

[First Reprint]

**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:**

**Senators O'Scanlon, Bateman and Brown**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Senate Law and Public Safety Committee on October 18, 2018, with amendments.



**(Sponsorship Updated As Of: 5/31/2019)**

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 <sup>1</sup>**[victim's]** victim's<sup>1</sup> death and shall include the child of **[such]** a  
 20 victim born after **[his]** the victim's death;

21 <sup>1</sup>"Legal assistance" means assistance provided to a crime victim  
 22 in the enforcement of victims' rights in all courts; family law  
 23 matters, including but not limited to child protection actions,  
 24 divorce, custody, parenting time, child support, emancipation,  
 25 dependency, guardianship, and family reunification; obtaining  
 26 protective and restraining orders; employment matters, including  
 27 but not limited to wage and hour claims; accessing public benefits;  
 28 life planning; and any other situation for which an eligible crime  
 29 victim needs legal services related to the victimization.<sup>1</sup>

30 "Personal injury" means actual bodily harm and includes  
 31 pregnancy and mental or nervous shock;

32 "Relative" of any person means **[his]** the person's spouse,  
 33 parent, grandparent, stepfather, stepmother, child, grandchild,  
 34 brother, sister, half brother, half sister, or **[spouse's parents]** parent  
 35 of the person's spouse;

36 <sup>1</sup>"Relevant evidence" means evidence having a tendency in  
 37 reason to prove or disprove any fact of consequence to the  
 38 determination of the action and that is deemed to be admissible  
 39 under the rules of evidence and does not include rumor,  
 40 supposition, speculation, hearsay or opinion, except as otherwise  
 41 deemed admissible under the rules of evidence.<sup>1</sup>

42 "Review Board" or "board" means the Victims of Crime  
 43 Compensation Review Board established by section 2 of P.L.2007,

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted October 18, 2018.

1 c.95 (C.52:4B-3.2);

2 "Victim" means a person who **is** injured or killed by any act or  
3 omission of any other person which is within the description of **]**  
4 suffers personal, physical, or psychological injury or death as a  
5 result of the conduct of another person who commits any of the  
6 offenses specified in section 11 of P.L.1971, c.317 (C.52:4B-11) or  
7 an act by a juvenile, which if committed by an adult, would  
8 constitute a violation of any of these offenses. The term shall  
9 include the spouse, parent, legal guardian, grandparent, child,  
10 sibling, domestic or civil union partner of the decedent, or parent of  
11 the decedent's child in the case of a criminal homicide or an act by  
12 a juvenile, which if committed by an adult, would constitute a  
13 criminal homicide.

14 "Victims of Crime Compensation Office" or "office" means the  
15 Victims of Crime Compensation Agency established pursuant to  
16 P.L.1971, c.317 (C.52:4B-1 et seq.) which is continued as the  
17 Victims of Crime Compensation Office pursuant to P.L.2007, c.95  
18 (C.52:4B-3.2 et al<sup>1, 1</sup>) and Reorganization Plan No. 001-2008.  
19 (cf: P.L.2007, c.95, s.1)

20

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

23 6. The principal office of the **[agency]** Victims of Crime  
24 Compensation Office shall be in **[Trenton]** Newark, New Jersey,  
25 but the **[agency]** office may sit and conduct its affairs in any place.  
26 (cf: P.L.2007, c.95, s.7)

27

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

30 8. a. (1) The **[agency]** Victims of Crime Compensation Office  
31 may, as a part of any order entered under P.L.1971, c.317 (C.52:4B-  
32 1 et seq.), determine and allow reasonable attorney fees and costs,  
33 which shall not exceed **[15%]** 15 percent of the amount awarded as  
34 compensation under section 10 of P.L.1971, c.317 (C.52:4B-10), to  
35 be paid in addition to the amount of **[such]** this compensation, to  
36 the attorney representing the applicant. Notwithstanding the  
37 provisions of this subsection, **[no]** an award for attorney fees shall  
38 not be less than **[\$300]** \$500, unless the **[agency]** office  
39 determines that the attorney has not acted diligently or in good faith  
40 representing the claimant.

41 (2) **[Where the agency]** If the office enters an order denying  
42 compensation, it may nevertheless allow attorney fees of **[\$300]**  
43 \$500 to the attorney representing the claimant if the **[agency]**  
44 office determines that the attorney has acted diligently or in good  
45 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 <sup>1</sup>arising out of the victimization<sup>1</sup>, 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 <sup>1</sup>**【make a claim for】 receive**<sup>1</sup> 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, s.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 <sup>1</sup>**【circumstances it determines to be relevant, including provocation, consent, or the behavior of the victim which directly or indirectly contributed to】 facts that provide relevant evidence that the victim contributed to**<sup>1</sup> **【his】 the victim's** injury or death <sup>1</sup>**【, the prior case history, if any, of the victim, and any other relevant matters】 and that the victim's conduct was the proximate cause of the victim's injury or death**<sup>1</sup>. Notwithstanding

1 any other provision of P.L.1971, c.317 (52B:4-1 et seq.) to the  
2 contrary, the office is authorized to make a limited award for  
3 funeral benefits, mental health counseling, loss of support for  
4 dependent children, and attorneys' fees in any case <sup>1</sup>['of criminal  
5 homicide, including a case'] <sup>1</sup>in which it is determined that the  
6 victim's conduct was <sup>1</sup>['a] the' <sup>1</sup>contributing factor to the victim's  
7 death.

