ASSEMBLY, No. 3391

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

Sponsored by:
Assemblywoman BETTYLOU DECroCE
District 26 (Essex, Morris and Passaic)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)
Assemblywoman SERENA DIMASO
District 13 (Monmouth)

SYNOPSIS
Makes various changes to “Criminal Injuries Compensation Act of 1971.”

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 12/18/2018)
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AN ACT concerning compensation for victims of crime and
amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. Section 2 of P.L.1971, c.317 (C.52:4B-2) is amended to read
as follows:

2. As used in P.L.1971, c.317:
"Agency" means the Victims of Crime Compensation Agency;
["Review Board" or "board" means the Victims of Crime
Compensation Review Board established by section 2 of P.L.2007,
c.95 (C.52:4B-3.2);]
"Child" means an unmarried person who is under 21 years of age
and includes a stepchild or an adopted child;
["Dependents"] "Dependent" means [such relatives] a relative
of a deceased victim [as were] who was wholly or partially
dependent upon [his] the victim's income at the time of [his] the
victim’s death and shall include the child of [such] a victim born
after [his] the victim’s death;
"Personal injury” means actual bodily harm and includes
pregnancy and mental or nervous shock;
"Relative" of any person means [his] the person’s spouse,
parent, grandparent, stepfather, stepmother, child, grandchild,
brother, sister, half brother, half sister, or [spouse's parents] parent
of the person’s spouse;
"Review Board" or "board" means the Victims of Crime
Compensation Review Board established by section 2 of P.L.2007,
c.95 (C.52:4B-3.2);
"Victim" means a person who [is injured or killed by any act or
omission of any other person which is within the description of]
suffers personal, physical, or psychological injury or death as a
result of the conduct of another person who commits any of the
offenses specified in section 11 of P.L.1971, c.317 (C.52:4B-11) or
an act by a juvenile, which if committed by an adult, would
constitute a violation of any of these offenses. The term shall
include the spouse, parent, legal guardian, grandparent, child,
sibling, domestic or civil union partner of the decedent, or parent of
the decedent’s child in the case of a criminal homicide or an act by
a juvenile, which if committed by an adult, would constitute a
criminal homicide;
"Victims of Crime Compensation Office” or “office” means the
Victims of Crime Compensation Agency established pursuant to
P.L.1971, c.317 (C.52:4B-1 et seq.) which is continued as the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al) and Reorganization Plan No. 001-2008.

1. (cf: P.L.2007, c.95, s.1)

2. Section 6 of P.L.1971, c.317 (C.52:4B-6) is amended to read as follows:
   6. The principal office of the [agency] Victims of Crime Compensation Office shall be in [Trenton] Newark, New Jersey, but the [agency] office may sit and conduct its affairs in any place.
   (cf: P.L.2007, c.95, s.7)

3. Section 8 of P.L.1971, c.317 (C.52:4B-8) is amended to read as follows:
   8. a. (1) The [agency] Victims of Crime Compensation Office may, as a part of any order entered under P.L.1971, c.317 (C.52:4B-1 et seq.), determine and allow reasonable attorney fees and costs, which shall not exceed [15%] 15 percent of the amount awarded as compensation under section 10 of P.L.1971, c.317 (C.52:4B-10), to be paid in addition to the amount of [such] this compensation, to the attorney representing the applicant. Notwithstanding the provisions of this subsection, [no] an award for attorney fees shall not be less than [$300] $500, unless the [agency] office determines that the attorney has not acted diligently or in good faith representing the claimant. 
   (2) [Where the agency] If the office enters an order denying compensation, it may nevertheless allow attorney fees of [$300] $500 to the attorney representing the claimant if the [agency] office determines that the attorney has acted diligently or in good faith representing the claimant.
   (3) It shall be unlawful for any [such] attorney to ask for, contract for, or receive any larger sum than the amount [so] allowed under paragraph (1) or (2) of this subsection.
   b. The [agency] office may allow payment up to a maximum of [$3,000] $6,000, at an hourly rate of $275 or more to be fixed by the [agency] office, to an attorney who provides legal assistance to a victim in any legal matter, other than a decision of the Victims of Crime Compensation [Agency] Office involving victim compensation or any related appeal, arising from or related to having been the victim of an offense specified in section 11 of P.L.1971, c.317 (C.52B:4-11), provided that the victim is otherwise eligible to make a claim for compensation. [Payment under this subsection may be made if and only to the extent that the amount of such payment does not, when combined with the amounts paid or payable to the victim under an order for compensation, exceed the $25,000 limitation on compensation set forth in section 18 of P.L.1971, c.317 (C.52:4B-18), and requests for payment under this]
subsection shall be subject to the five-year time limitation set forth in section 18 of P.L.1971, c.317 (C.52:4B-18).

