

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 498

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 2018

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 498.

As amended and reported by the committee, 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 amended 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 amended 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 amended 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. The amended bill would increase this payment to up to \$6,000 at an hourly rate of at least \$275 in a legal matter arising out of the victimization. Under the amended bill, legal assistance includes assisting a crime victim in enforcing his or her rights in all courts, family law matters, obtaining protective and restraining orders, employment matters, accessing public benefits, and life planning. The \$25,000 cap on the combined award and payment of attorneys’ fees is removed, as is the five-year limit on payments.

The amended bill clarifies that in determining whether to order compensation, the VCCO is to consider any facts that provide

relevant evidence that the victim contributed to his or her injury or death and that the victim's conduct was the proximate cause of the injury or death. The amended bill defines relevant evidence as evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action and is deemed to be admissible under the rules of evidence and does not include rumor, supposition, speculation, hearsay or opinion, except as otherwise deemed admissible under the rules of evidence. Under the amended bill, the VCCO is authorized to make a limited award to for funeral benefits, mental health counseling, loss of support for dependent children, and attorneys' fees in any case in which it is determined the victim's conduct was the contributing factor to his or her death. The provision that a person legally incapable of forming criminal intent due to age or insanity could be deemed to have intended an act or omission is removed under the amended bill.

The amended 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 amended 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."

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) clarify that an attorney may receive payment from the VCCO for providing the victim legal assistance in any legal matter *arising out of the victimization*;

2) define “legal assistance” as assistance provided to a crime victim in the enforcement of victims’ rights in all courts; family law matters, including but not limited to child protection actions, divorce, custody, parenting time, child support, emancipation, dependency, guardianship, and family reunification; obtaining protective and restraining orders; employment matters, including but not limited to wage and hour claims; accessing public benefits; life planning; and any other situation for which an eligible crime victim needs legal services related to the victimization;

3) clarify that in determining whether to order compensation to an eligible victim, the VCCO is to consider any facts that provide relevant evidence that the victim contributed to his or her injury or death and that the victim’s conduct was the proximate cause of the injury or death; under current law, the VCCO may consider any circumstances it determines to be relevant, including provocation, consent, or the behavior of the victim which directly or indirectly contributed to the victim’s injury or death, the prior case history, if any, of the victim and any other relevant matters;

4) define “relevant evidence” as evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action and that is deemed to be admissible under the rules of evidence and does not include rumor, supposition, speculation, hearsay or opinion, except as otherwise deemed admissible under the rules of evidence;

5) remove the provision that a person legally incapable of forming criminal intent due to age or insanity could be deemed to have intended an act or omission; and

6) clarify certain other provisions.