

HOUSE BILL No. 1092

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6.1.

Synopsis: Violent crime victims compensation fund. Removes provisions from the law concerning the violent crime victims compensation fund (fund) that allow a law enforcement agency or person that owns a law enforcement animal to receive compensation from the fund if a law enforcement animal is permanently disabled or killed as a result of the commission of a crime involving cruelty to a law enforcement animal.

Effective: July 1, 2014.

Dvorak

January 9, 2014, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1092

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 5-2-6.1-12, AS AMENDED BY P.L.161-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 12. Except as provided in sections 13 through 15
4 of this chapter, the following persons are eligible for assistance under
5 this chapter:
6 (1) A resident of Indiana who is a victim of a violent crime
7 committed:
8 (A) in Indiana; or
9 (B) in a jurisdiction other than Indiana, including a foreign
10 country, if the jurisdiction in which the violent crime occurs
11 does not offer assistance to a victim of a violent crime that is
12 substantially similar to the assistance offered under this
13 chapter.
14 (2) A nonresident of Indiana who is a victim of a violent crime
15 committed in Indiana.
16 (3) A surviving spouse or dependent child of a victim of a violent



1 crime who died as a result of that crime.

2 (4) Any other person legally dependent for principal support upon
3 a victim of a violent crime who died as a result of that crime.

4 (5) A person who is injured or killed while trying to prevent a
5 violent crime or an attempted violent crime from occurring in the
6 person's presence or while trying to apprehend a person who had
7 committed a violent crime.

8 (6) A surviving spouse or dependent child of a person who dies
9 as a result of:

10 (A) trying to prevent a violent crime or an attempted violent
11 crime from occurring in the presence of the deceased person;
12 or

13 (B) trying to apprehend a person who had committed a violent
14 crime.

15 (7) A person legally dependent for principal support upon a
16 person who dies as a result of:

17 (A) trying to prevent a violent crime or an attempted violent
18 crime from occurring in the presence of the deceased person;
19 or

20 (B) trying to apprehend a person who had committed a violent
21 crime.

22 (8) A person who is injured or killed while giving aid and
23 assistance to:

24 (A) a law enforcement officer in the performance of the
25 officer's lawful duties; or

26 (B) a member of a fire department who is being obstructed
27 from performing lawful duties.

28 ~~(9) A law enforcement agency or person that owns a law~~
29 ~~enforcement animal that is permanently disabled or killed as a~~
30 ~~result of a violation of IC 35-46-3-11.~~

31 SECTION 2. IC 5-2-6.1-21.1, AS AMENDED BY P.L.161-2013,
32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2014]: Sec. 21.1. (a) This section applies to claims filed with
34 the division after June 30, 2009.

35 (b) This subsection does not apply to reimbursement for forensic
36 and evidence gathering services provided under section 39 of this
37 chapter.

38 (c) An award may not be made unless the claimant has incurred an
39 out-of-pocket loss of at least one hundred dollars (\$100).

40 (d) Subject to subsections (b) and (c), the division may order the
41 payment of compensation under this chapter for any of the following:

42 (1) Reasonable expenses incurred within one hundred eighty



1 (180) days after the date of the violent crime for necessary:

2 (A) medical, chiropractic, hospital, dental, optometric, and
3 ambulance services;

4 (B) prescription drugs; and

5 (C) prosthetic devices;

6 that do not exceed the claimant's out-of-pocket loss.

7 (2) Loss of income:

8 (A) the victim would have earned had the victim not died or
9 been injured, if the victim was employed at the time of the
10 violent crime; or

11 (B) the parent, guardian, or custodian of a victim who is less
12 than eighteen (18) years of age incurred by taking time off
13 from work to care for the victim.

14 A claimant seeking reimbursement under this subdivision must
15 provide the division with proof of employment and current wages.

16 (3) Reasonable emergency shelter care expenses, not to exceed
17 the expenses for thirty (30) days, that are incurred for the claimant
18 or a dependent of the claimant to avoid contact with a person who
19 committed the violent crime.

20 (4) Reasonable expense incurred for child care, not to exceed one
21 thousand dollars (\$1,000), to replace child care the victim would
22 have supplied had the victim not died or been injured.

23 (5) Loss of financial support the victim would have supplied to
24 legal dependents had the victim not died or been injured.

25 (6) Documented expenses incurred for funeral, burial, or
26 cremation of the victim that do not exceed five thousand dollars
27 (\$5,000). The division shall disburse compensation under this
28 subdivision in accordance with guidelines adopted by the
29 division.

30 (7) Outpatient mental health counseling, not to exceed three
31 thousand dollars (\$3,000), concerning mental health issues related
32 to the violent crime.

33 ~~(8) As compensation for a law enforcement animal that is~~
34 ~~permanently disabled or killed as a result of a violation of~~
35 ~~IC 35-46-3-11, the cost of replacing the animal, which may~~
36 ~~include the cost of training the animal.~~

37 ~~(9)~~ (8) Other actual expenses related to bodily injury to or the
38 death of the victim that the division determines are reasonable.

39 (e) If a health care provider accepts payment from the division
40 under this chapter, the health care provider may not require the victim
41 to pay a copayment or an additional fee for the provision of services.

42 (f) A health care provider who seeks compensation from the



1 division under this chapter may not simultaneously seek funding for
2 services provided to a victim from any other source.

3 (g) The director may extend the one hundred eighty (180) day
4 compensation period established by subsection (d)(1) for a period not
5 to exceed two (2) years after the date of the violent crime if:

6 (1) the victim or the victim's representative requests the
7 extension; and

8 (2) medical records and other documentation provided by the
9 attending medical providers indicate that an extension is
10 appropriate.