(cf: P.L.2015, c.190, §1)

4. Section 10 of P.L.1971, c.317 (C.52:4B-10) is amended to read as follows:

10. In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 11 of P.L.1971, c.317 (C.52B:4-11), the [agency] office may, upon application, order the payment of compensation in accordance with the provisions of P.L.1971, c.317 (C.52B:4-1 et seq.):

a. to or on behalf of the victim,

b. in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person, or

c. in the case of the death of the victim, to or for the benefit of the dependents of the deceased victim, or any one or more of [such] the dependents.

In determining whether to make an order under this section, the [agency] office may consider any circumstances it determines to be relevant, including provocation, consent, or the behavior of the victim which directly or indirectly contributed to [his] the victim’s injury or death, the prior case history, if any, of the victim, and any other relevant matters. Notwithstanding any other provision of P.L.1971, c.317 (52B:4-1 et seq.) to the contrary, the office is authorized to make a limited award for funeral benefits, mental health counseling, loss of support for dependent children, and attorneys’ fees in any case of criminal homicide, including a case in which it is determined that the victim’s conduct was a contributing factor to the victim’s death.

An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission. Upon application made by an appropriate prosecuting authority, the [agency] office may suspend proceedings under P.L.1971, c.317 (C.52B:4-1 et seq.) for [such] the period [as] it deems appropriate on the ground that a prosecution for an offense arising out of [such] the act or omission has been commenced or is imminent.

For the purposes of P.L.1971, c.317 (C.52B:4-1 et seq.), a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, or otherwise, [he] the person was legally incapable of forming a criminal intent.

(cf: P.L.2007, c.95, §12)
5. Section 1 of P.L.1981, c.258 (C.52:4B-10.1) is amended to read as follows:

1. a. The Victims of Crime Compensation [Agency] Office may make one or more emergency awards to any applicant for compensation pending final determination of a case, when it determines that compensation is likely to be provided and that the applicant will suffer undue hardship if funds are not made immediately available. The amount of any one emergency award shall not exceed $2,500 with the total amount of each such award made to an individual applicant not to exceed $5,000 $7,500. Any emergency awards made to an applicant shall be deducted from the final amount of compensation provided to an applicant by the [agency] office. If the amount of compensation made by the [agency] office to an applicant is less than the sum provided to the applicant through emergency grants, the applicant shall pay to the [agency] office an amount of money equal to the difference. If the [agency] office determines that an applicant who has received emergency awards shall receive no compensation, the applicant shall repay to the [agency] office the total amount of all emergency awards which [he] the applicant received.

b. In addition to any emergency award made pursuant to the provisions of subsection a. of this section, the [Victims of Crime Compensation Agency] office may make an emergency award in an amount not to exceed $200.00 $1,000 for compensation for funds stolen from a victim in connection with any of the incidents specified in section 11 of P.L.1971, c.317 (C.52:4B-11) except burglary pursuant to paragraph [11] (11) of subsection b. of section 11 of P.L.1971, c.317 (C.52:4B-11), burglary, whether or not the victim suffered personal injury, under the following circumstances:

(1) The victim is 60 years of age or older or is disabled as defined pursuant to the federal Social Security Act, 42 U.S.C. s. 416(i);

(2) The victim’s income does not exceed the limits adopted by the State Department of Human Services as the standard of need for the General Assistance Program;

(3) The funds stolen exceed $50.00 $50;

(4) The victim establishes:
(a) that the victim has filed a police report indicating, among other things, the amount stolen;
(b) that the victim has cooperated with investigative and prosecuting authorities; and
(c) the source of the funds stolen; and

