

By Senator Saunders

25-1200-99

1                                   A bill to be entitled  
2           An act relating to victim compensation;  
3           amending s. 960.03, F.S.; providing  
4           definitions; amending s. 960.05, F.S.;  
5           prescribing the purposes of the Crime Victims'  
6           Services Office in the Department of Legal  
7           Affairs; amending s. 960.065, F.S.; prescribing  
8           eligibility criteria for awards granted under  
9           ch. 960, F.S.; amending s. 960.12, F.S.;  
10          increasing the maximum amount of an emergency  
11          award; amending s. 960.13, F.S.; prescribing  
12          criteria applicable to awards; allowing the  
13          department to establish, by rule, maximum award  
14          amounts that are lower than the statutory  
15          maximums; amending s. 960.14, F.S.; specifying  
16          the circumstances in which the department may  
17          modify or rescind previous awards for victim  
18          compensation; creating s. 960.198, F.S.;  
19          allowing the department to award to a victim of  
20          domestic violence a sum of money which the  
21          victim may use for relocating; providing  
22          maximum amounts of such awards; providing  
23          prerequisites; providing applicability;  
24          providing an effective date.

25

26 Be It Enacted by the Legislature of the State of Florida:

27

28           Section 1. Section 960.03, Florida Statutes, 1998  
29 Supplement, is amended to read:30           960.03 Definitions.--As used in ss. 960.01-960.28,  
31 unless the context otherwise requires, the term:

1           (1) "Catastrophic injury" means a permanent impairment  
2 constituted by:

3           (a) Spinal cord injury involving severe paralysis of  
4 an arm, a leg, or the trunk;

5           (b) Amputation of an arm, a hand, a foot, or a leg;

6           (c) Severe brain or closed-head injury as evidenced  
7 by:

8           1. Severe sensory or motor disturbances;

9           2. Severe communication disturbances;

10           3. Severe complex integrated disturbances of cerebral  
11 function;

12           4. Severe episodic neurological disorders; or

13           5. Other severe brain and closed-head injury

14 conditions at least as severe in nature as any condition  
15 described in subparagraphs 1.-4.

16           (d) Second-degree or third-degree burns on 25 percent  
17 or more of the total body surface or third-degree burns on 5  
18 percent or more of the face and hands;

19           (e) Total or industrial blindness; or

20           (f) Any other injury that would otherwise qualify  
21 under this chapter and that is of a nature and severity that

22 would qualify an employee to receive disability income

23 benefits under Title II or supplemental security income

24 benefits under Title XVI of the Federal Social Security Act as

25 the Social Security Act existed on July 1, 1992, without

26 regard to any time limitations provided under that act.

27           (2)(1) "Claimant" means the person on whose behalf an  
28 award is sought.

29           ~~(2) "Department" means the Department of Legal~~  
30 ~~Affairs.~~

31           (3) "Crime" means:

1           (a) A felony or misdemeanor offense committed by  
2 either an adult or a juvenile which results in physical injury  
3 or death. The term also includes any such criminal act which  
4 is committed within this state but which falls exclusively  
5 within federal jurisdiction.

6           (b) A violation of s. 316.193, s. 316.027(1), s.  
7 327.35(1), or s. 782.071(2), or s. 860.13(1)(a) which results  
8 in physical injury or death; however, no other act involving  
9 the operation of a motor vehicle, boat, or aircraft which  
10 results in injury or death shall constitute a crime for the  
11 purpose of this chapter unless the injury or death was  
12 intentionally inflicted through the use of such vehicle, boat,  
13 or aircraft or unless such vehicle, boat, or aircraft is an  
14 implement of a crime to which this act applies.

15           (c) A criminal act committed outside of this state  
16 against a resident of this state which ~~that~~ would have been  
17 compensable if it had occurred in this state and which ~~that~~  
18 occurred in a state that does not have an eligible crime  
19 victim compensation program as the term is defined in the  
20 federal Victims of Crime Act of 1984.

21           (d) An act of mass violence or an act of international  
22 terrorism, as defined in 18 U.S.C. s. 2331, which ~~that~~ is  
23 committed outside of the territorial boundaries of the United  
24 States upon a resident of this state, when such act results in  
25 physical injury or death and the person is not eligible for  
26 compensation under Title VIII of the Omnibus Diplomatic  
27 Security and Antiterrorism Act of 1986.

