

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1082 Session of
2018

INTRODUCED BY HUGHES, RAFFERTY, COSTA, BREWSTER, VULAKOVICH AND
BROWNE, MARCH 15, 2018

REFERRED TO JUDICIARY, MARCH 15, 2018

AN ACT

1 Amending the act of November 24, 1998 (P.L.882, No.111),
2 entitled "An act providing for victims' rights; imposing
3 penalties; establishing remedies; establishing the Office of
4 Victim Advocate, the Bureau of Victims' Services, the
5 Victims' Services Advisory Committee, the State Offender
6 Supervision Fund and other funds; and making repeals," in
7 preliminary provisions, further providing for definitions; in
8 crime victims, further providing for rights, for
9 responsibilities of victims of crime under basic bill of
10 rights, for responsibilities of State and local law
11 enforcement agencies and for responsibilities of prosecutor's
12 office; in administration, further providing for office, for
13 powers and duties of victim advocate and for powers and
14 duties of Office of Victims' Services; in compensation,
15 further providing for persons eligible for compensation, for
16 filing of claims for compensation, for minimum allowable
17 claim, for determination of claims, for emergency awards, for
18 awards and for confidentiality of records; in services,
19 further providing for eligibility of victims; in financial
20 matters, further providing for costs; and, in enforcement,
21 further providing for subrogation.

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

24 Section 1. The definitions of "crime," "family,"
25 "intervenor," "local law enforcement agency," "loss of
26 earnings," "out-of-pocket loss" and "personal injury crime" in
27 section 103 of the act of November 24, 1998 (P.L.882, No.111),

1 known as the Crime Victims Act, are amended and the section is
2 amended by adding definitions to read:

3 Section 103. Definitions.

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

7 * * *

8 "Campus police." As defined in section 302 of the act of
9 November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime
10 Reporting Act.

11 * * *

12 "Crime." An act which was committed:

13 (1) In this Commonwealth by a person, including a
14 juvenile, without regard to legal exemption or defense which
15 would constitute a crime under the following:

16 (i) The act of April 14, 1972 (P.L.233, No.64),
17 known as The Controlled Substance, Drug, Device and
18 Cosmetic Act.

19 (ii) 18 Pa.C.S. (relating to crimes and offenses).
20 30 Pa.C.S. § 5502 (relating to operating
21 watercraft under influence of alcohol or controlled
22 substance).

23 30 Pa.C.S. § 5502.1 (relating to homicide by
24 watercraft while operating under influence).

25 The former 75 Pa.C.S. § 3731 (relating to driving
26 under influence of alcohol or controlled substance).

27 75 Pa.C.S. § 3732 (relating to homicide by
28 vehicle).

29 75 Pa.C.S. § 3732.1 (relating to aggravated
30 assault by vehicle).

1 75 Pa.C.S. § 3733 (relating to fleeing or
2 attempting to elude police officer).

3 75 Pa.C.S. § 3734 (relating to driving without
4 lights to avoid identification or arrest).

5 75 Pa.C.S. § 3735 (relating to homicide by
6 vehicle while driving under influence).

7 75 Pa.C.S. § 3735.1 (relating to aggravated
8 assault by vehicle while driving under the
9 influence).

10 75 Pa.C.S. § 3742 (relating to accidents
11 involving death or personal injury).

12 75 Pa.C.S. § 3742.1 (relating to accidents
13 involving death or personal injury while not properly
14 licensed) if the nature and circumstances of the
15 offense committed are substantially similar to an
16 offense under 75 Pa.C.S. § 3742.

17 75 Pa.C.S. Ch. 38 (relating to driving after
18 imbibing alcohol or utilizing drugs).

19 (iii) The laws of the United States.

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

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

25 * * *

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

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

29 (2) anyone maintaining a common-law relationship prior
30 to January 2, 2005, with that individual; or

1 (3) anyone residing in the same household with that
2 individual.

3 "Financial support." Includes the loss of court-ordered child
4 or spousal support payments if the victim is deprived of money
5 as a direct result of a crime.