11 (h) The director may extend the one hundred eighty (180) day
12 compensation period established by subsection (d)(1) for outpatient
13 mental health counseling, established by subsection (d)(7), if the
14 victim:

15 (1) was allegedly a victim of a sex crime (under IC 35-42-4) or
16 incest (under IC 35-46-1-3);

17 (2) was under eighteen (18) years of age at the time of the alleged
18 crime; and

19 (3) did not reveal the crime within two (2) years after the date of
20 the alleged crime.

21 SECTION 3. IC 5-2-6.1-22, AS AMENDED BY P.L.161-2013,
22 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2014]: Sec. 22. (a) The state is subrogated to the rights of the
24 victim ~~or claimant~~ to whom an award is granted to the extent of the
25 award.

26 (b) The subrogation rights are against the perpetrator of the crime
27 or a person liable for the pecuniary loss.

28 (c) If the victim ~~or claimant~~ initiates a civil action against the
29 perpetrator of the crime or against the person liable for the pecuniary
30 loss, the victim ~~or claimant~~ shall promptly notify the division of the
31 filing of the civil action.

32 SECTION 4. IC 5-2-6.1-23, AS AMENDED BY P.L.161-2013,
33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2014]: Sec. 23. (a) In addition to the subrogation rights under
35 section 22 of this chapter, the state is entitled to a lien in the amount of
36 the award on a recovery made by or on behalf of the victim. ~~or~~
37 ~~claimant.~~

38 (b) The state may:

39 (1) recover the amount under subsection (a) in a separate action;
40 or

41 (2) intervene in an action brought by or on behalf of the victim. ~~or~~
42 ~~claimant.~~



1 (c) If the claimant brings the action, the claimant may deduct from
 2 the money owed to the state under the lien the state's pro rata share of
 3 the reasonable expenses for the court suit, including attorney's fees of
 4 not more than fifteen percent (15%).

5 SECTION 5. IC 5-2-6.1-26, AS AMENDED BY P.L.161-2013,
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2014]: Sec. 26. (a) If an application is complete, the division
 8 shall accept the application for filing and investigate the facts stated in
 9 the application.

10 (b) As part of the investigation, the division shall verify that:

11 (1) a

12 ~~(A) violent crime or~~

13 ~~(B) crime under IC 35-46-3-11, for purposes of compensation~~
 14 ~~payable under section 12(9) of this chapter;~~

15 was committed;

16 (2) the victim was killed or suffered bodily injury as a result of the
 17 crime; ~~or, for a crime under IC 35-46-3-11, a law enforcement~~
 18 ~~animal was permanently disabled or killed;~~

19 (3) the requirements of sections 13, 16(a), 16(b), 17, 18, and 19
 20 of this chapter are met; and

21 (4) out-of-pocket loss exceeded one hundred dollars (\$100).

22 SECTION 6. IC 5-2-6.1-32, AS AMENDED BY P.L.161-2013,
 23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2014]: Sec. 32. (a) The division shall reduce an award made
 25 under this chapter by the amount of benefits received or to be received
 26 from the following sources if those benefits result from or are in any
 27 manner attributable to the bodily injury or death upon which the award
 28 is based:

29 (1) Benefits from public or private pension programs, including
 30 Social Security benefits.

31 (2) Benefits from proceeds of an insurance policy.

32 (3) Benefits under IC 22-3-2 through IC 22-3-6.

33 (4) Unemployment compensation benefits.

34 (5) Benefits from other public funds, including Medicaid and
 35 Medicare.

36 Compensation must be further reduced or denied to the extent that the
 37 claimant's loss is recouped from other collateral sources.

38 (b) The division shall further reduce an award under this chapter by
 39 the following:

40 (1) The amount of court ordered restitution actually received by
 41 the victim ~~or claimant~~ from the offender.

42 (2) Benefits actually received by the victim ~~or claimant~~ from a



- 1 third party on behalf of the offender.
- 2 (c) The division shall determine whether the victim ~~or claimant~~
- 3 vigorously pursued recovery against available collateral sources
- 4 described in this section.
- 5 (d) If the division finds that a victim ~~or claimant~~ has failed to pursue
- 6 an applicable collateral source of recovery, the division shall reduce or
- 7 deny an award under this section by the amount that is available to the
- 8 victim ~~or claimant~~ through the collateral source.
- 9 (e) A claimant must exhaust any paid or otherwise compensated
- 10 vacation leave, sick leave, personal leave, or other compensatory time
- 11 accrued through an employer before applying for benefits. The division
- 12 may not reimburse the victim ~~or claimant~~ for the use of paid or
- 13 otherwise compensated vacation leave, sick leave, personal leave, or
- 14 other compensatory time.
- 15 SECTION 7. IC 5-2-6.1-34, AS AMENDED BY P.L.161-2013,
- 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2014]: Sec. 34. (a) In determining the amount of the award,
- 18 the division shall determine whether the victim ~~(or law enforcement~~
- 19 ~~animal; in an application described in section 12(9) of this chapter)~~
- 20 contributed to the infliction of the **victim's** injury or death.
- 21 (b) If the division finds that the victim ~~(or law enforcement animal;~~
- 22 ~~in an application described in section 12(9) of this chapter)~~ contributed
- 23 to the infliction of the **victim's** injury or death, the division may deny
- 24 an award.
- 25 (c) If the division further finds that the **victim's** contributory
- 26 conduct was solely attributable to an effort to:
- 27 (1) prevent a crime from occurring; or
- 28 (2) apprehend a person who committed a crime;
- 29 **in the victim's presence**, the **victim's** contributory conduct does not
- 30 render the victim ~~or claimant~~ ineligible for compensation.