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

16 <sup>1</sup>**['For the purposes of P.L.1971, c.317 (C.52B:4-1 et seq.), a**  
17 **person shall be deemed to have intended an act or omission**  
18 **notwithstanding that by reason of age, insanity, or otherwise, [he]**  
19 **the person was legally incapable of forming a criminal intent.']**<sup>1</sup>  
20 (cf: P.L.2007, c.95, s.12)

21  
22 5. Section 1 of P.L.1981, c.258 (C.52:4B-10.1) is amended to  
23 read as follows:

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

42 b. In addition to any emergency award made pursuant to the  
43 provisions of subsection a. of this section, the **['Victims of Crime**  
44 **Compensation Agency'] office** may make an emergency award in an  
45 amount not to exceed **['\$200.00']** \$1,000 for compensation for funds  
46 stolen from a victim in connection with any of the incidents

1 specified in section 11 of P.L.1971, c.317 (C.52:4B-11) except  
2 burglary pursuant to paragraph [11] (11) of subsection b. of section  
3 11 of P.L.1971, c.317 (C.52:4B-11), **burglary,** whether or not the  
4 victim suffered personal injury, under the following circumstances:

5 (1) The victim is 60 years of age or older or is disabled as  
6 defined pursuant to the federal Social Security Act, 42 U.S.C. s.  
7 416(i);

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

11 (3) The funds stolen exceed **[\$50.00]** \$50;

12 (4) The victim establishes:

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

15 (b) that the victim has cooperated with investigative and  
16 prosecuting authorities; and

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

18 (5) The **agency** office is satisfied that there are no other  
19 sources available to provide the victim with funds necessary to  
20 cover immediate costs of essential shelter, food, or medical  
21 expenses, and that, but for the victim's loss, the victim would  
22 otherwise have had the funds to pay **[such ]** these costs.

23 c. The **agency** office shall direct that any funds awarded  
24 pursuant to this act be expended solely to cover the costs  
25 established pursuant to paragraph (5) of subsection b. of this  
26 section.

27 d. (Deleted by amendment, P.L.2007, c.95).

28 (cf: P.L.2007, c.95, s.13)

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

32 3. In addition to ordering the payment of compensation for  
33 personal injury or death which resulted from the incidents specified  
34 in section 11 of P.L.1971, c.317 (C.52:4B-11), the Victims of  
35 Crime Compensation **Agency** Office may order the payment of  
36 compensation for funds in connection with those incidents to  
37 compensate certain victims, whether or not those victims suffered  
38 personal injury, as specified in paragraphs (1) through (5) of  
39 subsection b. of section 1 of P.L.1981, c.258 (C.52:4B-10.1), in an  
40 amount not to exceed **[\$200]** \$1,000.

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

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

45 11. The **agency** Victims of Crime Compensation Office may  
46 order the payment of compensation in accordance with the

- 1 provisions of P.L.1971, c.317 (C.52B:4-1 et seq.) for personal  
2 injury or death which resulted from:
- 3 a. an attempt to prevent the commission of crime or to arrest a  
4 suspected criminal or in aiding or attempting to aid a police officer  
5 **【so】** to do so; or
- 6 b. the commission or attempt to commit any of the following  
7 offenses:
- 8 (1) aggravated assault;  
9 (2) (Deleted by amendment, P.L.1995, c.135).  
10 (3) threats to do bodily harm;  
11 (4) lewd, indecent, or obscene acts;  
12 (5) indecent acts with children;  
13 (6) kidnapping;  
14 (7) murder;  
15 (8) manslaughter;  
16 (9) aggravated sexual assault, sexual assault, aggravated  
17 criminal sexual contact, criminal sexual contact;  
18 (10) any other crime involving violence including domestic  
19 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or  
20 section 3 of P.L.1991, c.261 (C.2C:25-19);  
21 (11) burglary;  
22 (12) tampering with a cosmetic, drug or food product;  
23 (13) a violation of human trafficking, section 1 of P.L.2005, c.77  
24 (C.2C:13-8); or
- 25 c. the commission of a violation of R.S.39:4-50, section 5 of  
26 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236  
27 (C.12:7-34.19),<sub>2</sub> or section 3 of P.L.1952, c.157 (C.12:7-46); or
- 28 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a  
29 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2  
30 or unlawful taking of a motor vehicle pursuant to subsection b., c.,<sub>2</sub>  
31 or d. of N.J.S.2C:20-10 where injuries to the victim occur in the  
32 course of operating an automobile in furtherance of the offense; or
- 33 e. the commission of a violation of N.J.S.2C:16-1, bias  
34 intimidation; or
- 35 f. simple assault pursuant to N.J.S.2C:12-1, disorderly conduct  
36 pursuant to N.J.S.2C:33-2, or harassment pursuant to N.J.S.2C:33-  
37 4; or
- 38 g. leaving the scene of an accident pursuant to R.S.39:4-129.  
39 (cf: P.L.2007, c.303, s.3)
- 40
- 41 8. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to  
42 read as follows:
- 43 18. **【No】** An order for the payment of compensation shall not be  
44 made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the  
45 application has been made within **【three】** five years after the date of  
46 the personal injury or death or after that date upon determination by  
47 the office that good cause exists for the delayed filing, and the  
48 personal injury or death was the result of an offense listed in section