6 * * *

7 "Intervenor." An individual who goes to the aid of another
8 and suffers physical or mental injury or death as a direct
9 result of acting not recklessly to prevent the commission of a
10 crime, to lawfully apprehend a person reasonably suspected of
11 having committed such crime or to aid the victim of such crime.
12 The term shall not include an enforcement officer or
13 investigator injured in the performance of his or her duties,
14 eligible for benefits under the act of June 28, 1935 (P.L.477,
15 No.193), referred to as the Enforcement Officer Disability
16 Benefits Law, or under the act of June 2, 1915 (P.L.736,
17 No.338), known as the Workers' Compensation Act.

18 * * *

19 "Local law enforcement agency." A police department of a
20 city, borough, incorporated town or township or campus police.

21 "Loss of earnings." [Includes] An economic loss resulting
22 from an injury or death to a victim of a crime that has not been
23 and will not be reimbursed from any other source. The term
24 includes the loss of the cash equivalent of one month's worth of
25 Social Security, railroad retirement, pension plan, retirement
26 plan, disability, veteran's retirement, [court-ordered child
27 support or court-ordered spousal] loss of support payments if
28 the payments are the primary source of the victim's income or
29 other similar benefit, and the victim is deprived of money as a
30 direct result of a crime.

1 "Loss of support." The loss of verifiable financial support
2 the direct victim would have contributed to surviving dependents
3 that is lost due to the death of the direct victim as a direct
4 result of a crime.

5 * * *

6 "Out-of-pocket loss." The term includes the following losses
7 which shall be reimbursed at a rate set by the Office of
8 Victims' Services:

9 (1) expenses for unreimbursed and unreimbursable
10 expenses or indebtedness incurred for medical care,
11 nonmedical remedial care and treatment as approved by the
12 Office of Victims' Services or other services;

13 (2) expenses for counseling, prosthetic devices,
14 wheelchairs, canes, walkers, hearing aids, eyeglasses or
15 other corrective lenses or dental devices reasonably
16 necessary as a result of the crime upon which the claim is
17 based and for which the claimant either has paid or is
18 liable;

19 (3) expenses related to the reasonable and necessary
20 costs of cleaning the crime scene of a private residence or
21 privately owned motor vehicle. "Cleaning" means to remove or
22 attempt to remove stains or blood caused by the crime or
23 other dirt or debris caused by the processing of the crime
24 scene;

25 (4) expenses resulting from the temporary or permanent
26 relocation of a direct victim and individuals residing in the
27 household of the direct victim due to the incident forming
28 the basis of the victim's claim when there is an immediate
29 need to protect the safety and health of the victim and
30 individuals residing in the household, as verified by a

1 medical provider, human services provider or law enforcement;
2 (5) expenses for physical examinations and materials
3 used to obtain evidence; or

4 (6) other reasonable expenses which are deemed necessary
5 as a direct result of the criminal incident.

6 Except as otherwise provided, the term does not include property
7 damage or pain and suffering.

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

11 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

12 18 Pa.C.S. Ch. 27 (relating to assault).

13 18 Pa.C.S. Ch. 29 (relating to kidnapping).

14 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

15 18 Pa.C.S. § 3301 (relating to arson and related
16 offenses).

17 18 Pa.C.S. Ch. 37 (relating to robbery).

18 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and
19 witness intimidation).

20 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft
21 while operating under influence).

22 The former 75 Pa.C.S. § 3731 (relating to driving under
23 influence of alcohol or controlled substance) in cases
24 involving bodily injury.

25 75 Pa.C.S. § 3732 (relating to homicide by vehicle).

26 75 Pa.C.S. § 3732.1 (relating to aggravated assault by
27 vehicle).

28 75 Pa.C.S. § 3733 (relating to fleeing or attempting to
29 elude police officer).

30 75 Pa.C.S. § 3734 (relating to driving without lights to

1 avoid identification or arrest).

2 75 Pa.C.S. § 3735 (relating to homicide by vehicle while
3 driving under influence).

