

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 15-0238.01 Jerry Barry x4341

HOUSE BILL 15-1035

HOUSE SPONSORSHIP

Fields,

SENATE SPONSORSHIP

Cooke,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary

A BILL FOR AN ACT

101 CONCERNING CHANGES TO CRIME VICTIM COMPENSATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, in an incident of hit and run or careless driving, crime victim compensation (compensation) is only available if a death results. The bill allows for compensation when an incident of hit and run or careless driving causes bodily injury.

The bill allows compensation to a person who is a dependent of the accused if the accused provided support for the person or the person's dependents.

The bill expands compensable losses to include the cost of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 16, 2015

HOUSE
3rd Reading Unamended
February 27, 2015

HOUSE
Amended 2nd Reading
February 26, 2015

rekeying vehicles or other locks necessary to ensure a victim's safety.

The bill clarifies the confidentiality of records of a crime victim compensation board (board) by prohibiting the discovery of certain records in a civil or criminal case except:

- ! To the extent necessary for a judicial review of the board's decision; or
- ! Upon a showing that the information is only in the records of the board, and, after review by the court, the court determines that the disclosure would not endanger the victim or another person.

The bill increases the maximum compensation to \$30,000 and emergency compensation to \$2,000 and eliminates the requirement that losses be at least \$25.

The bill requires medical service providers to suspend collection proceedings for 90 days while a claim for compensation is considered.

Finally, the bill specifies that a court shall include the amount of compensation requested by a crime victim compensation board in a restitution order and how the amount may be established.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-4.1-102, **amend**
3 (4) (a) (II), (5), and (8.5); and **add** (7.5) as follows:

4 **24-4.1-102. Definitions.** As used in this part 1, unless the context
5 otherwise requires:

6 (4) (a) "Compensable crime" means:

7 (II) An act in violation of section 42-4-1402, C.R.S., that results
8 in the death OR BODILY INJURY of another person or section 42-4-1601,
9 C.R.S., where the accident results in the death OR BODILY INJURY of
10 another person.

11 (5) (a) "Dependent" means relatives of a deceased victim who,
12 wholly or partially, were dependent upon the victim's income at the time
13 of death or would have been so dependent but for the victim's incapacity
14 due to the injury from which the death resulted.

15 (b) "DEPENDENT" ALSO MEANS THE CHILD OR SPOUSE OF THE

1 ACCUSED OR OTHER PERSON IN AN INTIMATE RELATIONSHIP, AS DEFINED
2 IN SECTION 18-6-800.3, C.R.S., WITH THE ACCUSED, IF THE ACCUSED
3 PROVIDED HOUSEHOLD SUPPORT TO THE DEPENDENT.

4 (7.5) "HOUSEHOLD SUPPORT" MEANS THE MONETARY SUPPORT
5 THAT A DEPENDENT WOULD HAVE RECEIVED FROM THE ACCUSED FOR THE
6 PURPOSE OF MAINTAINING A HOME OR RESIDENCE.

7 (8.5) (a) "Property damage" means damage to windows, doors,
8 locks, or other security devices of a residential dwelling and includes
9 damage to a leased residential dwelling.

10 (b) "PROPERTY DAMAGE" ALSO INCLUDES EXPENSES RELATED TO
11 THE REKEYING OF A MOTOR VEHICLE OR OTHER LOCKS NECESSARY TO
12 ENSURE A VICTIM'S SAFETY.

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-4.1-107.5
14 as follows:

15 **24-4.1-107.5. Confidentiality of materials - definitions.** (1) For
16 purposes of this section, unless the context otherwise requires:

17 (a) "In camera review" means ~~a hearing or review in a courtroom,~~
18 ~~hearing room, or chambers to which the general public is not admitted.~~
19 ~~After such hearing or review, the contents of the oral and other evidence~~
20 ~~and statements of the judge and counsel shall be held in confidence by~~
21 ~~those participating in or present at the hearing or review, and any~~
22 ~~transcript of the hearing or review shall be sealed, until and unless the~~
23 ~~contents are ordered to be disclosed by a court having jurisdiction over~~
24 ~~the matter~~ THE JUDGE VIEWS THE MATERIAL IN PRIVATE, WITHOUT EITHER
25 PARTY PRESENT.

