

AN ACT concerning crime victims compensation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Unified Code of Corrections is amended by changing Section 5-5-6 as follows:

(730 ILCS 5/5-5-6) (from Ch. 38, par. 1005-5-6)

Sec. 5-5-6. In all convictions for offenses in violation of the Criminal Code of 1961 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay

restitution. If the offender is sentenced to make restitution the Court shall determine the restitution as hereinafter set forth:

(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article V of the Criminal Code of 1961.

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses,

damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. When a victim's out-of-pocket expenses have been paid pursuant to the Crime Victims Compensation Act, the court shall order restitution be paid to the compensation program. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for

the child at the discretion of the court.

(c) In cases where more than one defendant is accountable for the same criminal conduct that results in out-of-pocket expenses, losses, damages, or injuries, each defendant shall be ordered to pay restitution in the amount of the total actual out-of-pocket expenses, losses, damages, or injuries to the victim proximately caused by the conduct of all of the defendants who are legally accountable for the offense.

(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.

(2) As between the defendants, the court may apportion the restitution that is payable in proportion to each co-defendant's culpability in the commission of the offense.

(3) In the absence of a specific order apportioning the restitution, each defendant shall bear his pro rata share of the restitution.

(4) As between the defendants, each defendant shall be entitled to a pro rata reduction in the total restitution required to be paid to the victim for amounts of restitution actually paid by co-defendants, and defendants who shall have paid more than their pro

rata share shall be entitled to refunds to be computed by the court as additional amounts are paid by co-defendants.

(d) In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State's Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.

(e) The court may require the defendant to apply the balance of the cash bond, after payment of court costs, and any fine that may be imposed to the payment of restitution.

(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years, except for violations of Sections 16-1.3 and 17-56 of the Criminal Code of 1961, or the

period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

(f-1) (1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) "long-term physical health care" includes mental health care.

(2) The victim's estimate of long-term physical health care costs may be made as part of a victim impact statement

under Section 6 of the Rights of Crime Victims and Witnesses Act or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14,

12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.

(h) The judge may enter an order of withholding to collect the amount of restitution owed in accordance with Part 8 of Article XII of the Code of Civil Procedure.

(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the

offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender's ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

(j) The procedure upon the filing of a Petition to Revoke a sentence to make restitution shall be the same as the procedures set forth in Section 5-6-4 of this Code governing violation, modification, or revocation of Probation, of Conditional Discharge, or of Supervision.

(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.

(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.

(m) A restitution order under this Section is a judgment lien in favor of the victim that:

(1) Attaches to the property of the person subject to the order;

(2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code;

(3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) Expires in the same manner as a judgment lien created in a civil proceeding.

When a restitution order is issued under this Section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

(n) An order of restitution under this Section does not

bar a civil action for:

(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and

(2) Other damages suffered by the victim.

The restitution order is not discharged by the completion of the sentence imposed for the offense.

A restitution order under this Section is not discharged by the liquidation of a person's estate by a receiver. A restitution order under this Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure.

The provisions of Section 2-1303 of the Code of Civil Procedure, providing for interest on judgments, apply to judgments for restitution entered under this Section.

(Source: P.A. 96-290, eff. 8-11-09; 96-1551, eff. 7-1-11; 97-482, eff. 1-1-12.)

Section 10. The Crime Victims Compensation Act is amended by changing Sections 2, 4.1, 6.1, 7.1, 10.1, 10.2, 13.1, 17, and 18 as follows:

(740 ILCS 45/2) (from Ch. 70, par. 72)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Applicant" means any person who applies for compensation under this Act or any person the Court of Claims finds is entitled to compensation, including the guardian of a minor or of a person under legal disability. It includes any person who was a dependent of a deceased victim of a crime of violence for his or her support at the time of the death of that victim.

(b) "Court of Claims" means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-3.3, 12-3.4, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1, or Section 12-3.05 except for subdivision (a) (4) or (g) (1), ~~7~~ or subdivision (a) (4) of Section 11-14.4, of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, Section 125 of the Stalking No Contact Order Act, Section 219 of the Civil No Contact Order Act, driving under the influence ~~of intoxicating liquor or narcotic drugs~~ as defined in Section 11-501 of the Illinois Vehicle Code, ~~and~~ a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact, and a violation of Section

11-204.1 of the Illinois Vehicle Code; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) "Victim" means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the spouse or parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or

aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, (6) an Illinois resident who is a victim of a "crime of violence" as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

(e) "Dependent" means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half

sister, spouse's parent, nephew, niece, uncle or aunt.