(5) The [agency] office is satisfied that there are no other sources available to provide the victim with funds necessary to cover immediate costs of essential shelter, food, or medical
expenses, and that, but for the victim's loss, the victim would
otherwise have had the funds to pay such these costs.
c. The [agency] office shall direct that any funds awarded
pursuant to this act be expended solely to cover the costs
established pursuant to paragraph (5) of subsection b. of this
section.
d. (Deleted by amendment, P.L.2007, c.95).
(cf: P.L.2007, c.95, s.13)
6. Section 3 of P.L.1995, c.135 (C.52:4B-10.2) is amended to
read as follows:
3. In addition to ordering the payment of compensation for
personal injury or death which resulted from the incidents specified
in section 11 of P.L.1971, c.317 (C.52:4B-11), the Victims of
Crime Compensation [Agency] Office may order the payment of
compensation for funds in connection with those incidents to
compensate certain victims, whether or not those victims suffered
personal injury, as specified in paragraphs (1) through (5) of
subsection b. of section 1 of P.L.1981, c.258 (C.52:4B-10.1), in an
amount not to exceed [$200] $1,000.
(cf: P.L.2007, c.95, s.14)
7. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to
read as follows:
11. The [agency] Victims of Crime Compensation Office may
order the payment of compensation in accordance with the
provisions of P.L.1971, c.317 (C.52B:4-1 et seq.) for personal
injury or death which resulted from:
a. an attempt to prevent the commission of crime or to arrest a
suspected criminal or in aiding or attempting to aid a police officer
[so] to do so; or
b. the commission or attempt to commit any of the following
offenses:
(1) aggravated assault;
(2) (Deleted by amendment, P.L.1995, c.135).
(3) threats to do bodily harm;
(4) lewd, indecent, or obscene acts;
(5) indecent acts with children;
(6) kidnapping;
(7) murder;
(8) manslaughter;
(9) aggravated sexual assault, sexual assault, aggravated
criminal sexual contact, criminal sexual contact;
(10) any other crime involving violence including domestic
violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
section 3 of P.L.1991, c.261 (C.2C:25-19);
(11) burglary;
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(12) tampering with a cosmetic, drug or food product;

(13) a violation of human trafficking, section 1 of P.L.2005, c.77 (C.2C:13-8); or

c. the commission of a violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), or section 3 of P.L.1952, c.157 (C.12:7-46); or

d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c., or d. of N.J.S.2C:20-10 where injuries to the victim occur in the course of operating an automobile in furtherance of the offense; or

e. the commission of a violation of N.J.S.2C:16-1, bias intimidation; or

f. simple assault pursuant to N.J.S.2C:12-1, disorderly conduct pursuant to N.J.S.2C:33-2, or harassment pursuant to N.J.S.2C:33-4; or

g. leaving the scene of an accident pursuant to R.S.39:4-129.

(cf: P.L.2007, c.303, s.3)

8. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to read as follows:

18. [No] An order for the payment of compensation shall not be made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has been made within [three] five years after the date of the personal injury or death or after that date upon determination by the office that good cause exists for the delayed filing, and the personal injury or death was the result of an offense listed in section 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the police or other appropriate law enforcement agency within nine months after its occurrence or reasonable discovery. If the victim is under 18 years of age, the [three-year] five-year limit on filing shall commence on the day the victim turns 18 years old. For the purposes of this section, "good cause" shall include, but not be limited to, instances where the victim or the victim's dependents were not appropriately informed of the benefits offered by the office as required by law. The office will make its determination regarding the application within [six months] 90 days of acknowledgment by the office of receipt of the completed application and any and all necessary supplemental information. Notwithstanding this time period, the office shall reimburse the claimant or pay to any third-party service provider the amount claimed to be due and owing within 30 days after eligibility has been determined and the amount submitted for payment has been determined by the office to be fair and reasonable.

In determining the amount of an award, the office shall determine whether, because of [his] the victim's conduct, the victim of such crime contributed to the infliction of [his] the
victim’s injury, and the office shall reduce the amount of the award or reject the application altogether, in accordance with [such] the determination; provided, however, that the [ ] except that the office is authorized to make a limited award for funeral benefits, mental health counseling, loss of support for dependent children, and attorneys’ fees in cases of criminal homicide when it is determined that the victim’s conduct was a contributing factor to the victim’s death. The office shall not consider any conduct of the victim contributory toward [his] the victim’s injury, if the record indicates [such] the conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in [his] the victim’s presence or had in fact committed a crime.

The office may [deny or] reduce an award where the victim has not paid in full any payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction for a crime and the office may deduct any amount due for these assessments or restitution from an award of compensation and make payments to satisfy these obligations prior to making any payments of compensation to the victim.