26 (b) "Materials" means any records, claims, writings, documents,
27 or information.

1 (2) Any materials received, made, or kept by a ~~crime-victim~~
2 ~~compensation board or a district attorney concerning an application for~~
3 ~~victim's compensation made~~ TO PROCESS A CLAIM ON BEHALF OF A CRIME
4 VICTIM under this article are confidential. ~~Any such materials shall not be~~
5 ~~discoverable unless the court conducts an in camera review of the~~
6 ~~materials sought to be discovered and determines that the materials~~
7 ~~sought are necessary for the resolution of an issue then pending before the~~
8 ~~court.~~ The district attorney shall have standing in any action to oppose the
9 disclosure of any such materials. A BOARD SHALL NOT PROVIDE THROUGH
10 DISCOVERY IN ANY CIVIL OR CRIMINAL ACTION ANY EXHIBITS, MEDICAL
11 RECORDS, PSYCHOLOGICAL RECORDS, COUNSELING RECORDS, WORK
12 RECORDS, CRIMINAL INVESTIGATION RECORDS, CRIMINAL COURT CASE
13 RECORDS, WITNESS STATEMENTS, TELEPHONE RECORDS, AND OTHER
14 RECORDS OF ANY TYPE OR NATURE WHATSOEVER GATHERED FOR THE
15 PURPOSE OF EVALUATING WHETHER TO COMPENSATE A VICTIM EXCEPT:

16 (a) IN THE EVENT OF THE REVIEW BY THE COURT OF AN ORDER OR
17 DECISION OF THE BOARD PURSUANT TO SECTION 24-4.1-106, AND THEN
18 ONLY TO THE EXTENT NARROWLY AND NECESSARY TO OBTAIN COURT
19 REVIEW; OR

20 (b) UPON A STRICT SHOWING TO THE COURT IN A SEPARATE CIVIL
21 OR A CRIMINAL ACTION THAT PARTICULAR INFORMATION OR DOCUMENTS
22 ARE KNOWN TO EXIST ONLY IN BOARD RECORDS. THE COURT MAY INSPECT
23 IN CAMERA SUCH RECORDS TO DETERMINE WHETHER THE SPECIFIC
24 REQUESTED INFORMATION EXISTS. IF THE COURT DETERMINES THAT THE
25 SPECIFIC INFORMATION SOUGHT EXISTS IN THE BOARD'S RECORDS, THE
26 DOCUMENTS MAY THEN BE RELEASED ONLY BY COURT ORDER IF THE
27 COURT FINDS AS PART OF ITS ORDER THAT THE DOCUMENTS WILL NOT POSE

1 ANY THREAT TO THE SAFETY OR WELFARE OF THE VICTIM OR ANY OTHER
2 PERSON WHOSE IDENTITY MAY APPEAR IN THE BOARD'S RECORDS, OR
3 VIOLATE ANY OTHER PRIVILEGE OR CONFIDENTIALITY RIGHT.

4 (3) IN A PROCEEDING FOR DETERMINING THE AMOUNT OF
5 RESTITUTION, IF THE DEFENDANT'S REQUEST IS NOT SPECULATIVE AND IS
6 BASED ON AN EVIDENTIARY HYPOTHESIS THAT WARRANTS AN IN CAMERA
7 REVIEW TO REBUT THE PRESUMPTION ESTABLISHED IN SECTION 18-1.3-603,
8 C.R.S., THE COURT MAY RELEASE ADDITIONAL INFORMATION CONTAINED
9 IN THE RECORDS OF THE BOARD ONLY AFTER AN IN CAMERA REVIEW AND
10 ADDITIONALLY FINDING THAT THE INFORMATION:

11 (a) IS NECESSARY FOR THE DEFENDANT TO DISPUTE THE AMOUNT
12 CLAIMED FOR RESTITUTION; AND

13 (b) WILL NOT POSE ANY THREAT TO THE SAFETY OR WELFARE OF
14 THE VICTIM, OR ANY OTHER PERSON WHOSE IDENTITY MAY APPEAR IN THE
15 BOARD'S RECORDS, OR VIOLATE ANY OTHER PRIVILEGE OR
16 CONFIDENTIALITY RIGHT.

