

SENATE, No. 498

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/19/2018)

1 AN ACT concerning compensation for victims of crime and
2 amending various parts of the statutory law.

3

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

6

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

9 2. As used in P.L.1971, c.317:

10 "Agency" means the Victims of Crime Compensation Agency;

11 **["Review Board" or "board" means the Victims of Crime**
12 **Compensation Review Board established by section 2 of P.L.2007,**
13 **c.95 (C.52:4B-3.2);]**

14 "Child" means an unmarried person who is under 21 years of age
15 and includes a stepchild or an adopted child;

16 **["Dependents"]** "Dependent" means **[such relatives]** a relative
17 of a deceased victim [as were] who was wholly or partially
18 dependent upon **[his]** the victim's income at the time of **[his]** the
19 victim's death and shall include the child of **[such]** a victim born
20 after **[his]** the victim's death;

21 "Personal injury" means actual bodily harm and includes
22 pregnancy and mental or nervous shock;

23 "Relative" of any person means **[his]** the person's spouse,
24 parent, grandparent, stepfather, stepmother, child, grandchild,
25 brother, sister, half brother, half sister, or **[spouse's parents]** parent
26 of the person's spouse;

27 "Review Board" or "board" means the Victims of Crime
28 Compensation Review Board established by section 2 of P.L.2007,
29 c.95 (C.52:4B-3.2);

30 "Victim" means a person who **[is injured or killed by any act or**
31 **omission of any other person which is within the description of]**
32 suffers personal, physical, or psychological injury or death as a
33 result of the conduct of another person who commits any of the
34 offenses specified in section 11 of P.L.1971, c.317 (C.52:4B-11) or
35 an act by a juvenile, which if committed by an adult, would
36 constitute a violation of any of these offenses. The term shall
37 include the spouse, parent, legal guardian, grandparent, child,
38 sibling, domestic or civil union partner of the decedent, or parent of
39 the decedent's child in the case of a criminal homicide or an act by
40 a juvenile, which if committed by an adult, would constitute a
41 criminal homicide.

42 "Victims of Crime Compensation Office" or "office" means the
43 Victims of Crime Compensation Agency established pursuant to
44 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.

1 Victims of Crime Compensation Office pursuant to P.L.2007, c.95
2 (C.52:4B-3.2 et al) and Reorganization Plan No. 001-2008.
3 (cf: P.L.2007, c.95, s.1)
4

5 2. Section 6 of P.L.1971, c.317 (C.52:4B-6) is amended to read
6 as follows:

7 6. The principal office of the **【agency】** Victims of Crime
8 Compensation Office shall be in **【Trenton】** Newark, New Jersey,
9 but the **【agency】** office may sit and conduct its affairs in any place.
10 (cf: P.L.2007, c.95, s.7)
11

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

14 8. a. (1) The **【agency】** Victims of Crime Compensation Office
15 may, as a part of any order entered under P.L.1971, c.317 (C.52:4B-
16 1 et seq.), determine and allow reasonable attorney fees and costs,
17 which shall not exceed **【15%】** 15 percent of the amount awarded as
18 compensation under section 10 of P.L.1971, c.317 (C.52:4B-10), to
19 be paid in addition to the amount of **【such】** this compensation, to
20 the attorney representing the applicant. Notwithstanding the
21 provisions of this subsection, **【no】** an award for attorney fees shall
22 not be less than **【\$300】** \$500, unless the **【agency】** office
23 determines that the attorney has not acted diligently or in good faith
24 representing the claimant.

25 (2) **【Where the agency】** If the office enters an order denying
26 compensation, it may nevertheless allow attorney fees of **【\$300】**
27 \$500 to the attorney representing the claimant if the **【agency】**
28 office determines that the attorney has acted diligently or in good
29 faith representing the claimant.

30 (3) It shall be unlawful for any **【such】** attorney to ask for,
31 contract for, or receive any larger sum than the amount **【so】**
32 allowed under paragraph (1) or (2) of this subsection.

