bureau, the  
22 restitution shall be paid to the Commonwealth to the extent of  
23 the award by the bureau.

24 Section 1303. Penalty.

25 An individual who asserts a false claim under Chapter 7  
26 commits a misdemeanor of the third degree and shall, upon  
27 conviction, forfeit any benefit and reimburse and repay the  
28 Commonwealth for payments received or paid on the individual's  
29 behalf under Chapter 7.

MISCELLANEOUS PROVISIONS

Section 5101. Effect on legal actions.

Nothing in Chapters 2, 3, 5 and 9 creates a cause of action or defense in favor of any person arising out of the failure to comply with any of these chapters.

Section 5102. Continuation of existing law.

This act is a codification of the statutory provisions repealed in section 5103 and, except where clearly different from current law, shall be deemed to be a continuation of prior law. Funds, programs, regulations and Commonwealth agencies governed by the repealed provisions shall be deemed continued by this act.

Section 5103. Repeals.

The following acts and parts of acts are repealed:

Sections 477 through 477.17, 477.19 through 477.22 and 479 through 479.11 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Act of March 21, 1995 (1st Sp.Sess., P.L.980, No.8), known as the Victim Advocate Law.

Section 5104. Effective date.

This act shall take effect immediately.