17 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-109, **amend**
18 (1.5) (a) (I) (B), (1.5) (a) (II), (2) (a), and (2) (b); **repeal** (2) (c); and **add**
19 (1) (h) and (1.5) (a) (III) as follows:

20 **24-4.1-109. Losses compensable.** (1) Losses compensable under
21 this part 1 resulting from death of or injury to a victim include:

22 (h) HOUSEHOLD SUPPORT; EXCEPT THAT HOUSEHOLD SUPPORT IS
23 ONLY AVAILABLE TO A DEPENDENT WHEN:

24 (I) THE OFFENDER IS ACCUSED OF COMMITTING THE CRIMINALLY
25 INJURIOUS CONDUCT THAT IS THE BASIS OF THE DEPENDENT'S CLAIM
26 UNDER THIS ARTICLE;

27 (II) AS A RESULT OF THE CRIMINAL EVENT, THE OFFENDER

1 VACATED ANY HOME THE OFFENDER SHARED WITH THE DEPENDENT; AND

2 (III) THE DEPENDENT PROVIDES VERIFICATION OF DEPENDENCY ON
3 THE OFFENDER AT THE TIME OF THE CRIMINAL EVENT.

4 (1.5) (a) Losses compensable under this part 1 resulting from
5 property damage include:

6 (I) (B) Payment of the deductible amount on a residential
7 insurance policy; ~~and~~

8 (II) Any modification to the victim's residence that is necessary to
9 ensure victim safety; AND

10 (III) THE REKEYING OF A MOTOR VEHICLE OR OTHER LOCK THAT IS
11 NECESSARY TO ENSURE THE VICTIM'S SAFETY.

12 (2) Compensable losses do not include:

13 (a) Pain and suffering or property damage other than residential
14 property damage OR REKEYING A LOCK PURSUANT TO SUBPARAGRAPH (III)
15 OF PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS SECTION; or

16 (b) Aggregate damages to the victim or to the dependents of a
17 victim exceeding ~~twenty~~ THIRTY thousand dollars. ~~or~~

18 (c) ~~Aggregate damages of less than twenty-five dollars.~~

19 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-112, **amend**
20 (1) as follows:

21 **24-4.1-112. Emergency awards.** (1) The board may order an
22 emergency award to the applicant pending a final decision in the claim if
23 it appears to the board, prior to taking action upon the claim, that undue
24 hardship will result to the applicant if immediate payment is not made.
25 Awards pursuant to this section are intended to cover expenses incurred
26 by crime victims in meeting their immediate short-term needs. The
27 amount of such award shall not exceed ~~one~~ TWO thousand dollars and

1 shall be deducted from any final award made as a result of the claim.

2 **SECTION 5.** In Colorado Revised Statutes, **add** 24-4.1-116.5 as
3 follows:

4 **24-4.1-116.5. Collection actions against crime victims -**
5 **suspension.** (1) A MEDICAL SERVICE PROVIDER OR MEDICAL SERVICE
6 PROVIDER BILLING AGENT SHALL SUSPEND ALL DEBT COLLECTION ACTIONS
7 AGAINST THE CLAIMANT FOR A COMPENSABLE LOSS UNDER SECTION
8 24-4.1-109 RELATED TO THE SUBSTANCE OF THE CLAIM PENDING A
9 RESOLUTION OF THE CLAIM BY THE BOARD FOR A PERIOD OF NINETY DAYS
10 TO ALLOW AN OPPORTUNITY FOR THE BOARD TO RESOLVE THE CLAIM, IF,
11 WITHIN ONE HUNDRED EIGHTY DAYS AFTER DATE OF SERVICES RENDERED
12 AS PART OF THE CRIMINAL EPISODE, THE CLAIMANT FILES AN APPLICATION
13 FOR A CLAIM WITH THE BOARD PURSUANT TO SECTION 24-4.1-105 AND:

14 (a) PROVIDES WRITTEN NOTICE TO THE MEDICAL SERVICE
15 PROVIDER OR ITS BILLING AGENT THAT A CLAIM HAS BEEN SUBMITTED TO
16 THE BOARD, INCLUDING A CRIME VICTIM COMPENSATION CLAIM NUMBER;
17 AND

18 (b) AUTHORIZES THE MEDICAL SERVICE PROVIDER OR ITS BILLING
19 AGENT TO CONFIRM WITH THE BOARD THE CLAIMANT'S CLAIM STATUS AND
20 DATE OF RESOLUTION AS IT RELATES TO THE MEDICAL PROVIDER'S SPECIFIC
21 DEBT.

22 (2) THE PROVISIONS OF THIS SECTION APPLY ONLY TO THE
23 CLAIMANT AND NOT TO A COLLATERAL SOURCE ON THE CLAIMANT'S
24 BEHALF.

25 (3) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION:

26 (a) DO NOT REQUIRE THE DELETION OF THE DEBT ON THE
27 CLAIMANT'S CREDIT REPORT IF THE DEBT HAD ALREADY BEEN REPORTED

1 TO ONE OR MORE CREDIT BUREAUS PRIOR TO NOTICE OF THE VICTIM
2 COMPENSATION CLAIM BEING RECEIVED BY THE MEDICAL SERVICE
3 PROVIDER OR ITS BILLING AGENT.

4 (b) DO NOT APPLY TO ANY DEBT WHERE A LAWSUIT HAS BEEN
5 COMMENCED AGAINST THE CLAIMANT FOR THE COLLECTION OF THE DEBT
6 PRIOR TO NOTICE OF THE VICTIM COMPENSATION CLAIM BEING RECEIVED
7 BY THE MEDICAL SERVICE PROVIDER OR ITS BILLING AGENT.

8 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-603, **add** (10)
9 as follows:

10 **18-1.3-603. Assessment of restitution - corrective orders.**

11 (10) (a) IF, AS A RESULT OF THE DEFENDANT'S CONDUCT, A CRIME VICTIM
12 COMPENSATION BOARD HAS PROVIDED ASSISTANCE TO OR ON BEHALF OF
13 A VICTIM PURSUANT TO ARTICLE 4.1 OF TITLE 24, C.R.S., THE AMOUNT OF
14 ASSISTANCE PROVIDED AND REQUESTED BY THE CRIME VICTIM
15 COMPENSATION BOARD IS PRESUMED TO BE A DIRECT RESULT OF THE
16 DEFENDANT'S CRIMINAL CONDUCT AND MUST BE CONSIDERED BY THE
17 COURT IN DETERMINING THE AMOUNT OF RESTITUTION ORDERED.

18 (b) THE AMOUNT OF ASSISTANCE PROVIDED IS ESTABLISHED BY
19 EITHER:

20 (I) A LIST OF THE AMOUNT OF MONEY PAID TO EACH PROVIDER; OR

21 (II) IF THE IDENTITY OR LOCATION OF A PROVIDER WOULD POSE A
22 THREAT TO THE SAFETY OR WELFARE OF THE VICTIM, SUMMARY DATA
23 REFLECTING WHAT TOTAL PAYMENTS WERE MADE FOR:

24 (A) MEDICAL AND DENTAL EXPENSES;

25 (B) FUNERAL OR BURIAL EXPENSES;

26 (C) MENTAL HEALTH COUNSELING;

27 (D) WAGE OR SUPPORT LOSSES; OR

1 (E) OTHER EXPENSES.

2 (c) RECORDS OF A CRIME VICTIM COMPENSATION BOARD RELATING
3 TO A CLAIMED AMOUNT OF RESTITUTION ARE SUBJECT TO THE PROVISIONS
4 OF SECTION 24-4.1-107.5, C.R.S.

5 **SECTION 7. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.