28           (4) "Crime Victims' Services Office" means the former  
29 Bureau of Crimes Compensation and Victim and Witness Services,  
30 now the Crime Victims' Services Office of the Department of  
31 Legal Affairs.

1           (5) "Department" means the Department of Legal  
2 Affairs.

3           (6)~~(5)~~ "Disabled adult" means a person 18 years of age  
4 or older who suffers from a condition of physical or mental  
5 incapacitation due to a developmental disability or organic  
6 brain damage or mental limitations that restrict the person's  
7 ability to perform the normal activities of daily living.

8           (7)~~(6)~~ "Elderly person" means a person 60 years of age  
9 or older who is suffering from the infirmities of aging as  
10 manifested by advanced age or organic brain damage, or other  
11 physical, mental, or emotional dysfunction, to the extent that  
12 the ability of the person to provide adequately for his or her  
13 own care or protection is impaired.

14           (8)~~(7)~~ "Hearing officer" means a hearing officer  
15 designated by the Attorney General.

16           (9)~~(8)~~ "Intervenor" means any person who goes to the  
17 aid of another and suffers bodily injury or death as a direct  
18 result of acting, not recklessly, to prevent the commission of  
19 a crime, to lawfully apprehend a person reasonably suspected  
20 of having committed a crime, or to aid the victim of a crime.

21           ~~(9) "Victim" means:~~

22           ~~(a) A person who suffers personal physical injury or~~  
23 ~~death as a direct result of a crime; or~~

24           ~~(b) A person less than 16 years of age who was present~~  
25 ~~at the scene of a crime, saw or heard the crime, and suffered~~  
26 ~~a psychiatric or psychological injury because of the crime,~~  
27 ~~but who was not physically injured.~~

28           (10) "Out-of-pocket loss" means unreimbursed and  
29 unreimbursable expenses or indebtedness incurred for medical  
30 care, nonmedical remedial care, psychological counseling, or  
31 other treatment rendered in accordance with a religious method

1 of healing or for other services necessary as a result of the  
2 injury or death upon which such claim is based.

3 (11) "Property loss" means the loss of tangible  
4 personal property directly caused by a criminal or delinquent  
5 act of another.

6 (12) "Treatment" means:

7 (a) Medical, dental, psychological, mental health,  
8 chiropractic, or physical rehabilitation services;

9 (b) Nonmedical remedial care; or

10 (c) Other treatment rendered in accordance with a  
11 religious method of healing.

12 (13) "Victim" means:

13 (a) A person who suffers personal physical injury or  
14 death as a direct result of a crime;

15 (b) A person less than 16 years of age who was present  
16 at the scene of a crime, saw or heard the crime, and suffered  
17 a psychiatric or psychological injury because of the crime,  
18 but who was not physically injured; or

19 (c) A person against whom a forcible felony was  
20 committed and who suffers a psychiatric or psychological  
21 injury as a direct result of that crime but who does not  
22 otherwise sustain a personal physical injury or death.

23 Section 2. Paragraph (m) of subsection (2) of section  
24 960.05, Florida Statutes, is amended to read:

25 960.05 Crime Victims' Services Office.--

26 (2) The Crime Victims' Services Office is established  
27 for the following purposes:

28 (m) To require the submission of such ~~medical~~ records  
29 as are required and, when necessary, to direct medical  
30 examination of the victim or intervenor.

31

1           Section 3. Section 960.065, Florida Statutes, is  
2 amended to read:

3           960.065 Eligibility for awards.--

4           (1) Except as provided in subsection (2), the  
5 following persons shall be eligible for awards pursuant to  
6 this chapter:

7           (a) A victim.

8           (b) An intervenor.

9           (c) A surviving spouse, parent or guardian, sibling,  
10 or child of a deceased victim or intervenor.

11           (d) Any other person who is dependent for his or her  
12 principal support upon a deceased victim or intervenor.