33 b. The **【agency】** office may allow payment up to a maximum
34 of **【\$3,000】** \$6,000, at an hourly rate of \$275 or more to be fixed by
35 the **【agency】** office, to an attorney who provides legal assistance to
36 a victim in any legal matter, other than a decision of the Victims of
37 Crime Compensation **【Agency】** Office involving victim
38 compensation or any related appeal, arising from or related to
39 having been the victim of an offense specified in section 11 of
40 P.L.1971, c.317 (C.52B:4-11), provided that the victim is otherwise
41 eligible to make a claim for compensation. **【Payment under this**
42 **subsection may be made if and only to the extent that the amount of**
43 **such payment does not, when combined with the amounts paid or**
44 **payable to the victim under an order for compensation, exceed the**
45 **\$25,000 limitation on compensation set forth in section 18 of**
46 **P.L.1971, c.317 (C.52:4B-18), and requests for payment under this**

1 subsection shall be subject to the five-year time limitation set forth
2 in section 18 of P.L.1971, c.317 (C.52:4B-18)].

3 (cf: P.L.2015, c.190, s.1)

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

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

13 a. to or on behalf of the victim,

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

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

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

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

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

45 (cf: P.L.2007, c.95, s.12)

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

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

21 b. In addition to any emergency award made pursuant to the
22 provisions of subsection a. of this section, the **【Victims of Crime**
23 **Compensation Agency】 office** may make an emergency award in an
24 amount not to exceed **【\$200.00】** \$1,000 for compensation for funds
25 stolen from a victim in connection with any of the incidents
26 specified in section 11 of P.L.1971, c.317 (C.52:4B-11) except
27 burglary pursuant to paragraph 【11】 (11) of subsection b. of section
28 11 of P.L.1971, c.317 (C.52:4B-11), **【burglary,】** whether or not the
29 victim suffered personal injury, under the following circumstances:

30 (1) The victim is 60 years of age or older or is disabled as
31 defined pursuant to the federal Social Security Act, 42 U.S.C. s.
32 416(i);

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

36 (3) The funds stolen exceed **【\$50.00】** \$50;

37 (4) The victim establishes:

38 (a) that the victim has filed a police report indicating, among
39 other things, the amount stolen;

40 (b) that the victim has cooperated with investigative and
41 prosecuting authorities; and

42 (c) the source of the funds stolen; and

43 (5) The **【agency】 office** is satisfied that there are no other
44 sources available to provide the victim with funds necessary to
45 cover immediate costs of essential shelter, food, or medical

1 expenses, and that, but for the victim's loss, the victim would
2 otherwise have had the funds to pay **【such 】** these costs.

3 c. The **【agency】** office shall direct that any funds awarded
4 pursuant to this act be expended solely to cover the costs
5 established pursuant to paragraph (5) of subsection b. of this
6 section.

7 d. (Deleted by amendment, P.L.2007, c.95).
8 (cf: P.L.2007, c.95, s.13)
9

10 6. Section 3 of P.L.1995, c.135 (C.52:4B-10.2) is amended to
11 read as follows:

12 3. In addition to ordering the payment of compensation for
13 personal injury or death which resulted from the incidents specified
14 in section 11 of P.L.1971, c.317 (C.52:4B-11), the Victims of
15 Crime Compensation **【Agency】** Office may order the payment of
16 compensation for funds in connection with those incidents to
17 compensate certain victims, whether or not those victims suffered
18 personal injury, as specified in paragraphs (1) through (5) of
19 subsection b. of section 1 of P.L.1981, c.258 (C.52:4B-10.1), in an
20 amount not to exceed **【\$200】** \$1,000.

21 (cf: P.L.2007, c.95, s.14)
22

23 7. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to
24 read as follows:

25 11. The **【agency】** Victims of Crime Compensation Office may
26 order the payment of compensation in accordance with the
27 provisions of P.L.1971, c.317 (C.52B:4-1 et seq.) for personal
28 injury or death which resulted from:

29 a. an attempt to prevent the commission of crime or to arrest a
30 suspected criminal or in aiding or attempting to aid a police officer
31 **【so】** to do so; or

32 b. the commission or attempt to commit any of the following
33 offenses:

34 (1) aggravated assault;

35 (2) (Deleted by amendment, P.L.1995, c.135).

