

**2017 -- S 0007 SUBSTITUTE A**

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LC000238/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2017**

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- CRIMINAL INJURIES COMPENSATION

Introduced By: Senators McCaffrey, Lombardi, Conley, Lynch Prata, and Metts

Date Introduced: January 11, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 12-25-17, 12-25-19 and 12-25-22 of the General Laws in Chapter  
2 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as follows:

3           **12-25-17. Definitions.**

4           As used in this chapter:

5           (1) "Administrator" means the program administrator of this chapter.

6           (2) "Child" means an unmarried person who is under eighteen (18) years of age and  
7 includes a stepchild or an adopted child.

8           (3) "Court" means the superior court.

9           (4) "Dependent" means a person wholly or partially dependent upon the income of the  
10 victim at the time of his or her death or would have been so dependent but for the incapacity due  
11 to the injury from which the death resulted. The term includes a child of the victim born after the  
12 death of the victim.

13           (5) "Office" means the office of the general treasurer.

14           (6) "Pecuniary loss" includes:

15           (i) For personal injury:

16           (A) Medical expenses (including psychiatric care) for which the victim is not  
17 compensated by any other source;

18           (B) Hospital expenses for which the victim is not compensated by any other source;

19           (C) Loss of past earnings for which the victim is not compensated by any other source;

1 (D) Loss of future earnings because of a disability resulting from the personal injury for  
2 which the victim is not compensated by any other source; and

3 (E) Direct expenses related to the delivery or obtainment of medical or counseling  
4 services, or to participate in criminal justice proceedings.

5 (ii) For death:

6 (A) Funeral and burial expenses for which the victim's estate is not compensated by any  
7 other source; and

8 (B) Loss of support to the dependents of the victim for which the dependents are not  
9 compensated by any other source; and

10 (C) Direct expenses related to the participation in funeral services, counseling, or  
11 criminal justice proceedings.

12 (iii) Any other expenses actually and necessarily incurred as a result of the personal  
13 injury or death for which the victim or his or her estate is not compensated by any other source,  
14 but it does not include property damage.

15 (7) "Personal injury" means actual bodily harm, mental or nervous shock, and a  
16 pregnancy resulting from sexual attack.

17 (8) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child,  
18 grandchild, brother, sister, half-brother, half-sister, and a spouse's parents.

19 (9) "Resident" means any person who has his or her residence within the state of Rhode  
20 Island.

21 (10) "State" includes the District of Columbia, the fifty (50) states, and the United States'  
22 territories and possessions.

23 (11) "Treasurer" means the general treasurer of the state of Rhode Island or his or her  
24 designee.

25 (12) "Victim" means a person who is injured or killed by any act of a person or persons  
26 which is within the description of any of the offenses specified in § 12-25-20 and which act  
27 occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode Island  
28 who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331 occurring outside the United  
29 States or within the United States as referred to in 42 U.S.C. § 10603b.

30 (13) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established  
31 pursuant to former §§ 12-25-1 -- 12-25-12.1.

32 (14) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established  
33 pursuant to §§ 12-25-16 -- 12-25-30.

34 **12-25-19. Awarding compensation.**

1 (a) In any case in which a person is injured or killed by any act of a person or persons  
2 which is within the description of the offenses listed in § 12-25-20, the victim, his or her  
3 guardian, the child advocate as provided in § 42-73-9.1, or in the case of his or her death, a legal  
4 representative, may apply to the office for compensation. The office shall provide notice of the  
5 application to the attorney general. The office may award compensation in accordance with the  
6 provisions of this chapter if the act occurs:

7 (1) Within the physical confines of the state of Rhode Island;

8 (2) Within the maritime jurisdiction of the state of Rhode Island;

9 (3) Outside the state of Rhode Island to any victim who has his or her residence in the  
10 state of Rhode Island and had the residence in the state at the time that the offense occurred, and  
11 is not entitled to compensation of any kind from the state, possession, or territory or district of the  
12 United States in which the offense occurred; or

13 (4) Outside the state of Rhode Island to any victim who had his or her residence in the  
14 state of Rhode Island at the time the offense occurred who is injured or killed by an act of  
15 terrorism occurring either outside of the United States, as defined in 18 U.S.C. § 2331, or within  
16 the United States as referred to in 42 U.S.C. § 10603b.

17 (b) The office may award compensation as described in this section:

18 (1) To or on behalf of the injured person, or his or her guardian;

19 (2) In the case of the personal injury of the victim where the compensation is for  
20 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the  
21 victim, to that person; or

22 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest  
23 relative of the deceased victim, or any one or more of the dependents or to the legal representative  
24 of the victim.

25 (c) For the purposes of this chapter, a person shall be deemed to have intended an act  
26 notwithstanding that, by reason of age, insanity, drunkenness, or otherwise, he or she was legally  
27 incapable of forming a criminal intent.