1 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the  
2 police or other appropriate law enforcement agency within nine  
3 months after its occurrence or reasonable discovery. If the victim is  
4 under 18 years of age, the ~~three-year~~ five-year limit on filing  
5 shall commence on the day the victim turns 18 years old. For the  
6 purposes of this section, "good cause" shall include, but not be  
7 limited to, instances where the victim or the victim's dependents  
8 were not appropriately informed of the benefits offered by the  
9 office as required by law. The office will make its determination  
10 regarding the application within ~~six months~~ 90 days of  
11 acknowledgment by the office of receipt of the completed  
12 application and any and all necessary supplemental information.  
13 Notwithstanding this time period, the office shall reimburse the  
14 claimant or pay to any third-party service provider the amount  
15 claimed to be due and owing within 30 days after eligibility has  
16 been determined and the amount submitted for payment has been  
17 determined by the office to be fair and reasonable.

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

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

40 No compensation shall be awarded if:

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

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



- 1 c. The victim was guilty of a violation of subtitle 10 or 12 of  
2 Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which  
3 caused or contributed to **his** the victim's injuries; or
- 4 d. The victim was injured as a result of the operation of a  
5 motor vehicle, except as provided in subsection c. or d. of section  
6 11 of P.L.1971, c.317 (C.52:4B-11), boat, or airplane unless the  
7 **same** vehicle, boat, or airplane was used as a weapon in a  
8 deliberate attempt to run the victim down; or
- 9 e. The victim suffered personal injury or death while an  
10 occupant of a motor vehicle or vessel where the victim knew or  
11 reasonably should have known that the driver was operating the  
12 vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990,  
13 c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19),  
14 section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of  
15 paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of  
16 N.J.S.2C:29-2 or subsection b., c., or d. of N.J.S.2C:20-10**;** or **.**
- 17 f. **The victim has been convicted of a crime and incarcerated;**  
18 **or** (Deleted by amendment, P.L. , c. ) (pending before the  
19 Legislature as this bill)
- 20 g. **The victim sustained the injury during the period of**  
21 **incarceration immediately following conviction for a crime.**  
22 (Deleted by amendment, P.L. , c. ) (pending before the  
23 Legislature as this bill)
- 24 Except as provided **herein** in this section, no compensation  
25 shall be awarded under P.L.1971, c.317 (C.52B:4-1 et seq.) in an  
26 amount in excess of \$25,000, and all payments shall be made in a  
27 lump sum, except that in the case of death or protracted disability  
28 the award may provide for periodic payments to compensate for  
29 loss of earnings or support.
- 30 **Ten years after the entry of an initial determination order, a**  
31 **claim for compensation expires and no further order is to be entered**  
32 **with regard to the claim except:**
- 33 (1) for requests for payment of specific out-of-pocket expenses  
34 received by the Victims of Crime Compensation Office prior to the  
35 expiration of the ten-year period;
- 36 (2) in those cases determined by the office to be catastrophic in  
37 nature; and
- 38 (3) for requests for payment of expenses that were incurred only  
39 after the expiration of the ten-year period.**]**
- 40 **No** An award made pursuant to P.L.1971, c.317 (C.52B:4-1 et  
41 seq.) shall not be subject to execution or attachment other than for  
42 expenses resulting from the injury which is the basis of the claim.
- 43 Compensation may be awarded in an amount not exceeding the  
44 actual cost of a rehabilitative service of the type enumerated in  
45 section 2 of P.L.1999, c.166 (C.52:4B-18.2).
- 46 The award may provide for periodic payments in the case of

1     protracted care or rehabilitative assistance.

2     (cf: P.L.2011, c.165, s.1)

3

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