36 (3) threats to do bodily harm;

37 (4) lewd, indecent, or obscene acts;

38 (5) indecent acts with children;

39 (6) kidnapping;

40 (7) murder;

41 (8) manslaughter;

42 (9) aggravated sexual assault, sexual assault, aggravated
43 criminal sexual contact, criminal sexual contact;

44 (10) any other crime involving violence including domestic
45 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
46 section 3 of P.L.1991, c.261 (C.2C:25-19);

47 (11) burglary;

- 1 (12) tampering with a cosmetic, drug or food product;
2 (13) a violation of human trafficking, section 1 of P.L.2005, c.77
3 (C.2C:13-8); or
4 c. the commission of a violation of R.S.39:4-50, section 5 of
5 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
6 (C.12:7-34.19), or section 3 of P.L.1952, c.157 (C.12:7-46); or
7 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
8 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2
9 or unlawful taking of a motor vehicle pursuant to subsection b., c.,
10 or d. of N.J.S.2C:20-10 where injuries to the victim occur in the
11 course of operating an automobile in furtherance of the offense; or
12 e. the commission of a violation of N.J.S.2C:16-1, bias
13 intimidation; or
14 f. simple assault pursuant to N.J.S.2C:12-1, disorderly conduct
15 pursuant to N.J.S.2C:33-2, or harassment pursuant to N.J.S.2C:33-
16 4; or
17 g. leaving the scene of an accident pursuant to R.S.39:4-129.
18 (cf: P.L.2007, c.303, s.3)

19
20 8. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to
21 read as follows:

22 18. ~~【No】~~ An order for the payment of compensation shall not be
23 made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the
24 application has been made within ~~【three】~~ five years after the date of
25 the personal injury or death or after that date upon determination by
26 the office that good cause exists for the delayed filing, and the
27 personal injury or death was the result of an offense listed in section
28 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the
29 police or other appropriate law enforcement agency within nine
30 months after its occurrence or reasonable discovery. If the victim is
31 under 18 years of age, the ~~【three-year】~~ five-year limit on filing
32 shall commence on the day the victim turns 18 years old. For the
33 purposes of this section, "good cause" shall include, but not be
34 limited to, instances where the victim or the victim's dependents
35 were not appropriately informed of the benefits offered by the
36 office as required by law. The office will make its determination
37 regarding the application within ~~【six months】~~ 90 days of
38 acknowledgment by the office of receipt of the completed
39 application and any and all necessary supplemental information.
40 Notwithstanding this time period, the office shall reimburse the
41 claimant or pay to any third-party service provider the amount
42 claimed to be due and owing within 30 days after eligibility has
43 been determined and the amount submitted for payment has been
44 determined by the office to be fair and reasonable.

45 In determining the amount of an award, the office shall
46 determine whether, because of ~~【his】~~ the victim's conduct, the
47 victim of such crime contributed to the infliction of ~~【his】~~ the

1 victim's injury, and the office shall reduce the amount of the award
2 or reject the application altogether, in accordance with **【such】** the
3 determination**【; provided, however, that the】** , except that the office
4 is authorized to make a limited award for funeral benefits, mental
5 health counseling, loss of support for dependent children, and
6 attorneys' fees in cases of criminal homicide when it is determined
7 that the victim's conduct was a contributing factor to the victim's
8 death. The office shall not consider any conduct of the victim
9 contributory toward **【his】** the victim's injury, if the record indicates
10 **【such】** the conduct occurred during efforts by the victim to prevent
11 a crime or apprehend a person who had committed a crime in **【his】**
12 the victim's presence or had in fact committed a crime.