(g) "Child" means an unmarried son or daughter who is under 18 years of age and includes a stepchild, an adopted child or a child born out of wedlock.

(h) "Pecuniary loss" means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, licensed professional counselor, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and counseling treatment facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and

personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of \$1,250 ~~\$1000~~ per month; dependents replacement services loss, to a maximum of \$1,250 ~~\$1000~~ per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may not exceed a maximum of \$7,500 ~~\$5,000~~ and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of \$7,500 ~~\$5,000~~. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net

monthly earnings for the 6 months immediately preceding the date of the injury or on \$1,250 ~~\$1000~~ per month, whichever is less or, in cases where the absences commenced more than 3 years from the date of the crime, on the basis of the net monthly earnings for the 6 months immediately preceding the date of the first absence, not to exceed \$1,250 per month. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have

performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

(l) "Parent" means a natural parent, adopted parent, step-parent, or permanent legal guardian of another person.

(Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10; 96-1551, Article 1, Section 980, eff. 7-1-11; 96-1551, Article 2, Section 1090, eff. 7-1-11; revised 9-30-11.)

(740 ILCS 45/4.1) (from Ch. 70, par. 74.1)

Sec. 4.1. In addition to other powers and duties set forth in this Act and other powers exercised by the Attorney General, the Attorney General shall ~~promulgate rules necessary for him to carry out his duties under this Act,~~ investigate all claims and prepare and present a report of each applicant's claim to the Court of Claims prior to the issuance of an order by the Court of Claims, prescribe and furnish all applications, ~~notices of intent to file a claim~~ and other forms required to be filed in the office of the Attorney General by the terms of this Act, and represent the interests of the State of Illinois in any hearing before the Court of Claims.

(Source: P.A. 81-1013.)

(740 ILCS 45/6.1) (from Ch. 70, par. 76.1)

Sec. 6.1. Right to compensation. A person is entitled to

compensation under this Act if:

(a) Within 2 years of the occurrence of the crime, or within one year after a criminal charge ~~indictment~~ of a person for an offense, upon which the claim is based, he files an application, under oath, with the Court of Claims and on a form prescribed in accordance with Section 7.1 furnished by the Attorney General. If the person entitled to compensation is under 18 years of age or under other legal disability at the time of the occurrence or becomes legally disabled as a result of the occurrence, he may file the application required by this subsection within 2 years after he attains the age of 18 years or the disability is removed, as the case may be. Legal disability includes a diagnosis of posttraumatic stress disorder.

(b) For all crimes of violence, except those listed in subsection (b-1) of this Section, the appropriate law enforcement officials were notified within 72 hours of the perpetration of the crime allegedly causing the death or injury to the victim or, in the event such notification was made more than 72 hours after the perpetration of the crime, the applicant establishes that such notice was timely under the circumstances.

(b-1) For victims of offenses defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961, the appropriate law enforcement officials were notified within

7 days of the perpetration of the crime allegedly causing death or injury to the victim or, in the event that the notification was made more than 7 days after the perpetration of the crime, the applicant establishes that the notice was timely under the circumstances. If the applicant or victim has obtained an order of protection, ~~or~~ a civil no contact order, or a stalking no contact order, or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute appropriate notification under this subsection (b-1) or subsection (b) of this Section.

(c) The applicant has cooperated with law enforcement officials in the apprehension and prosecution of the assailant. If the applicant or victim has obtained an order of protection, ~~or~~ a civil no contact order, or a stalking no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute cooperation under this subsection (c).

(d) The applicant is not the offender or an accomplice of the offender and the award would not unjustly benefit the offender or his accomplice.

(e) The injury to or death of the victim was not substantially attributable to his own wrongful act and was not substantially provoked by the victim.

(Source: P.A. 95-250, eff. 1-1-08; 95-331, eff. 8-21-07;

96-1551, eff. 7-1-11.)