13           (2) Any claim filed by or on behalf of a person who:

14           (a) Committed or aided in the commission of the crime  
15 upon which the claim for compensation was based; ~~or~~

16           (b) Was engaged in an unlawful activity at the time of  
17 the crime upon which the claim for compensation is based;~~7~~

18           (c) Was in custody or confined, regardless of  
19 conviction, in a county or municipal detention facility, a  
20 state or federal correctional facility, or a juvenile  
21 detention or commitment facility at the time of the crime upon  
22 which the claim for compensation is based;

23           (d) Has been adjudicated as a habitual felony  
24 offender, habitual violent offender, or violent career  
25 criminal under s. 785.084; or

26           (e) Has been adjudicated guilty of a forcible felony  
27 offense as described in s. 776.08,

28  
29 shall not be eligible for ~~to receive~~ an award ~~with respect to~~  
30 ~~such claim.~~

31

1           (3) ~~No~~ Payment may not ~~shall~~ be made under this  
2 chapter if the person who committed the crime upon which the  
3 claim is based will receive any direct or indirect financial  
4 benefit from such payment, unless such benefit is minimal or  
5 inconsequential. Payment may ~~shall~~ not be denied based on the  
6 victim's familial relationship to the offender or based upon  
7 the sharing of a residence by the victim and offender, except  
8 to prevent unjust enrichment of the offender.

9           Section 4. Section 960.12, Florida Statutes, is  
10 amended to read:

11           960.12 Emergency awards.--Notwithstanding ~~the~~  
12 ~~provisions of~~ s. 960.07, if it appears to the department that  
13 such claim is one with respect to which an award probably will  
14 be made, and that either the claimant is a recipient of  
15 benefits under the Federal Social Security Act or undue  
16 hardship will result to the claimant if immediate payment is  
17 not made, the department may make an emergency award to the  
18 claimant, pending a final decision in the case, on the  
19 following conditions:

20           (1) The amount of such emergency award may ~~shall~~ not  
21 exceed \$1,000 ~~\$500~~;

22           (2) The amount of such emergency award shall be  
23 deducted from any final award made to the claimant; and

24           (3) The amount of such emergency award which is in  
25 excess of the final award, or the full amount of the emergency  
26 award if no final award is made, shall be repaid by the  
27 claimant to the department.

28           Section 5. Subsections (6) and (9) of section 960.13,  
29 Florida Statutes, are amended to read:

30           960.13 Awards.--  
31

1           (6) Any award made pursuant to this chapter, except an  
2 award for loss of support, shall be reduced by the amount of  
3 any payments or services received or to be received by the  
4 claimant as a result of the injury or death:

5           (a) From or on behalf of the person who committed the  
6 crime; provided, however, that a restitution award ordered by  
7 a court to be paid to the claimant by the person who committed  
8 the crime shall not reduce any award made pursuant to this  
9 chapter unless it appears to the department that the claimant  
10 will be unjustly enriched thereby.

11           (b) From any other public or private source or  
12 provider, including, but not limited to, an award of workers'  
13 compensation pursuant to chapter 440.

14           (c) From agencies mandated by other Florida statutes  
15 to provide or pay for services, except as provided in s.  
16 960.28.

17           (d) From an emergency award under s. 960.12.

18           (9)(a) An award may not exceed:

19           1. Ten thousand dollars for treatment;

20           2. Ten thousand dollars for continuing or periodic  
21 mental health care of a minor victim whose normal emotional  
22 development is adversely affected by being the victim of a  
23 crime;

24           3. A total of \$25,000 for all compensable costs; or

25           4. Fifty thousand dollars when the department makes a  
26 written finding that the victim has suffered a catastrophic  
27 injury as a direct result of the crime.

28           (b) The department may adopt rules that establish  
29 limits below the amounts set forth in paragraph (a) and  
30 establish criteria governing awards for catastrophic injury. ~~a~~  
31 total of \$15,000 for all compensable cost or losses. However,



1 ~~awards for treatment may not exceed \$10,000. The department~~  
2 ~~may, by rule adopted pursuant to chapter 120, establish limits~~  
3 ~~below \$15,000 for awards for particular types of costs or~~  
4 ~~losses. Any application filed on or after October 1, 1996,~~  
5 ~~shall be governed under this section.~~

6 ~~(b) A minor victim may receive continuing or periodic~~  
7 ~~mental health care necessitated by the adverse impact of~~  
8 ~~victimization upon normal emotional development, up to the~~  
9 ~~maximum award of \$10,000. After approval of the initial~~  
10 ~~application for an award to a minor victim, the minor victim~~  
11 ~~or the minor victim's legal guardian may submit supplemental~~  
12 ~~requests for additional victimization treatment as necessary.~~

13 Section 6. Subsection (3) of section 960.14, Florida  
14 Statutes, is amended to read:

15 960.14 Manner of payment; execution or attachment.--

16 (3) The department may reconsider a claim at any time  
17 and modify or rescind previous orders for compensation, based  
18 upon a change in ~~medical~~ circumstances of a victim or  
19 intervenor.