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

20 No compensation shall be awarded if:

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

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

27 c. The victim was guilty of a violation of subtitle 10 or 12 of
28 Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which
29 caused or contributed to **【his】** the victim's injuries; or

30 d. The victim was injured as a result of the operation of a
31 motor vehicle, except as provided in subsection c. or d. of section
32 11 of P.L.1971, c.317 (C.52:4B-11), boat, or airplane unless the
33 **【same】** vehicle, boat, or airplane was used as a weapon in a
34 deliberate attempt to run the victim down; or

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

43 f. **【The victim has been convicted of a crime and incarcerated;**
44 **or】** (Deleted by amendment, P.L. , c.) (pending before the
45 Legislature as this bill)

46 g. **【The victim sustained the injury during the period of**
47 **incarceration immediately following conviction for a crime.】**

1 (Deleted by amendment, P.L. , c.) (pending before the
2 Legislature as this bill)

3 Except as provided **【herein】** in this section, no compensation
4 shall be awarded under P.L.1971, c.317 (C.52B:4-1 et seq.) in an
5 amount in excess of \$25,000, and all payments shall be made in a
6 lump sum, except that in the case of death or protracted disability
7 the award may provide for periodic payments to compensate for
8 loss of earnings or support.

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

12 (1) for requests for payment of specific out-of-pocket expenses
13 received by the Victims of Crime Compensation Office prior to the
14 expiration of the ten-year period;

15 (2) in those cases determined by the office to be catastrophic in
16 nature; and

17 (3) for requests for payment of expenses that were incurred only
18 after the expiration of the ten-year period. **】**

19 **【No】** An award made pursuant to P.L.1971, c.317 (C.52B:4-1 et
20 seq.) shall not be subject to execution or attachment other than for
21 expenses resulting from the injury which is the basis of the claim.

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

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

27 (cf: P.L.2011, c.165, s.1)

28
29 9. This act shall take effect on the first day of the seventh month
30 next following enactment, but the Director of the Victims of Crime
31 Compensation Office may take any anticipatory administrative
32 action in advance as shall be necessary to implement the provisions
33 of this act.

34 35 36 STATEMENT

37
38 This bill makes several revisions to the “Criminal Injuries
39 Compensation Act of 1971,” this State’s law which governs
40 compensation to crime victims for certain expenses they incur as a
41 result of a crime.

42 The bill expands the definition of a “victim” under the act to
43 conform it to the definition of a victim under the Crime Victim’s
44 Bill of Rights. The definition also is expanded to include the parent
45 of a child of the decedent so that the surviving parent of a child who
46 is not married to the decedent may apply for compensation for the
47 decedent’s child.

1 The bill also establishes that the principal office of the Victims
2 of Crime Compensation Office (VCCO), the agency responsible for
3 administering the provisions of the act, is to be located in Newark,
4 rather than Trenton. The main office of the VCCO currently is
5 located in Newark, with an ancillary office located in Trenton.

6 Attorneys' fees that may be awarded by the VCCO also are
7 increased under the bill. Currently, an attorney representing a
8 victim before the VCCO may be paid up to 15 percent of the total
9 amount of compensation paid to the victim, but not less than \$300.
10 This minimum amount is increased to \$500 under the bill. Under
11 current law, the VCCO also may allow a payment of up \$3,000 at
12 an hourly rate it sets (currently \$125) to an attorney who provides
13 legal assistance to a victim in any legal matter, including domestic
14 violence, victims' rights assistance, family law issues, and landlord
15 tenant matters. The bill would increase this payment to up to
16 \$6,000 at an hourly rate of at least \$275. The \$25,000 cap on the
17 combined award and payment of attorneys' fees is removed, as is
18 the five-year limit on payments.

19 The bill further authorizes the VCCO to provide to a homicide
20 victim's spouse, child, parent, or domestic partner a limited award
21 for funeral benefits, mental health counseling, loss of support for
22 dependent children, and attorneys' fees even if the victim's conduct
23 was a contributing factor to his or her death. The bill also increases
24 the maximum amount of an emergency award from \$5,000 to
25 \$7,500 and increases the maximum award to compensate for funds
26 stolen from a victim from \$200 to \$1,000.

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

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