(740 ILCS 45/7.1) (from Ch. 70, par. 77.1)

Sec. 7.1. (a) The application shall set out:

(1) the name and address of the victim;

(2) if the victim is deceased, the name and address of the applicant and his relationship to the victim, the names and addresses of other persons dependent on the victim for their support and the extent to which each is so dependent, and other persons who may be entitled to compensation for a pecuniary loss;

(3) the date and nature of the crime on which the application for compensation is based;

(4) the date and place where and the law enforcement officials to whom notification of the crime was given;

(5) the nature and extent of the injuries sustained by the victim, and the names and addresses of those giving medical and hospitalization treatment to the victim;

(6) the pecuniary loss to the applicant and to such other persons as are specified under item (2) resulting from the injury or death;

(7) the amount of benefits, payments, or awards, if any, payable under:

(a) the Workers' Compensation Act,

(b) the Dram Shop Act,

(c) any claim, demand, or cause of action based upon the

crime-related injury or death,

- (d) the Federal Medicare program,
- (e) the State Public Aid program,
- (f) Social Security Administration burial benefits,
- (g) Veterans administration burial benefits,
- (h) life, health, accident or liability insurance,
- (i) the Criminal Victims' Escrow Account Act, ~~or~~
- (j) the Sexual Assault Survivors Emergency Treatment Act,
- (k) restitution, or
- (l) ~~(j)~~ from any other source.

(8) releases authorizing the surrender to the Court of Claims or Attorney General of reports, documents and other information relating to the matters specified under this Act and rules promulgated in accordance with the Act.

(9) such other information as the Court of Claims or the Attorney General reasonably requires.

(b) The Attorney General may require that materials substantiating the facts stated in the application be submitted with that application.

(c) An applicant, on his own motion, may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the original application has been disposed of by the Court of Claims. In either case, the filing of additional information or of an amended application shall be considered for the purpose of this Act to have been filed at the same time as the original

application.

(Source: P.A. 82-956.)

(740 ILCS 45/10.1) (from Ch. 70, par. 80.1)

Sec. 10.1. Amount of compensation. The amount of compensation to which an applicant and other persons are entitled shall be based on the following factors:

(a) A victim may be compensated for his or her pecuniary loss.

(b) A dependent may be compensated for loss of support.

(c) Any person, even though not dependent upon the victim for his or her support, may be compensated for reasonable ~~funeral, medical and hospital~~ expenses of the victim to the extent to which he or she has paid or become obligated to pay such expenses and only after compensation for reasonable funeral, medical and hospital expenses of the victim have been awarded may compensation be made for reasonable expenses of the victim incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime.

(d) An award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his or her injury or death, or the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.

(e) An award shall be reduced by the amount of benefits,

payments or awards payable under those sources which are required to be listed under item (7) of Section 7.1(a) and any other sources except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first \$25,000 of life insurance that would inure to the benefit of the applicant, which the applicant or any other person dependent for the support of a deceased victim, as the case may be, has received or to which he or she is entitled as a result of injury to or death of the victim.

(f) A final award shall not exceed \$10,000 for a crime committed prior to September 22, 1979, \$15,000 for a crime committed on or after September 22, 1979 and prior to January 1, 1986, \$25,000 for a crime committed on or after January 1, 1986 and prior to August 7, 1998, or \$27,000 for a crime committed on or after August 7, 1998. If the total pecuniary loss is greater than the maximum amount allowed, the award shall be divided in proportion to the amount of actual loss among those entitled to compensation.

(g) Compensation under this Act is a secondary source of compensation and the applicant must show that he or she has exhausted the benefits reasonably available under the Criminal Victims' Escrow Account Act or any governmental or medical or health insurance programs, including but not limited to Workers' Compensation, the Federal Medicare program, the State Public Aid program, Social Security Administration burial benefits, Veterans Administration burial benefits, and life,

health, accident or liability insurance.

(Source: P.A. 92-427, eff. 1-1-02; 92-651, eff. 7-11-02.)

(740 ILCS 45/10.2)

Sec. 10.2. Emergency awards.

(a) If it appears, prior to taking action on an application, that the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the Attorney General may recommend and the Court may make an emergency award of compensation to the applicant, pending a final decision in the case, provided the amount of emergency compensation does not exceed \$2,000. ~~The amount of emergency compensation for funeral and burial expenses may not exceed \$1,000.~~ The amount of emergency compensation shall be deducted from any final award made as a result of the claim. The full amount of the emergency award if no final award is made shall be repaid by the applicant to the State of Illinois.

