

By Representative Pruitt

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;~~;~~

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.
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.

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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.