28 (d) (1) In determining whether to award compensation as described in this section and the  
29 amount of compensation, the office shall consider any circumstances it determines to be relevant,  
30 including, but not limited to:

31 (i) compliance by the victim with the reasonable requests of law enforcement agencies  
32 and personnel;

33 (ii) ~~violent felonious criminal conduct of the victim committed within the past five (5)~~  
34 ~~years or subsequent to his or her injury;~~ any conviction of a crime pursuant to 42 U.S.C.

1 [§10602\(b\)\(8\); and](#)

2 ~~(iii) any conviction of a crime of violence by the victim; and~~

3 ~~(iv)~~[\(iii\)](#) the behavior of the victim ~~which~~ [, including past behavior, that](#) directly or  
4 indirectly contributed to his or her injury or death, unless the injury or death resulted from the  
5 victim's lawful attempt to prevent the commission of a crime or to apprehend an offender. The  
6 office may reduce or deny an award based on these circumstances.

7 (2) [Notwithstanding any other provision of this section, in the case of the death of the](#)  
8 [victim, the office shall not reduce or deny compensation for burial costs to or for the benefit of](#)  
9 [the dependents or closest relative of the deceased victim, or any one or more of the dependents or](#)  
10 [to the legal representative of the victim, without allowing an administrative appeal pursuant to](#)  
11 [§12-25-18\(g\), \(h\), and \(i\).](#)

12 (3) Any individual who is incarcerated at any criminal institutional facility at the time of  
13 his or her injury shall be deemed ineligible to receive an award of compensation as described in  
14 this section.

15 (e) No compensation may be awarded unless the office so directs upon a finding that:

- 16 (1) The act did occur; and  
17 (2) The injury or death resulted from the act.

18 (f) An award may be made under this section whether or not any person is prosecuted or  
19 convicted of any offense arising out of the act, or if the act is the subject of any other legal action.  
20 Upon application from the attorney general, the office shall suspend proceedings under this  
21 chapter until the application is withdrawn or until a prosecution for an offense arising out of the  
22 act is no longer pending or imminent. The office may suspend proceedings in the interest of  
23 justice if a criminal or civil action arising from the act is pending or imminent.

24 (g) The office shall pay to the person named in the award of compensation, and the  
25 payments shall be made from the violent crimes indemnity account and from any federal moneys  
26 available as coordinated by the office.

27 (h) Where compensable medical services have been rendered, any award made payable to  
28 a medical provider shall be based on the current final adjustment to charge ratio approved by the  
29 department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode  
30 Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency  
31 room charges, and ambulatory surgery charges. Amounts awarded for all other medical services  
32 shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the  
33 provider employs a sliding scale fee structure for any category of patient or service, the award  
34 shall not exceed the amount the applicant would be charged if he or she qualified under the

1 provider's sliding scale fee structure. Medical service providers shall be required to accept these  
2 awards as full payment for services rendered and shall be prohibited from assessing any  
3 additional charges against the victim.

4 **12-25-22. Limitations upon awarding compensation.**

5 (a) Actions for compensation under this chapter shall be commenced within three (3)  
6 years after the date of the personal injury or death, and no compensation shall be awarded for an  
7 injury or death resulting from a crime which was not reported to the appropriate law enforcement  
8 authority within ~~ten (10)~~ fifteen (15) days of its occurrence; provided, that the office shall have  
9 the authority to allow a claim which was not reported pursuant to this section when the victim  
10 was below the age of eighteen (18) years of age or of unsound mind, or for good cause shown.

11 (b) No compensation shall be awarded under this chapter to the victim, or in the case of  
12 death to dependent relatives or to the legal representative, in a total amount in excess of twenty-  
13 five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to  
14 the superior court pursuant to § 12-25-25.

15 (c) No compensation shall be awarded when the office, in its discretion, determines that  
16 unjust enrichment to or on behalf of the offender would result. Compensation under this chapter  
17 shall not be awarded to any victim or dependent relative or legal representative if the award  
18 would directly or indirectly inure to the benefit of the offender.

19 (d) No interest shall be included in or added to an award of compensation under this  
20 chapter.

21 (e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the  
22 victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her  
23 estate is not compensated by any other source and for the loss of support to the dependents of the  
24 victim.

25 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL PROCEDURE -- CRIMINAL INJURIES COMPENSATION

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1           This act would amend the definition of "pecuniary loss" under the criminal injuries  
2 compensation act to include expenses relating to medical or counseling services, expenses  
3 relating to participation of criminal justice proceedings, and funeral services.

4           This act would also amend the standards and procedure which the treasurer's office must  
5 consider in the awarding of compensation and would increase the number of days which a victim  
6 must report a crime in order to be eligible for compensation under the act.

7           This act would take effect upon passage.

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