4 75 Pa.C.S. § 3735.1 (relating to aggravated assault by
5 vehicle while driving under the influence).

6 75 Pa.C.S. § 3742 (relating to accidents involving death
7 or personal injury).

8 75 Pa.C.S. § 3742.1 (relating to accidents involving
9 death or personal injury while not properly licensed) if the
10 nature and circumstances of the offense committed are
11 substantially similar to an offense under 75 Pa.C.S. § 3742.

12 75 Pa.C.S. Ch. 38 (relating to driving after imbibing
13 alcohol or utilizing drugs) in cases involving bodily injury.
14 The term includes violations of any protective order issued as a
15 result of an act related to domestic violence.

16 * * *

17 Section 2. Section 201(11) of the act is amended and the
18 section is amended by adding a paragraph to read:

19 Section 201. Rights.

20 Victims of crime have the following rights:

21 * * *

22 (1.1) If eligible to apply, to be notified of the
23 Address Confidentiality Program under 23 Pa.C.S. Ch. 67
24 (relating to domestic and sexual violence victim address
25 confidentiality).

26 * * *

27 (11) To have assistance in the preparation of,
28 submission of and follow-up on financial assistance claims to
29 the [bureau] Office of Victims' Services.

30 * * *

1 Section 3. Sections 211, 212(b), (c) and (e) and 213(a), (d)
2 and (g) of the act are amended to read:

3 Section 211. Responsibilities of victims of crime under basic
4 bill of rights.

5 [A] Except as provided for victims enrolled in the Address
6 Confidentiality Program under 23 Pa.C.S. Ch. 67 (relating to
7 domestic and sexual violence victim address confidentiality), a
8 victim shall provide a valid address and telephone number and
9 any other required information to all agencies responsible for
10 providing information and notice to the victim. The victim shall
11 be responsible for providing timely notice of any changes in the
12 status of the information. The information provided shall not be
13 disclosed to any person other than a law enforcement agency,
14 corrections agency or prosecutor's office without the prior
15 written consent of the victim.

16 Section 212. Responsibilities of State and local law
17 enforcement agencies.

18 * * *

19 (b) Notice.--

20 (1) [Law enforcement agencies shall within 48 hours of
21 reporting give notice to the direct victim or, if
22 appropriate, a member of the direct victim's family of the
23 availability of crime victims' compensation. The notice
24 required under this subsection shall be in writing and in a
25 manner and form developed by the Office of Victims'
26 Services.] The law enforcement officer responding to or
27 investigating an incident shall provide basic information on
28 the rights and services available for crime victims and the
29 availability of crime victims' compensation to the direct
30 victim or, if appropriate, a member of the direct victim's

1 family. The information shall be provided when the officer
2 has first contact with the victim or as soon as reasonably
3 possible. The information required under this subsection
4 shall be in a written notice in a manner or form developed by
5 the Office of Victims' Services.

6 (2) [Law enforcement agencies shall provide basic
7 information on the rights and services available for crime
8 victims. The information shall be in writing and shall be
9 provided to the victim within 24 hours of the law enforcement
10 agency's first contact with the victim in a manner and form
11 to be developed by the Office of Victims' Services.] Law
12 enforcement agencies shall be responsible for ensuring that
13 officers provide the notification required under subsection
14 (b) (1).

15 (c) Application.--[The written notification provided for in
16 subsection (b) (1) shall be accompanied by one copy of the
17 application form for crime victims' compensation. Application
18 forms shall be supplied by the Office of Victims' Services to
19 law enforcement agencies. A record of the date of notification
20 shall be maintained by the law enforcement agency.] The Office
21 of Victims' Services shall maintain a mailing list of all local
22 law enforcement agencies and provide law enforcement agencies
23 with forms by which they can order [additional] claim forms. The
24 Office of Victims' Services shall also provide updates to law
25 enforcement agencies on changes which affect their
26 responsibilities under this act.

27 (e) [Forms.--The form developed by the Office of Victims'
28 Services shall be attached to the police report and shall
29 include a victim checkoff signifying that the information has
30 been provided to the crime victim.] Confirmation.--The law

1 enforcement officer responding to or investigating an incident
2 shall indicate on the police report that the information
3 required under subsection (b) was provided to the victim.

4 * * *

5 Section 213. Responsibilities of prosecutor's office.

6 (a) Forms.--The prosecutor's office shall provide the victim
7 of a personal injury crime with all forms developed pursuant to
8 sections 214 and 215 with exception to State cases whereupon the
9 victim advocate shall provide all necessary forms.

10 * * *

11 [(d) Release.--In a personal injury crime, the prosecutor's
12 office shall provide notice of the opportunity to submit input
13 into State correctional release decisions, to receive notice of
14 any release of an adult from a State or local correctional
15 facility and to receive notice of the commitment to a mental
16 health institution from a State or local correctional
17 institution.]

18 (d) Release.--The following shall apply:

19 (1) In a personal injury crime, the prosecutor's office
20 shall provide the victim advocate with victim information on
21 all personal injury cases when a State sentence is imposed:

22 (i) so the victim advocate may provide notice of
23 opportunity to submit input into State correctional
24 release decisions;

25 (ii) to provide notice of any release of an adult
26 from a State correctional facility; and

27 (iii) to provide notice of the commitment to a
28 mental health institution from a State correctional
29 institution.

30 (2) In a personal injury crime, the prosecutor's office

1 shall provide notice of any release of an adult from a local
2 correctional facility and provide notice of the commitment to
3 a mental health institution from a local correctional
4 institution.

5 * * *

6 (g) Assistance.--The prosecutor's office shall provide
7 assistance to the victim in all of the following:

8 (1) Preparation of statements under section 201(5).

9 (2) Preparation of, submission of and follow-up on
10 financial assistance claims filed with the [bureau] Office of
11 Victims' Services.

12 (3) Notification to the victim advocate on behalf of the
13 victim for personal injury crimes if the offender is
14 sentenced to a State correctional facility.

15 * * *

16 Section 4. Section 301(c) of the act is amended and the
17 section is amended by adding a subsection to read:

18 Section 301. Office.

19 * * *

20 (c) Service and employees.--The victim advocate shall
21 operate from the central office of the board with such clerical,
22 technical and professional staff as may be available within the
23 budget of the board. The compensation of employees of the office
24 shall be set by the Executive Board. The home address of an
25 employee of the Office of Victim Advocate shall not be
26 considered a public record under the act of February 14, 2008
27 (P.L.6, No.3), known as the Right-to-Know Law.

28 (d) Disclosure and confidentiality.--

29 (1) Each record pertaining to the victim in the
30 possession of or maintained by the Office of Victim Advocate,

1 including information regarding a victim's current contact
2 information and any other information or record relating to
3 the victim, shall be private, confidential and privileged and
4 the property of the Office of Victim Advocate and shall not
5 be subject to the act of February 14, 2008 (P.L.6, No.3),
6 known as the Right-to-Know Law. A record of the Office of
7 Victim Advocate shall not be subject to subpoena or
8 discovery, introduced into evidence in a judicial or
9 administrative proceeding or released to the inmate, parolee
10 or probationer.

11 (2) Unless a victim waives the privilege in a signed
12 writing prior to testimony or disclosure, an employee of the
13 Office of the Victim Advocate shall not be competent nor
14 permitted to testify or to otherwise disclose confidential
15 communications made to or by the employee of the Office of
16 Victim Advocate. The privilege shall terminate upon the death
17 of the victim. Neither the employee of the Office of Victim
18 Advocate nor the victim shall waive the privilege of
19 confidential communications by reporting facts of physical or
20 sexual assault under 23 Pa.C.S. Ch. 63 (relating to child
21 protective services), a Federal or State mandatory reporting
22 statute or a local mandatory reporting ordinance.

23 Section 5. Section 302(5) of the act is amended and the
24 section is amended by adding paragraphs to read:

25 Section 302. Powers and duties of victim advocate.

26 The victim advocate has the following powers and duties:

27 * * *

28 (5) [To act as a liaison with the victim notification
29 program director in the department to coordinate victim
30 notification and services for the department and the board.]

1 The victim advocate is authorized to address the interests of
2 all victims before the board, department or hearing examiner
3 concerning any issues determined appropriate by the victim
4 advocate.

5 (6) To ensure eligible victims are informed of the
6 Address Confidentiality Program under 23 Pa.C.S. Ch. 67
7 (relating to domestic and sexual violence victim address
8 confidentiality).

9 (7) To advocate for the interests of crime victims
10 generally, including the victims of crimes committed by
11 juveniles.

12 Section 6. Section 312(3) of the act is amended to read:
13 Section 312. Powers and duties of Office of Victims' Services.

14 The Office of Victims' Services, subject to approval of the
15 commission, has the following powers and duties:

16 * * *

17 (3) [To adopt, promulgate, amend and rescind suitable
18 rules and regulations to carry out the provisions and
19 purposes of Chapter 7. These regulations shall provide for
20 the approval of attorney fees for representation before the
21 Office of Victims' Services, a hearing examiner or before the
22 Commonwealth Court upon judicial review under section 705.
23 Awards of the attorney fees shall be in addition to awards
24 made to direct victims. Awards of attorney fees shall in no
25 case exceed 15% of the award to the direct victim or victims.
26 It shall be unlawful for an attorney to contract for or
27 receive any sum larger than the amount allowed. Regulations
28 under this paragraph shall include policies, procedures and
29 standards of review regarding claims for compensation;
30 approval or denial of claims, including contributory conduct

1 by direct victims; verification of information and documents;
2 prioritization of review; and all other matters related to
3 the processing.] To adopt, promulgate, amend and rescind
4 suitable regulations to carry out the provisions and purposes
5 of Chapter 7. The regulations shall provide for the
6 following:

7 (i) The approval of attorney fees for representation
8 before the Office of Victims' Services, a hearing
9 examiner or before the Commonwealth Court upon judicial
10 review under section 705. Awards of the attorney fees
11 shall be in addition to awards made to direct victims or
12 claimants. Awards of attorney fees may not exceed 15% of
13 the award to the direct victim or claimants. It shall be
14 unlawful for an attorney to contract for or receive a sum
15 larger than the amount allowed under this subparagraph.

16 (ii) Policies, procedures and standards of review
17 regarding claims for compensation.

18 (iii) Approval or denial of claims, including
19 contributory conduct by direct victims.

20 (iv) Verification of information and documents.

21 (v) Prioritization of review.

22 (vi) All other matters related to the processing of
23 claims.

24 * * *

25 Section 7. Section 701(a) of the act is amended by adding
26 paragraphs to read:

27 Section 701. Persons eligible for compensation.

28 (a) General rule.--Except as otherwise provided in this act,
29 the following persons shall be eligible for compensation:

30 * * *

1 (7) Hospitals or other licensed health care providers
2 under section 707(h).

3 (8) A person eligible for counseling under this chapter.

4 * * *

5 Section 8. Sections 702(b), (b.1) and (c), 703, 704(b) and
6 (e) and 706(a) (1) and (b) of the act are amended to read:

7 Section 702. Filing of claims for compensation.

8 * * *

9 (b) Time.--

10 (1) Except as set forth in paragraph (2), a claim must
11 be filed not later than [two] three years after the discovery
12 of the occurrence of the crime upon which the claim is based
13 or not later than [two] three years after the death of the
14 direct victim or intervenor as a result of the crime or the
15 discovery and identification of the body of a murder victim.

16 (2) Exceptions shall be as follows:

17 (ii) If a direct victim is under 18 years of age at
18 the time of the occurrence of the crime and the alleged
19 offender is the direct victim's parent or a person
20 responsible for the direct victim's welfare, an
21 individual residing in the same home as the direct victim
22 or a paramour of the direct victim's parent, all of the
23 following shall apply:

24 (A) The limitation period under this subsection
25 is tolled until the direct victim reaches 21 years of
26 age.

27 (B) The limitation period shall run until the
28 later of:

29 (I) the end of the limitation period for the
30 offense as set forth in 42 Pa.C.S. Ch. 55 Subch.

1 C (relating to criminal proceedings); or

2 (II) the end of the limitation period under
3 paragraph (1).

4 (ii.1) If a direct victim is under 18 years of age
5 at the time of the occurrence of the crime and the direct
6 victim is seeking reimbursement for counseling services
7 only, all of the following shall apply:

8 (A) The limitation period under this subsection
9 is tolled until the direct victim reaches 21 years of
10 age.

11 (B) The limitation period shall run until the
12 later of:

13 (I) the end of the limitation period for the
14 offense as set forth in 42 Pa.C.S. Ch. 55 Subch.
15 C; or

16 (II) the end of the limitation period under
17 paragraph (1).

18 (iii) The Office of Victims' Services may find good
19 cause to accept a claim beyond the limitation period
20 under paragraph (1) if one of the following circumstances
21 existed at the time of the occurrence of the crime or the
22 discovery of the occurrence of the crime:

23 (A) The direct victim, intervenor or claimant
24 was mentally or physically incapacitated.

25 (B) The victim was a minor.

26 (C) There was a fear of retaliation.

27 (D) The occurrence of the crime was not readily
28 apparent.

29 (E) Other circumstances when good cause is shown
30 by the claimant.

1 (b.1) Returned claims.--If a claim has been filed but
2 subsequently returned to the claimant for correction or for
3 additional verification or information, the date the claim was
4 first received by the [bureau] Office of Victims' Services shall
5 be the permanent filing date for purposes of subsection (b). The
6 correction or additional verification or information must be
7 filed within a period of time established by the Office of
8 Victims' Services.

9 (c) Manner.--Claims must be filed with the [bureau] Office
10 of Victims' Services in person, by mail or by any electronic
11 means authorized by the Office of Victims' Services.

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 an aggregate minimum out-of-pocket loss, loss of earnings or
16 loss of support of [\$100] \$50.

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

20 Section 704. Determination of claims.

21 * * *

22 (b) Review.--

23 (1) The Office of Victims' Services shall review the
24 claim and all supporting documents and investigate the
25 validity of the claim. The investigation shall include an
26 examination of police, court and official records and reports
27 concerning the crime and may include an examination of
28 medical and hospital reports relating to the injury upon
29 which the claim is based. The Office of Victims' Services may
30 not request or review counseling notes of mental health

1 service providers. The Office of Victims' Services shall
2 request an assessment from the mental health service provider
3 as to the extent the service provided is needed as a direct
4 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 * * *

10 (e) Records.--The Office of Victims' Services shall maintain
11 complete records and histories on all claims filed, supplemental
12 awards paid to claimants, claims status and third-party
13 entitlements and recoveries in accordance with the commission's
14 established records retention schedule.

15 Section 706. Emergency awards.

16 (a) Authorization.--Notwithstanding the provisions of
17 sections 704 and 707, if it appears to the Office of Victims'
18 Services that the claim is one with respect to which an award
19 probably will be made and that undue hardship will result to the
20 claimant if immediate payment is not made, the Office of
21 Victims' Services may make an emergency award to the claimant
22 pending a final decision in the case. The following shall apply:

23 (1) The total amount of the emergency award shall not
24 exceed [\$1,500 per claim or at] a rate set by the Office of
25 Victims' Services.

26 * * *

27 (b) Reconsideration.--The Office of Victims' Services may
28 reconsider an emergency award at any time prior to the final
29 decision in the case and increase previous orders for emergency
30 compensation up to the overall limit of [\$1,500 per claim or at]

1 a rate set by the Office of Victims' Services.