(b) Emergency award applicants must satisfy all requirements under Section 6.1 of this Act.

(Source: P.A. 92-286, eff. 1-1-02.)

(740 ILCS 45/13.1) (from Ch. 70, par. 83.1)

Sec. 13.1. (a) A hearing before a Commissioner of the Court of Claims shall be held for those claims in which:

(1) the Court of Claims on its own motion sets a hearing;

(2) the Attorney General petitions the Court of Claims for a hearing;

(3) a claim has been disposed of without a hearing and an applicant has been denied compensation or has been awarded compensation which he thinks is inadequate and he petitions the Court of Claims for a hearing within 30 days of the date of issuance of the order sought to be reviewed. The petition shall set forth the reasons for which review is sought and a recitation of any additional evidence the applicant desires to present to the Court. A copy of the petition shall be provided to the Attorney General. Documentation to be presented at a hearing of the Court of Claims must be submitted to the Attorney General at least 10 working days before the hearing date. Failure to do so may result in a continuance of the hearing.

(b) At hearings held under this Act before Commissioners of the Court of Claims, any statement, document, information or matter may be received in evidence if in the opinion of the Court or its Commissioner such evidence would contribute to a determination of the claim, regardless of whether such evidence would be admissible in a court of law.

(c) Petition for rehearing.

(1) The Court of Claims may order a rehearing of a matter decided after a hearing, if, in reaching its decision:

(A) the court has overlooked, misapplied, or

failed to consider a statute, decision, or directly controlling principle;

(B) the court has overlooked or misconceived some material fact or proposition of law; or

(C) the court has overlooked or misconceived a material question in the case.

(2) A rehearing may not be granted if it is sought merely for the purpose of obtaining a reargument on and reconsideration of matters which have already been fully considered by the court.

(3) The petition shall specify which of the grounds in paragraph (1) of this subsection (c) exists and shall specifically designate that portion of the opinion, or the record, or that particular authority, which the petitioner wishes the court to consider. A copy of the petition shall be served on the opposing party. No petition for rehearing shall exceed 10 typewritten pages. No memoranda or briefs in support of a petition for rehearing, and no response to a petition for rehearing, shall be received unless requested by the court.

(Source: P.A. 83-298.)

(740 ILCS 45/17) (from Ch. 70, par. 87)

Sec. 17. (a) Subrogation. The Court of Claims may award compensation on the condition that the applicant subrogate to the State his rights to collect damages from the assailant or

any third party who may be liable in damages to the applicant. In such a case the Attorney General may, on behalf of the State, bring an action against an assailant or third party for money damages, but must first notify the applicant and give him an opportunity to participate in the prosecution of the action. The excess of the amount recovered in such action over the amount of the compensation offered and accepted or awarded under this Act plus costs of the action and attorneys' fees actually incurred shall be paid to the applicant.

(b) Nothing in this Act affects the right of the applicant to seek civil damages from the assailant and any other party, but that applicant must give written notice to the Attorney General within 10 days after ~~of~~ the making of a claim or the filing of an action for such damages, and within 10 days after the conclusion of the claim or action. The applicant must attach to the written notice a copy of the complaint, settlement agreement, jury verdict, or judgment. Failure to timely notify the Attorney General of such claims and actions ~~at the time they are instituted or at the time an application is filed~~ is a willful omission of fact and the applicant thereby becomes subject to the provisions of Section 20 of this Act.

(c) The State has a charge for the amount of compensation paid under this Act upon all claims or causes of action against an assailant and any other party to recover for the injuries or death of a victim which were the basis for that payment of

compensation. At the time compensation is ordered to be paid under this Act, the Court of Claims shall give written notice of this charge to the applicant. The charge attaches to any verdict or judgment entered and to any money or property which is recovered on account of the claim or cause of action against the assailant or any other party after the notice is given. On petition filed by the Attorney General on behalf of the State or by the applicant, the circuit court, on written notice to all interested parties, shall adjudicate the right of the parties and enforce the charge. This subsection does not affect the priority of a lien under "AN ACT creating attorney's lien and for enforcement of same", filed June 16, 1909, as amended.

