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HOUSE BILL 15-1035

BY REPRESENTATIVE(S) Fields, Duran, Melton, Mitsch Bush, Pabon, Pettersen, Primavera, Roupe, Salazar, Williams, Young, Hullinghorst; also SENATOR(S) Cooke, Crowder, Garcia, Guzman, Heath, Kefalas, Kerr, Martinez Humenik, Merrifield, Newell, Roberts, Todd.

CONCERNING CHANGES TO CRIME VICTIM COMPENSATION.

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

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

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

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

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

(5) (a) "Dependent" means relatives of a deceased victim who, wholly or partially, were dependent upon the victim's income at the time of

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

death or would have been so dependent but for the victim's incapacity due to the injury from which the death resulted.

(b) "DEPENDENT" ALSO MEANS THE CHILD OR SPOUSE OF THE ACCUSED OR OTHER PERSON IN AN INTIMATE RELATIONSHIP, AS DEFINED IN SECTION 18-6-800.3, C.R.S., WITH THE ACCUSED, IF THE ACCUSED PROVIDED HOUSEHOLD SUPPORT TO THE DEPENDENT.

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

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

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

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

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

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

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

(2) Any materials received, made, or kept by a ~~crime victim compensation board or a district attorney concerning an application for~~

~~victim's compensation made~~ TO PROCESS A CLAIM ON BEHALF OF A CRIME VICTIM under this article are confidential. ~~Any such materials shall not be discoverable unless the court conducts an in camera review of the materials sought to be discovered and determines that the materials sought are necessary for the resolution of an issue then pending before the court.~~ The district attorney shall have standing in any action to oppose the disclosure of any such materials. A BOARD SHALL NOT PROVIDE THROUGH DISCOVERY IN ANY CIVIL OR CRIMINAL ACTION ANY EXHIBITS, MEDICAL RECORDS, PSYCHOLOGICAL RECORDS, COUNSELING RECORDS, WORK RECORDS, CRIMINAL INVESTIGATION RECORDS, CRIMINAL COURT CASE RECORDS, WITNESS STATEMENTS, TELEPHONE RECORDS, AND OTHER RECORDS OF ANY TYPE OR NATURE WHATSOEVER GATHERED FOR THE PURPOSE OF EVALUATING WHETHER TO COMPENSATE A VICTIM EXCEPT:

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

(b) UPON A STRICT SHOWING TO THE COURT IN A SEPARATE CIVIL OR A CRIMINAL ACTION THAT PARTICULAR INFORMATION OR DOCUMENTS ARE KNOWN TO EXIST ONLY IN BOARD RECORDS. THE COURT MAY INSPECT IN CAMERA SUCH RECORDS TO DETERMINE WHETHER THE SPECIFIC REQUESTED INFORMATION EXISTS. IF THE COURT DETERMINES THAT THE SPECIFIC INFORMATION SOUGHT EXISTS IN THE BOARD'S RECORDS, THE DOCUMENTS MAY THEN BE RELEASED ONLY BY COURT ORDER IF THE COURT FINDS AS PART OF ITS ORDER THAT THE DOCUMENTS WILL NOT POSE ANY THREAT TO THE SAFETY OR WELFARE OF THE VICTIM OR ANY OTHER PERSON WHOSE IDENTITY MAY APPEAR IN THE BOARD'S RECORDS, OR VIOLATE ANY OTHER PRIVILEGE OR CONFIDENTIALITY RIGHT.

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

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

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

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

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

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

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

(II) AS A RESULT OF THE CRIMINAL EVENT, THE OFFENDER VACATED ANY HOME THE OFFENDER SHARED WITH THE DEPENDENT; AND

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

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

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

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

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

(2) Compensable losses do not include:

(a) Pain and suffering or property damage other than residential

property damage OR REKEYING A LOCK PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS SECTION; or

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

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

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

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

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

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

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

(b) AUTHORIZES THE MEDICAL SERVICE PROVIDER OR ITS BILLING AGENT TO CONFIRM WITH THE BOARD THE CLAIMANT'S CLAIM STATUS AND

DATE OF RESOLUTION AS IT RELATES TO THE MEDICAL PROVIDER'S SPECIFIC DEBT.

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

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

(a) DO NOT REQUIRE THE DELETION OF THE DEBT ON THE CLAIMANT'S CREDIT REPORT IF THE DEBT HAD ALREADY BEEN REPORTED TO ONE OR MORE CREDIT BUREAUS PRIOR TO NOTICE OF THE VICTIM COMPENSATION CLAIM BEING RECEIVED BY THE MEDICAL SERVICE PROVIDER OR ITS BILLING AGENT.

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

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

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

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

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

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

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

(A) MEDICAL AND DENTAL EXPENSES;

(B) FUNERAL OR BURIAL EXPENSES;

(C) MENTAL HEALTH COUNSELING;

(D) WAGE OR SUPPORT LOSSES; OR

(E) OTHER EXPENSES.

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

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO