

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 708 Session of 2021

INTRODUCED BY BARTOLOTTA, HUGHES, HAYWOOD, TARTAGLIONE,
SANTARSIERO, COLLETT, MENSCH, J. WARD, SCHWANK, COSTA, BAKER,
STREET, KANE, BROWNE AND COMMITTA, MAY 25, 2021

REFERRED TO JUDICIARY, MAY 25, 2021

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 for costs for
21 offender supervision programs; and, in enforcement, further
22 providing for subrogation.

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

25 Section 1. The definitions of "crime," "intervenor," "local
26 law enforcement agency," "loss of earnings," "out-of-pocket
27 loss" and "personal injury crime" in section 103 of the act of

1 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
2 Act, are amended and the section is amended by adding
3 definitions to read:

4 Section 103. Definitions.

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

8 * * *

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

12 * * *

13 "Crime." An act which was committed:

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

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

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

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

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

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

30 75 Pa.C.S. § 3732.1 (relating to aggravated

1 assault by vehicle).

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

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

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

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

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

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

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

20 (iii) The laws of the United States.

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

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

26 * * *

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

30 * * *

1 "Intervenor." An individual, including a law enforcement
2 officer who is injured in the performance of the individual's
3 duties, who goes to the aid of another and suffers physical or
4 mental injury or death as a direct result of acting not
5 recklessly to prevent the commission of a crime, to lawfully
6 apprehend a person reasonably suspected of having committed such
7 crime or to aid the victim of such crime.

8 * * *

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

11 "Loss of earnings." [**Includes**] An economic loss resulting
12 from an injury or death to a victim of a crime or an intervenor
13 that has not been and will not be reimbursed from any other
14 source. The term includes the loss of the cash equivalent of one
15 month's worth of Social Security, railroad retirement, pension
16 plan, retirement plan, disability, veteran's retirement, [**court-**
17 **ordered child support or court-ordered spousal**] loss of support
18 payments if the payments are the primary source of the victim's
19 income or other similar benefit, and the victim or intervenor is
20 deprived of money as a direct result of a crime.

21 "Loss of support." The loss of verifiable financial support
22 the direct victim would have contributed to surviving dependents
23 that is lost due to the death of the direct victim as a direct
24 result of a crime.

25 * * *

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

29 (1) expenses for unreimbursed and unreimbursable
30 expenses or indebtedness incurred for medical care,

1 nonmedical remedial care and treatment as approved by the
2 Office of Victims' Services or other services;

3 (2) expenses for counseling, prosthetic devices,
4 wheelchairs, canes, walkers, hearing aids, eyeglasses or
5 other corrective lenses or dental devices reasonably
6 necessary as a result of the crime upon which the claim is
7 based and for which the claimant either has paid or is
8 liable;

9 (3) expenses related to the reasonable and necessary
10 costs of cleaning the crime scene of a private residence or
11 privately owned motor vehicle. "Cleaning" means to remove or
12 attempt to remove stains or blood caused by the crime or
13 other dirt or debris caused by the processing of the crime
14 scene;

15 (4) expenses resulting from the temporary or permanent
16 relocation of a direct victim and individuals residing in the
17 household of the direct victim due to the incident forming
18 the basis of the victim's claim when there is an immediate
19 need to protect the safety and health of the victim and
20 individuals residing in the household, as verified by a
21 medical provider, human services provider or law enforcement;

22 (5) expenses for physical examinations and materials
23 used to obtain evidence; or

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

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

28 "Personal injury crime." An act, attempt [or threat],
29 solicitation or conspiracy to commit an act which would
30 constitute a misdemeanor or felony under the following:

1 18 Pa.C.S. Ch. 25 (relating to criminal homicide).
2 18 Pa.C.S. Ch. 27 (relating to assault).
3 18 Pa.C.S. Ch. 28 (relating to antihazing).
4 18 Pa.C.S. Ch. 29 (relating to kidnapping).
5 18 Pa.C.S. Ch. 30 (relating to human trafficking).
6 18 Pa.C.S. Ch. 31 (relating to sexual offenses).
7 18 Pa.C.S. § 3301 (relating to arson and related
8 offenses).
9 18 Pa.C.S. Ch. 37 (relating to robbery).
10 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and
11 witness intimidation).
12 18 Pa.C.S. § 5131 (relating to recruiting criminal gang
13 members).
14 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
15 18 Pa.C.S. § 6318 (relating to unlawful contact with
16 minor).
17 18 Pa.C.S. § 6320 (relating to sexual exploitation of
18 children).
19 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft
20 while operating under influence).
21 The former 75 Pa.C.S. § 3731 (relating to driving under
22 influence of alcohol or controlled substance) in cases
23 involving bodily injury.
24 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
25 75 Pa.C.S. § 3732.1 (relating to aggravated assault by
26 vehicle).
27 75 Pa.C.S. § 3733 (relating to fleeing or attempting to
28 elude police officer).
29 75 Pa.C.S. § 3734 (relating to driving without lights to
30 avoid identification or arrest).

1 75 Pa.C.S. § 3735 (relating to homicide by vehicle while
2 driving under influence).

3 75 Pa.C.S. § 3735.1 (relating to aggravated assault by
4 vehicle while driving under the influence).

5 75 Pa.C.S. § 3742 (relating to accidents involving death
6 or personal injury).

7 75 Pa.C.S. § 3742.1 (relating to accidents involving
8 death or personal injury while not properly licensed) if the
9 nature and circumstances of the offense committed are
10 substantially similar to an offense under 75 Pa.C.S. § 3742.

11 75 Pa.C.S. Ch. 38 (relating to driving after imbibing
12 alcohol or utilizing drugs) in cases involving bodily injury.
13 The term includes violations of any protective order issued as a
14 result of an act related to domestic violence. The term includes
15 a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating
16 to sentences for second and subsequent offenses).

17 * * *

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

20 Section 201. Rights.

21 Victims of crime have the following rights:

22 * * *

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

27 * * *

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

1 * * *

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

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

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

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

19 * * *

20 (b) Notice.--

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

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

8 (2) [Law enforcement agencies shall provide basic
9 information on the rights and services available for crime
10 victims. The information shall be in writing and shall be
11 provided to the victim within 24 hours of the law enforcement
12 agency's first contact with the victim in a manner and form
13 to be developed by the Office of Victims' Services.] Law
14 enforcement agencies shall be responsible for ensuring that
15 officers provide the notification required under paragraph
16 (1).

17 (c) Application.--[The written notification provided for in
18 subsection (b) (1) shall be accompanied by one copy of the
19 application form for crime victims' compensation. Application
20 forms shall be supplied by the Office of Victims' Services to
21 law enforcement agencies. A record of the date of notification
22 shall be maintained by the law enforcement agency.] The Office
23 of Victims' Services shall [maintain a mailing list of all local
24 law enforcement agencies] make the written information under
25 subsection (b) (1) available on the office's publicly accessible
26 Internet website and provide law enforcement agencies [with
27 forms by which they can order additional claim forms] printed
28 notices and claim forms for crime victims' compensation. The
29 Office of Victims' Services shall also provide updates to law
30 enforcement agencies on changes which affect their

1 responsibilities under this act.

2 (e) [Forms.--The form developed by the Office of Victims'
3 Services shall be attached to the police report and shall
4 include a victim checkoff signifying that the information has
5 been provided to the crime victim.] Confirmation.--The law
6 enforcement agency responding to or investigating an incident
7 shall indicate on the police report that the information
8 required under subsection (b) was provided to the direct victim
9 or, if appropriate, a member of the direct victim's family.

10 * * *

11 Section 213. Responsibilities of prosecutor's office.

12 (a) Forms.--The prosecutor's office shall provide the victim
13 of a personal injury crime with all forms developed pursuant to
14 sections 214 and 215 with exception to State cases, whereupon
15 the victim advocate shall provide all necessary forms.

16 * * *

17 (d) Release.--[In a personal injury crime, the prosecutor's
18 office shall provide notice of the opportunity to submit input
19 into State correctional release decisions, to receive notice of
20 any release of an adult from a State or local correctional
21 facility and to receive notice of the commitment to a mental
22 health institution from a State or local correctional
23 institution.] The following shall apply:

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

27 (i) so the victim advocate may provide notice of
28 opportunity to submit input into State correctional
29 release decisions;

30 (ii) to provide notice of any release of an adult

1 from a State correctional institution; and
2 (iii) to provide notice of the commitment to a
3 mental health institution from a State correctional
4 institution.

5 (2) In a personal injury crime, the prosecutor's office
6 shall provide notice of any release of an adult from a local
7 correctional institution and provide notice of the commitment
8 to a mental health institution from a local correctional
9 institution.

10 * * *

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

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

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

17 (3) Notification to the victim advocate on behalf of the
18 victim for personal injury crimes if the offender is
19 sentenced to a State correctional institution.

20 * * *

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

23 Section 301. Office.

24 * * *

25 (c) Service and employees.--The victim advocate shall
26 operate from the central office of the board with such clerical,
27 technical and professional staff as may be available within the
28 budget of the board. The compensation of employees of the office
29 shall be set by the Executive Board. The home address of an
30 employee of the office shall not be considered a public record

1 under the act of February 14, 2008 (P.L.6, No.3), known as the
2 Right-to-Know Law.

3 (d) Disclosure and confidentiality.--

4 (1) Each record pertaining to the victim in the
5 possession of or maintained by the office, including
6 information regarding a victim's current contact information
7 and any other information or record relating to the victim,
8 shall be private, confidential and privileged and the
9 property of the office and shall not be subject to access
10 under the Right-to-Know Law. A record of the office may not
11 be subject to subpoena or discovery, introduced into evidence
12 in a judicial or administrative proceeding or released to the
13 inmate, parolee or probationer.

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

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

27 Section 302. Powers and duties of victim advocate.

28 The victim advocate has the following powers and duties:

29 * * *

30 (5) [To act as a liaison with the victim notification

1 program director in the department to coordinate victim
2 notification and services for the department and the board.

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

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

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

14 Section 6. Section 312(3) of the act is amended to read:

15 Section 312. Powers and duties of Office of Victims' Services.

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

18 * * *

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

standards of review regarding claims for compensation;
approval or denial of claims, including contributory conduct
by direct victims; verification of information and documents;
prioritization of review; and all other matters related to
the processing.] To adopt, promulgate, amend and rescind
suitable regulations to carry out the provisions and purposes
of Chapter 7. The regulations shall provide for the
following:

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

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

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

(iv) Verification of information and documents.

(v) Prioritization of review.

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

* * *

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

Section 701. Persons eligible for compensation.

(a) General rule.--Except as otherwise provided in this act,

1 the following persons shall be eligible for compensation:

2 * * *

3 (7) Hospitals or other licensed health care providers
4 under section 707(h).

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

6 * * *

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

9 Section 702. Filing of claims for compensation.

10 * * *

11 (b) Time.--

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

18 (2) Exceptions shall be as follows:

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

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

29 (B) The limitation period shall run until the
30 later of:

1 (I) the end of the limitation period for the
2 offense as set forth in 42 Pa.C.S. Ch. 55 Subch.
3 C (relating to criminal proceedings); or

4 (II) the end of the limitation period under
5 paragraph (1).

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

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

13 (B) The limitation period shall run until the
14 later of:

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

18 (II) the end of the limitation period under
19 paragraph (1).

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

25 (A) The direct victim, intervenor or claimant
26 was mentally or physically incapacitated.

27 (B) The victim was a minor.

28 (C) There was a fear of retaliation.

29 (D) The occurrence of the crime was not readily
30 apparent.

1 (E) Other circumstances when good cause is shown
2 by the claimant.

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

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

14 Section 703. Minimum allowable claim.

15 (a) General rule.--Except as set forth in subsection (b), no
16 award shall be made on a claim unless the claimant has incurred
17 an aggregate minimum out-of-pocket loss, loss of earnings or
18 loss of support of [\$100] \$50.

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

22 Section 704. Determination of claims.

23 * * *

24 (b) Review.--

25 (1) The Office of Victims' Services shall review the
26 claim and all supporting documents and investigate the
27 validity of the claim. The investigation shall include an
28 examination of police, court and official records and reports
29 concerning the crime and may include an examination of
30 medical and hospital reports relating to the injury upon

1 which the claim is based. The Office of Victims' Services may
2 not request or review counseling notes of mental health
3 service providers. The Office of Victims' Services shall
4 request an assessment from the mental health service provider
5 as to the extent the service provided is needed as a direct
6 result of the crime.

7 * * *

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

13 Section 706. Emergency awards.

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

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

24 * * *

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

30 * * *

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

5 Section 707. Awards.

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

8 * * *

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

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

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

21 (4) The direct victim, intervenor or claimant has fully
22 cooperated with all law enforcement agencies and the Office
23 of Victims' Services, unless the Office of Victims' Services
24 finds the noncompliance to have been justified consistent
25 with the Office of Victims' Services regulations. The Office
26 of Victims' Services shall ensure that the regulations
27 relating to cooperation with all law enforcement agencies of
28 a direct victim, intervenor or claimant comply with all
29 applicable Federal laws and regulations.

30 (a.1) Protection from abuse.--A claimant who satisfies the

1 eligibility requirements of subsection (a)(1), (2) and (4) may
2 satisfy the eligibility requirement under subsection (a)(3) for
3 reporting a crime to the proper authorities by commencing an
4 action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to
5 protection from abuse) and as provided for in the Pennsylvania
6 Rules of Civil Procedure. In no case may an award be made if the
7 record shows that the petition was:

8 (1) Withdrawn, unless the Office of [Victim] Victims'
9 Services finds the withdrawal to have been justified,
10 consistent with regulations of the Office of [Victim]
11 Victims' Services.

12 (2) [Filed more than 72 hours after the occurrence of
13 the criminal conduct leading to the commencement of the
14 action, unless:

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

21 (ii) the Office of Victim Services finds the delay
22 to have been justified, consistent with regulations of
23 the Office of Victim Services.] (Reserved).

24 (a.2) Sexual violence and intimidation orders.--A claimant
25 who satisfies the eligibility requirements of subsection (a)(1),
26 (2) and (4) may satisfy the eligibility requirement under
27 subsection (a)(3) for reporting a crime to the proper
28 authorities by commencing an action brought in accordance with
29 42 Pa.C.S. Ch. 62A (relating to protection of victims of sexual
30 violence or intimidation) and as provided for in the

1 Pennsylvania Rules of Civil Procedure. An award may not be made
2 if the record shows that the petition was withdrawn, except if
3 the Office of Victims' Services finds the withdrawal to have
4 been justified, consistent with regulations of the Office of
5 Victims' Services.

6 (b) Amount.--

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

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

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

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

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

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

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

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

5 * * *

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

11 (i) a direct victim;

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

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

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

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

20 (vi) anyone maintaining a common-law relationship
21 with the direct victim;

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

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

26 (4.1) In the case of an award made pursuant to paragraph
27 (4), the following shall apply:

28 (i) The amount of an award under paragraph (4) (i)
29 shall not exceed \$5,000 where the direct victim is an
30 adult and shall not exceed \$10,000 where the direct

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

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

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

14 * * *

15 (f) Direct victim responsibility.--

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

23 * * *

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

29 (4) The conduct of the direct victim or intervenor shall
30 not be considered for claims by eligible claimants for

1 counseling.

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

8 * * *

9 Section 10. Sections 709(a), 901, 1101(b), 1102(a), (b), (c)
10 and (d) and 1301(b) of the act are amended to read:

11 Section 709. Confidentiality of records.

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

20 * * *

21 Section 901. Eligibility of victims.

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

28 Section 1101. Costs.

29 * * *

30 (b) Disposition.--

1 [(1) There is established a special nonlapsing fund,
2 known as the Crime Victim's Compensation Fund. This fund
3 shall be used by the Office of Victims' Services for payment
4 to claimants and technical assistance. Thirty-five dollars of
5 the costs imposed under subsection (a) (1) and (2) plus 30% of
6 the costs imposed under subsection (a) (1) which exceed \$60
7 shall be paid into this fund. All costs imposed under
8 subsection (a) (3) shall be paid into this fund.

9 (2) There is established a special nonlapsing fund,
10 known as the Victim Witness Services Fund. This fund shall be
11 used by the commission for victim-witness services and
12 technical assistance in nonvictim compensation-related areas
13 in accordance with this section. Twenty-five dollars of the
14 costs imposed under subsection (a) (1) and (2) plus 70% of the
15 costs imposed under subsection (a) (1) and (2) which exceed
16 \$60 shall be paid into this fund.]

17 (3) The Crime Victim Services and Compensation Fund is
18 established as a special nonlapsing fund. The fund shall be
19 used by the Office of Victims' Services for payment to
20 claimants, victim-witness services and technical assistance.

21 (4) Costs imposed under subsection (a) shall be paid
22 into the Crime Victim Services and Compensation Fund except
23 that 70% of any costs which exceed \$60 shall be paid into a
24 local victim services fund, established and administered by
25 the county treasurer of each county. The county treasurer
26 shall disperse money from a local victim services fund at the
27 discretion of the county district attorney. The money in the
28 local victim services fund shall be used only for victim
29 services. Each county treasurer shall by August 31 of each
30 year provide the commission with an annual statement which

1 fully reflects all collections deposited into and
2 expenditures from the local victim services fund for the
3 preceding fiscal year. The commission, as advised by the
4 Victim Services Advisory Committee, shall develop guidelines
5 for the administration of the local victim services funds.

6 * * *

7 Section 1102. Costs for offender supervision programs.

8 (a) County fund.--The county treasurer of each county shall
9 establish and administer a [county offender supervision fund]
10 County Supervision Fee Restricted Receipts Account consisting of
11 the fees collected under this section. The county treasurer
12 shall disperse money from this [fund] account only at the
13 discretion of the president judge of the court of common pleas.
14 The money in this [fund] account shall be used to pay the
15 salaries and employee benefits of all probation and parole
16 personnel employed by the county probation and parole department
17 and the training and operational expenses of that department.
18 Money from this [fund] account shall be used to supplement
19 Federal, State or county appropriations for the county adult
20 probation and parole department. The president judge shall by
21 August 31 provide the [board] commission with an annual
22 statement [which] that fully reflects all collections deposited
23 into and expenditures from the [offender supervision fund]
24 County Supervision Fee Restricted Receipts Account for the
25 preceding fiscal year. The commission may randomly audit and
26 monitor account recipients to ensure the appropriate use of
27 funds and compliance with the provisions of this section. The
28 [board] commission shall promulgate regulations to provide for
29 the permanent administration of this program, as advised by the
30 County Adult Probation and Parole Advisory Committee.

1 (b) State fund.--There is established a State Offender
2 Supervision Fund to be administered by the board and comprised
3 of the supervision fees collected by the board under [this
4 section] subsection (d). The money in this fund shall be used to
5 supplement the Federal or State funds appropriated for the
6 improvement of [adult probation services] State parole
7 supervision.

8 (c) Court.--The court shall impose as a condition of
9 supervision a monthly supervision fee of at least \$25 on any
10 offender placed on probation, parole, accelerated rehabilitative
11 disposition, probation without verdict or intermediate
12 punishment unless the court finds that the fee should be
13 reduced, waived or deferred based on the offender's present
14 inability to pay. [Of the fee collected, 50%] All of the fees
15 shall be deposited into the County [Offender Supervision Fund]
16 Supervision Fee Restricted Receipts Account established in each
17 county pursuant to this section[, and the remaining 50% shall be
18 deposited into the State Offender Supervision Fund established
19 pursuant to this section]. In the discretion of the Auditor
20 General, but no less than once every three years, the Auditor
21 General shall conduct an audit of the account.

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

29 * * *

30 Section 1301. Subrogation.

1 * * *

2 (b) Excess.--If an amount greater than that paid under
3 Chapter 7 is recovered and collected in such an action, the
4 Commonwealth shall pay the balance to the claimant. The Attorney
5 General shall enforce any subrogation. A claimant who fails to
6 notify the Office of Victims' Services of the receipt of funds
7 from any other claim or award arising out of the crime shall
8 forfeit and pay to the Commonwealth an amount equal to all
9 awards paid by the [bureau] Office of Victims' Services to the
10 claimant or on the claimant's behalf.

11 Section 11. All money in the Crime Victim's Compensation
12 Fund and the Victim Witness Services Fund shall be transferred
13 to the Crime Victim Services and Compensation Fund.

14 Section 12. This act shall take effect as follows:

15 (1) The following shall take effect immediately:

16 (i) The amendment of section 1101(b) of the act.

17 (ii) Section 11 of this act.

18 (iii) This section.

19 (2) The remainder of this act shall take effect in 60
20 days.