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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE - CRIMINAL INJURIES COMPENSATION

Introduced By: Representatives Shekarchi, Marshall, Casimiro, McEntee, and Tanzi

Date Introduced: February 09, 2017

Referred To: House Judiciary

(General Treasurer)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-25-17, 12-25-19, 12-25-21 and 12-25-22 of the General Laws  
2 in Chapter 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as  
3 follows:

4 **12-25-17. Definitions.**

5 As used in this chapter:

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

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

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

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

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

15 (6) "Pecuniary loss" includes:

16 (i) For personal injury:

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

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

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

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

4 (ii) For death:

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

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

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

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

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

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

18 (10) "Secondary victim" means a child who suffers an emotional injury as a direct result  
19 of witnessing a homicide or incident of domestic violence.

20 ~~(10)~~(11) "State" includes the District of Columbia, the fifty (50) states, and the United  
21 States' territories and possessions.

22 ~~(11)~~(12) "Treasurer" means the general treasurer of the state of Rhode Island or his or her  
23 designee.

24 ~~(12)~~(13) "Victim" means a person who is injured or killed by any act of a person or  
25 persons which is within the description of any of the offenses specified in § 12-25-20 and which  
26 act occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode  
27 Island who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331 occurring outside the  
28 United States or within the United States as referred to in 42 U.S.C. § 10603b.

29 ~~(13)~~(14) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established  
30 pursuant to former §§ 12-25-1 -- 12-25-12.1.

31 ~~(14)~~(15) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established  
32 pursuant to §§ 12-25-16 -- 12-25-30.

33 **12-25-19. Awarding compensation.**

34 (a) In any case in which a person is injured or killed by any act of a person or persons

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

- 8 (1) Within the physical confines of the state of Rhode Island;
- 9 (2) Within the maritime jurisdiction of the state of Rhode Island;
- 10 (3) Outside the state of Rhode Island to any victim who has his or her residence in the  
11 state of Rhode Island and had the residence in the state at the time that the offense occurred, and  
12 is not entitled to compensation of any kind from the state, possession, or territory or district of the  
13 United States in which the offense occurred; or
- 14 (4) Outside the state of Rhode Island to any victim who had his or her residence in the  
15 state of Rhode Island at the time the offense occurred who is injured or killed by an act of  
16 terrorism occurring either outside of the United States, as defined in 18 U.S.C. § 2331, or within  
17 the United States as referred to in 42 U.S.C. § 10603b.

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

- 19 (1) To or on behalf of the injured person, or his or her guardian;
- 20 (2) In the case of the personal injury of the victim where the compensation is for  
21 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the  
22 victim, to that person; or
- 23 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest  
24 relative of the deceased victim, or any one or more of the dependents or to the legal representative  
25 of the victim.

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

29 (d) (1) In determining whether to award compensation as described in this section and the  
30 amount of compensation, the office shall consider any circumstances it determines to be relevant,  
31 including, but not limited to: (i) compliance by the victim with the reasonable requests of law  
32 enforcement agencies and personnel; (ii) violent felonious criminal conduct of the victim  
33 committed within the past five (5) years or subsequent to his or her injury; (iii) any conviction of  
34 a crime of violence by the victim; and (iv) the behavior of the victim which directly or indirectly

1 contributed to his or her injury or death, unless the injury or death resulted from the victim's  
2 lawful attempt to prevent the commission of a crime or to apprehend an offender. The office may  
3 reduce or deny an award based on these circumstances.

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

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

8 (1) The act did occur; and

9 (2) The injury or death resulted from the act.

10 (f) An award may be made under this section whether or not any person is prosecuted or  
11 convicted of any offense arising out of the act, or if the act is the subject of any other legal action.

12 Upon application from the attorney general, the office shall suspend proceedings under this  
13 chapter until the application is withdrawn or until a prosecution for an offense arising out of the  
14 act is no longer pending or imminent. The office may suspend proceedings in the interest of  
15 justice if a criminal or civil action arising from the act is pending or imminent.

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

19 (h) Where compensable medical services have been rendered, any award made payable to  
20 a medical provider shall be based on the current final adjustment to charge ratio approved by the  
21 department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode  
22 Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency  
23 room charges, and ambulatory surgery charges. Amounts awarded for all other medical services  
24 shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the  
25 provider employs a sliding scale fee structure for any category of patient or service, the award  
26 shall not exceed the amount the applicant would be charged if he or she qualified under the  
27 provider's sliding scale fee structure. Medical service providers shall be required to accept these  
28 awards as full payment for services rendered and shall be prohibited from assessing any  
29 additional charges against the victim or secondary victim.

30 **12-25-21. Nature of compensation.**

31 (a) The office may award compensation under this chapter for:

32 (1) Expenses actually and reasonably incurred as a result of the personal injury or death  
33 of the victim;

34 (2) Pecuniary loss to the dependents of the deceased victim;

1 (3) Any other pecuniary loss resulting from the personal injury or death of the victim, the  
2 amount of which the office finds upon the evidence to be reasonable and necessary;

3 (4) The administrator may issue a supplemental award for compensation for additional  
4 medical expenses, including psychiatric care and mental health counseling, provided that the  
5 victim provides proper documentation that the additional medical expenses have been actually  
6 and reasonably incurred as a direct result of the personal injury. The administrator shall issue a  
7 supplemental award as long as the total award does not exceed the maximum award allowable  
8 under this chapter; and

9 (5) The administrator may issue an award for expenses related to psychiatric care and  
10 mental health counseling for a parent, spouse, sibling or child of a victim who dies as a direct  
11 result of a violent crime as defined in this chapter, provided that the parent, spouse, sibling or  
12 child provide proper documentation that the psychiatric care and mental health counseling have  
13 been actually and reasonably incurred as a direct result of the death of the victim.

14 (6) The administrator may issue an award for expenses related to psychiatric care and  
15 mental health counseling for a secondary victim, provided that the secondary victim provides  
16 proper documentation that the psychiatric care and mental health counseling have been actually  
17 and reasonably incurred as a direct result of witnessing the homicide of a victim or the domestic  
18 violence incident against a victim. An award issued to a secondary victim for psychiatric care and  
19 mental health counseling shall not exceed one thousand five hundred dollars (\$1,500) and shall  
20 not be paid upon a secondary victim reaching the age of eighteen (18).

21 (b) In determining the amount of the judgment or order approving a settlement, the office  
22 shall take into consideration the rates and amounts payable for injuries and death under other  
23 statutes of this state and of the United States, and the amount of revenue in the violent crimes  
24 indemnity account and the number and nature of claims pending against it. The office shall make  
25 every effort to ensure that compensation awards are paid within six (6) months of the date of  
26 application.

27 **12-25-22. Limitations upon awarding compensation.**

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

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

5 (c) No compensation shall be awarded under this chapter to a secondary victim in a total  
6 amount in excess of one thousand five hundred dollars (\$1,500).

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

11 ~~(e)~~ No interest shall be included in or added to an award of compensation under this  
12 chapter.

13 ~~(f)~~ When the plaintiff is the victim's estate, it shall only be awarded compensation for  
14 the victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or  
15 her estate is not compensated by any other source and for the loss of support to the dependents of  
16 the victim.

17 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 allow for compensation to a minor who witnesses a homicide or incident  
2 of domestic violence from the crime victims compensation program.

3           This act would take effect upon passage.

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