20 Section 7. Section 960.198, Florida Statutes, is  
21 created to read:

22 960.198 Relocation assistance for victims of domestic  
23 violence.--

24 (1) Notwithstanding the criteria set forth in s.  
25 960.13 for crime victim compensation awards, the department  
26 may award a one-time payment of up to \$1,500 on any one claim  
27 and a lifetime maximum of \$3,000 to a victim of domestic  
28 violence who needs immediate assistance to escape from a  
29 domestic violence environment.

30 (2) In order for an award to be granted to a victim  
31 for relocation assistance:

1           (a) There must be proof that a domestic violence  
2 offense was committed;

3           (b) The domestic violence offense must be reported to  
4 the proper authorities;

5           (c) The victim's need for assistance must be certified  
6 by a certified domestic violence shelter in this state; and

7           (d) The shelter certification must assert that the  
8 victim has sought injunctive relief under s. 741.30 and is  
9 cooperating with law enforcement officials, if applicable.

10           Section 8. Subsection (2) of section 960.28, Florida  
11 Statutes, is amended to read:

12           960.28 Payment for victims' initial forensic physical  
13 examinations.--

14           (2) The Crime Victims' Services Office of the  
15 department shall pay for medical expenses connected with an  
16 initial forensic physical examination of a victim who reports  
17 a violation of chapter 794 or chapter 800 to a law enforcement  
18 officer. Such payment shall be made regardless of whether or  
19 not the victim is covered by health or disability insurance.  
20 The payment shall be made only out of moneys allocated to the  
21 Crime Victims' Services Office for the purposes of this  
22 section, and the payment may not exceed ~~\$250~~\$150 with respect  
23 to any violation. Payment may not be made for an initial  
24 forensic physical examination unless the law enforcement  
25 officer certifies in writing that the initial forensic  
26 physical examination is needed to aid in the investigation of  
27 an alleged sexual offense and that the claimant is the alleged  
28 victim of the offense. The department shall develop and  
29 maintain separate protocols for the initial forensic physical  
30 examination of adults and children. Payment under this section  
31 is limited to medical expenses connected with the initial

1 forensic physical examination, and payment may be made to a  
2 medical provider using an examiner qualified under chapter  
3 464, excluding s. 464.003(5); chapter 458; or chapter 459.  
4 Payment made to the medical provider by the department shall  
5 be considered by the provider as payment in full for the  
6 initial forensic physical examination associated with the  
7 collection of evidence. The victim may not be required to pay,  
8 directly or indirectly, the cost of an initial forensic  
9 physical examination performed in accordance with this  
10 section.

11 Section 9. This act applies with respect to crimes  
12 committed on or after January 1, 2000, and the law existing at  
13 the time the crime was committed governs with respect to  
14 crimes committed before that date.

15 Section 10. This act shall take effect January 1,  
16 2000.

17  
18 \*\*\*\*\*

19 SENATE SUMMARY

20 Amends provisions relating to victim compensation. Amends  
21 the purposes of the Crime Victims' Services Office in the  
22 Department of Legal Affairs. Amends eligibility criteria  
23 for awards of victim compensation. Increases the maximum  
24 amount of an emergency award from \$500 to \$1,000. Amends  
25 criteria applicable to awards. Allows the department to  
26 establish, by rule, limits on the maximum amounts of  
27 awards which are lower than the statutory limits. Amends  
28 the description of circumstances in which the department  
29 may modify or rescind previous awards for victim  
30 compensation. Allows the department to award moneys that  
31 victims may use for relocating. Provides a one-time  
maximum of \$1,500 and a lifetime maximum of \$3,000 for  
such awards given to any one victim. Provides conditions  
prerequisite to granting an award for relocation  
assistance.