2 * * *

3 Section 9. Section 707(a)(3), (a.1)(2), (b)(1), (2), (4) and
4 (4.1), (f)(1) and (3) and (g) of the act are amended and the
5 section is amended by adding a subsection to read:

6 Section 707. Awards.

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

9 * * *

10 (3) The crime was promptly reported to the proper
11 authorities. In no case may an award be made if the record
12 shows that the report was made more than 72 hours after the
13 discovery of the occurrence of the crime unless:

14 (i) the victim is under 18 years of age at the time
15 of the occurrence of the crime and the alleged offender
16 is the victim's parent or a person responsible for the
17 victim's welfare, an individual residing in the same home
18 as the victim or a paramour of the victim's parent; or

19 (ii) the Office of Victims' Services finds the delay
20 to have been justified, consistent with bureau
21 regulations.

22 * * *

23 (a.1) Protection from abuse.--A claimant who satisfies the
24 eligibility requirements of subsection (a)(1), (2) and (4) may
25 satisfy the eligibility requirement under subsection (a)(3) for
26 reporting a crime to the proper authorities by commencing an
27 action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to
28 protection from abuse) and as provided for in the Pennsylvania
29 Rules of Civil Procedure. In no case may an award be made if the
30 record shows that the petition was:

1 * * *

2 (2) Filed more than 72 hours after the discovery of the
3 occurrence of the criminal conduct leading to the
4 commencement of the action, unless:

5 (i) the victim is under 18 years of age at the time
6 of the occurrence of the criminal conduct and the alleged
7 offender is the victim's parent or a person responsible
8 for the victim's welfare, an individual residing in the
9 same home as the victim or a paramour of the victim's
10 parent; or

11 (ii) the Office of Victim Services finds the delay
12 to have been justified, consistent with regulations of
13 the Office of Victim Services.

14 (a.2) Sexual violence and intimidation orders.--A claimant
15 who satisfies the eligibility requirements of subsection (a)(1),
16 (2) and (4) may satisfy the eligibility requirement under
17 subsection (a)(3) for reporting a crime to the proper
18 authorities by commencing an action brought in accordance with
19 42 Pa.C.S. Ch. 62A (relating to protection of victims of sexual
20 violence or intimidation). An award may not be made if the
21 record shows that the petition was:

22 (1) Withdrawn, unless the Office of Victim Services
23 finds the withdrawal to have been justified, consistent with
24 regulations of the Office of Victim Services.

25 (2) Filed more than 72 hours after the discovery of the
26 occurrence of the criminal conduct leading to the
27 commencement of the action, except if:

28 (i) the victim is under 18 years of age at the time
29 of the occurrence of the criminal conduct and the alleged
30 offender is the victim's parent or a person responsible

1 for the victim's welfare, an individual residing in the
2 same home as the victim or a paramour of the victim's
3 parent; or

4 (ii) the Office of Victim Services finds the delay to
5 have been justified, consistent with regulations of the
6 Office of Victim Services.

7 (b) Amount.--

8 (1) Any award made under this chapter shall be
9 contingent upon funds being available and be in an amount not
10 exceeding out-of-pocket loss, together with loss of past,
11 present or future earnings or support resulting from such
12 injury. In no case shall the total amount of an award exceed
13 \$35,000 except for payment of the following:

14 (i) counseling, the maximum amount of which shall be
15 in accordance with paragraph (4.1);

16 (ii) forensic rape examination and medications
17 directly related to the sexual assault or rape, the
18 amount of which shall not exceed \$1,000; or

19 (iii) reasonable and necessary costs of cleaning the
20 crime scene of a private residence or privately owned
21 motor vehicle, the amount of which shall not exceed \$500.