No compensation shall be awarded if:

a. Compensation to the victim proves to be substantial unjust enrichment to the offender or if the victim did not cooperate with the reasonable requests of law enforcement authorities unless the victim demonstrates a compelling health or safety reason for not cooperating; or

b. (Deleted by amendment, P.L.1990, c.64.)

c. The victim was guilty of a violation of subtitle 10 or 12 of Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused or contributed to [his] the victim’s injuries; or

d. The victim was injured as a result of the operation of a motor vehicle, except as provided in subsection c. or d. of section 11 of P.L.1971, c.317 (C.52:4B-11), boat, or airplane unless the same vehicle, boat, or airplane was used as a weapon in a deliberate attempt to run the victim down; or

e. The victim suffered personal injury or death while an occupant of a motor vehicle or vessel where the victim knew or reasonably should have known that the driver was operating the vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of N.J.S.2C:29-2 or subsection b., c.2 or d. of N.J.S.2C:20-10[; or] .

f. [The victim has been convicted of a crime and incarcerated; or] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

g. [The victim sustained the injury during the period of incarceration immediately following conviction for a crime.]
Except as provided herein in this section, no compensation shall be awarded under P.L.1971, c.317 (C.52B:4-1 et seq.) in an amount in excess of $25,000, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support.

Ten years after the entry of an initial determination order, a claim for compensation expires and no further order is to be entered with regard to the claim except:

1. for requests for payment of specific out-of-pocket expenses received by the Victims of Crime Compensation Office prior to the expiration of the ten-year period;
2. in those cases determined by the office to be catastrophic in nature; and
3. for requests for payment of expenses that were incurred only after the expiration of the ten-year period.

An award made pursuant to P.L.1971, c.317 (C.52B:4-1 et seq.) shall not be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

Compensation may be awarded in an amount not exceeding the actual cost of a rehabilitative service of the type enumerated in section 2 of P.L.1999, c.166 (C.52:4B-18.2).

The award may provide for periodic payments in the case of protracted care or rehabilitative assistance.

This act shall take effect on the first day of the seventh month next following enactment, but the Director of the Victims of Crime Compensation Office may take any anticipatory administrative action in advance as shall be necessary to implement the provisions of this act.

STATEMENT

This bill makes several revisions to the “Criminal Injuries Compensation Act of 1971,” this State’s law which governs compensation to crime victims for certain expenses they incur as a result of a crime.

The bill expands the definition of a “victim” under the act to conform it to the definition of a victim under the Crime Victim’s Bill of Rights. The definition also is expanded to include the parent of a child of the decedent so that the surviving parent of a child who is not married to the decedent may apply for compensation for the decedent’s child.
The bill also establishes that the principal office of the Victims of Crime Compensation Office (VCCO), the agency responsible for administering the provisions of the act, is to be located in Newark, rather than Trenton. The main office of the VCCO currently is located in Newark, with an ancillary office located in Trenton.

Attorneys’ fees that may be awarded by the VCCO also are increased under the bill. Currently, an attorney representing a victim before the VCCO may be paid up to 15 percent of the total amount of compensation paid to the victim, but not less than $300. This minimum amount is increased to $500 under the bill. Under current law, the VCCO also may allow a payment of up to $3,000 at an hourly rate it sets (currently $125) to an attorney who provides legal assistance to a victim in any legal matter, including domestic violence, victims’ rights assistance, family law issues, and landlord tenant matters. The bill would increase this payment to up to $6,000 at an hourly rate of at least $275. The $25,000 cap on the combined award and payment of attorneys’ fees is removed, as is the five-year limit on payments.

The bill further authorizes the VCCO to provide to a homicide victim’s spouse, child, parent, or domestic partner a limited award for funeral benefits, mental health counseling, loss of support for dependent children, and attorneys’ fees even if the victim’s conduct was a contributing factor to his or her death. The bill also increases the maximum amount of an emergency award from $5,000 to $7,500 and increases the maximum award to compensate for funds stolen from a victim from $200 to $1,000.

Under the bill, the list of crimes for which a victim is eligible for compensation is expanded to include simple assault, disorderly conduct, harassment, and leaving the scene of an accident. The bill also increases the time limit on filing a claim from three to five years after the injury or death; reduces the time frame within which the VCCO is to make a determination of eligibility for compensation from six months to 90 days; requires that payment be made to the victim and third-party vendors within 30 days of a determination of eligibility; removes the VCCO’s option to deny an award based on the victim’s failure to pay certain assessments to the VCCO; authorizes the VCCO to deduct from an award any amount due for these assessments or restitution; authorizes the VCCO to award compensation to an incarcerated victim; and removes the 10-year expiration date on claims.

Finally, the bill makes technical changes to the act to conform with the provisions of Reorganization Plan No. 001-2008, pursuant to which the “Victims of Crime Compensation Agency” was renamed the “Victims of Crime Compensation Office.”