Only the Court of Claims may reduce the State's lien under this Act. The Court of Claims may consider the nature and extent of the injury, economic loss, settlements, hospital costs, physician costs, attorney's fees and costs, and all other appropriate costs. The burden of producing evidence sufficient to support the exercise by the Court of Claims of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. The charges of the State described in this Section, however, shall take priority over all other liens and charges existing under the laws of the State of Illinois.

(d) Where compensation is awarded under this Act and the person receiving same also receives any sum required to be, and that has not been deducted under Section 10.1, he shall refund

to the State the amount of compensation paid to him which would have been deducted at the time the award was made.

(e) An amount not to exceed 25% of all money recovered under subsections (b) or (c) of this Section shall be placed in the Violent Crime Victims Assistance Fund to assist with costs related to recovery efforts. "Recovery efforts" means those activities that are directly attributable to obtaining restitution, civil suit recoveries, and other reimbursements.

(f) The applicant must give written notice to the Attorney General within 10 days after an offender is ordered by a court to pay restitution. The applicant shall attach a copy of the restitution order or judgment to the written notice. Failure to timely notify the Attorney General of court-ordered restitution is a willful omission of fact and the applicant thereby becomes subject to the provisions of Section 20 of this Act. The Attorney General may file a written copy of the Court of Claims' decision awarding crime victims compensation in a criminal case in which the offender has been ordered to pay restitution for the victim's expenses incurred as a result of the same criminal conduct. Upon the filing of the order, the circuit court clerk shall send restitution payments directly to the compensation program for any paid expense reflected in the Court of Claims' decision.

(Source: P.A. 92-286, eff. 1-1-02.)

Sec. 18. Claims against awards.

(a) An award is not subject to enforcement, attachment, garnishment, or other process, except that an award is not exempt from a claim of a creditor to the extent that he or she provided products, services, or accommodations the costs of which are included in the award.

(b) An assignment or agreement to assign a right to compensation for loss accruing in the future is unenforceable, except:

(1) an assignment of a right to compensation for work loss to secure payment of maintenance or child support; or

(2) an assignment of a right to compensation to the extent of the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

(c) The court may order that all or a portion of an award be paid jointly to the applicant and another person or solely and directly to another person to the extent that such other person has provided products, services or accommodations, the costs of which are included in the award, or to another person to the extent that such other person paid or became obligated to pay expenses incurred by the victim or applicant. ~~The provisions of this amendatory Act of 1994 apply to all pending claims in existence on the effective date of this amendatory Act of 1994.~~

(d) If an award under subsection (c) of this Section is

offset by the Comptroller, pursuant to the Uncollected State Claims Act, the intended individual or entity must credit the applicant's or victim's account for the amount ordered by the Court of Claims, and the intended individual or entity is prohibited from pursuing payment from the applicant or victim for any portion that is offset. The Comptroller shall provide notice as provided in Section 10.05 of the State Comptroller Act.

(Source: P.A. 92-286, eff. 1-1-02.)

Section 15. The Health Care Services Lien Act is amended by changing Section 30 as follows:

(770 ILCS 23/30)

Sec. 30. Adjudication of rights. On petition filed by the injured person or the health care professional or health care provider and on the petitioner's written notice to all interested adverse parties, the circuit court shall adjudicate the rights of all interested parties and enforce their liens. A lien created under the Crime Victims Compensation Act may be reduced only by the Court of Claims.

(Source: P.A. 93-51, eff. 7-1-03.)

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Statutes amended in order of appearance

730 ILCS 5/5-5-6	from Ch. 38, par. 1005-5-6
740 ILCS 45/2	from Ch. 70, par. 72
740 ILCS 45/4.1	from Ch. 70, par. 74.1
740 ILCS 45/6.1	from Ch. 70, par. 76.1
740 ILCS 45/7.1	from Ch. 70, par. 77.1
740 ILCS 45/10.1	from Ch. 70, par. 80.1
740 ILCS 45/10.2	
740 ILCS 45/13.1	from Ch. 70, par. 83.1
740 ILCS 45/17	from Ch. 70, par. 87
740 ILCS 45/18	from Ch. 70, par. 88
770 ILCS 23/30	