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

26 (i) No such award shall exceed the average weekly
27 wage for all persons covered by the act of December 5,
28 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
29 Unemployment Compensation Law, in this Commonwealth as
30 determined annually by the Department of Labor and

1 Industry for each week of lost earnings or support.

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

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

6 * * *

7 (4) An award for counseling performed by or under the
8 supervision of a psychiatrist, psychologist, licensed
9 professional counselor or licensed social worker and
10 reimbursement of associated transportation costs, subject to
11 the provisions of paragraph (4.1), may be made to:

12 (i) a direct victim;

13 (ii) an individual responsible for the direct
14 victim's welfare;

15 (iii) an intervenor or individual who is physically
16 present at the crime scene and witnesses a violent crime;

17 (iv) in the case of a homicide, an individual who
18 discovers the body;

19 (v) anyone related to the direct victim within the
20 second degree of consanguinity or affinity;

21 (vi) anyone maintaining a common-law relationship
22 prior to January 2, 2005, with the direct victim;

23 (vii) anyone residing in the same household with the
24 direct victim; or

25 (viii) anyone engaged to be married to the direct
26 victim.

27 (4.1) In the case of an award made pursuant to paragraph
28 (4), the following shall apply:

29 (i) The amount of an award under paragraph (4) (i)
30 shall not exceed \$5,000 where the direct victim is an

1 adult and shall not exceed \$10,000 where the direct
2 victim is a minor. A minor who is a direct victim of a
3 sexual offense may request that the minor's primary
4 insurance carrier not be billed for counseling services
5 if the policy is held or administered by either the
6 alleged perpetrator of the crime against the direct
7 victim or an individual responsible for the minor's
8 welfare that is not supportive of counseling services.

9 (ii) The amount of an award under paragraph (4) (ii),
10 (v), (vi), (vii) or (viii) shall not exceed \$2,500 except
11 in the case of a homicide whereby the amount of this
12 award shall not exceed \$5,000.

13 (iii) The amount of an award under paragraph (4)
14 (iii) or (iv) shall not exceed \$1,500.

15 * * *

16 (f) Direct victim responsibility.--

17 (1) Except as set forth in paragraphs (2) and (3), in
18 determining the amount of an award, the Office of Victims'
19 Services shall determine whether the direct victim or
20 intervenor, because of conduct, contributed to the infliction
21 of the injury. The Office of Victims' Services [shall] may
22 reduce the amount or deny the claim altogether in accordance
23 with the determination.

24 * * *

25 (3) If the crime involved is a homicide, the conduct of
26 the direct victim shall not be considered for claims by
27 eligible claimants for counseling[.] and funeral expenses.
28 Funeral expenses eligibility, if the conduct of the direct
29 victim is a factor, shall be dependent upon the availability
30 of funding.

1 (g) Intervenor responsibility.--In determining the amount of
2 an award to an intervenor, the Office of Victims' Services [may]
3 shall consider whether the intervenor, because of conduct,
4 contributed to the infliction of the injury. The Office of
5 Victims' Services [shall] may reduce the amount or deny the
6 claim altogether in accordance with the determination.

7 * * *

8 Section 10. Sections 709(a) and 901 of the act are amended
9 to read:

10 Section 709. Confidentiality of records.

11 (a) General rule.--All reports, records or other information
12 obtained or produced by the [bureau] Office of Victims' Services
13 during the processing or investigation of a claim shall be
14 confidential and privileged, shall not be subject to subpoena or
15 discovery, shall be used for no purpose other than the
16 processing of a claim and, except as otherwise provided by law
17 or as provided in this section, shall not be introduced into
18 evidence in any judicial or administrative proceeding.

19 * * *

20 Section 901. Eligibility of victims.

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

27 Section 11. Section 1101(b) is amended by adding a paragraph
28 to read:

29 Section 1101. Costs.

30 * * *

1 (b) Disposition.--

2 * * *

3 (3) Beginning July 1, 2018, the special nonlapsing funds
4 established under subsection (b)(1) and (2) shall be merged
5 into a single special nonlapsing fund, known as the Crime
6 Victim Services and Compensation Fund. The fund shall be used
7 by the Office of Victims' Services for payment to claimants,
8 victim-witness services and technical assistance. Costs
9 imposed under subsection (a) shall be paid into the fund.

10 * * *

11 Section 12. Section 1301(b) of the act is amended to read:

12 Section 1301. Subrogation.

13 * * *

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

23 Section 13. This act shall take effect in 60 days.