

As Amended by House Committee

Session of 2018

SENATE BILL No. 266

By Committee on Judiciary

1-10

1 AN ACT concerning the crime victims compensation board; relating to
2 definitions; collateral source; amending K.S.A. 2017 Supp. 74-7301
3 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 74-7301 is hereby amended to read as
7 follows: 74-7301. As used in this act:

8 (a) "Allowance expense" means reasonable charges incurred for
9 reasonably needed products, services and accommodations, including
10 those for medical care, rehabilitation, rehabilitative occupational training
11 and other remedial treatment and care and for the replacement of items of
12 clothing or bedding which were seized for evidence. Such term includes a
13 total charge not in excess of \$5,000 for expenses in any way related to
14 funeral, cremation or burial; but such term shall not include that portion of
15 a charge for a room in a hospital, clinic, convalescent or nursing home or
16 any other institution engaged in providing nursing care and related
17 services, in excess of a reasonable and customary charge for semi-private
18 accommodations, unless other accommodations are medically required.
19 Such term includes a total charge not in excess of \$1,000 for expenses in
20 any way related to crime scene cleanup.

21 (b) "Board" means the crime victims compensation board established
22 under K.S.A. 74-7303, and amendments thereto.

23 (c) "Claimant" means any of the following persons claiming
24 compensation under this act: A victim; a dependent of a deceased victim; a
25 third person other than a collateral source; or an authorized person acting
26 on behalf of any of them.

27 (d) "Collateral source" means **the net financial benefit, after**
28 **deduction of taxes, legal fees, costs, expenses of litigation, liens, offsets,**
29 **credits or other deductions from,** a source of benefits or advantages for
30 economic loss otherwise reparable under this act which the victim or
31 claimant has received, or which is readily available to the victim or
32 claimant, from:

33 (1) The offender;

34 (2) the government of the United States or any agency thereof, a state
35 or any of its political subdivisions or an instrumentality or two or more
36 states, unless the law providing for the benefits or advantages makes them

1 excess or secondary to benefits under this act;

2 (3) social security, medicare and medicaid;

3 (4) state-required temporary nonoccupational disability insurance;

4 (5) workers' compensation;

5 (6) wage continuation programs of any employer;

6 (7) proceeds of a contract of insurance payable to the victim for loss
7 which the victim sustained because of the criminally injurious conduct; ~~or~~

8 (8) a contract providing prepaid hospital and other health care
9 services or benefits for disability; *or*

10 (9) ~~*any other source*~~ **damages awarded in a tort action.**

11 (e) "Criminally injurious conduct" means conduct that: (1) (A)
12 Occurs or is attempted in this state or occurs to a person whose domicile is
13 in Kansas who is the victim of a violent crime which occurs in another
14 state, possession, or territory of the United States of America may make an
15 application for compensation if:

16 (i) The crimes would be compensable had it occurred in the state of
17 Kansas; and

18 (ii) the places the crimes occurred are states, possessions or territories
19 of the United States of America not having eligible crime victim
20 compensation programs;

21 (B) poses a substantial threat or personal injury or death; and

22 (C) either is punishable by fine, imprisonment or death or would be
23 so punishable but for the fact that the person engaging in the conduct
24 lacked capacity to commit the crime under the laws of this state; or

25 (2) is an act of terrorism, as defined in 18 U.S.C. § 2331, or a violent
26 crime that posed a substantial threat or caused personal injury or death,
27 committed outside of the United States against a person whose domicile is
28 in Kansas, except that criminally injurious conduct does not include any
29 conduct resulting in injury or death sustained as a member of the United
30 States armed forces while serving on active duty.

31 Such term shall not include conduct arising out of the ownership,
32 maintenance or use of a motor vehicle, except for violations of K.S.A. 8-
33 2,144 or 8-1567, and amendments thereto, or violations of municipal
34 ordinances or county resolutions prohibiting the acts prohibited by those
35 statutes, or violations of K.S.A. 8-1602, and amendments thereto, K.S.A.
36 21-3404, 21-3405 and 21-3414, prior to their repeal, or K.S.A. 2017 Supp.
37 21-5405, 21-5406 and ~~subsection (b)~~ of K.S.A. 2017 Supp. 21-5413(b),
38 and amendments thereto, or when such conduct was intended to cause
39 personal injury or death.

40 (f) "Dependent" means a natural person wholly or partially dependent
41 upon the victim for care or support, and includes a child of the victim born
42 after the victim's death.

43 (g) "Dependent's economic loss" means loss after decedent's death of

1 contributions of things of economic value to the decedent's dependents, not
2 including services they would have received from the decedent if the
3 decedent had not suffered the fatal injury, less expenses of the dependents
4 avoided by reason of decedent's death.

5 (h) "Dependent's replacement services loss" means loss reasonably
6 incurred by dependents after decedent's death in obtaining ordinary and
7 necessary services in lieu of those the decedent would have performed for
8 their benefit if the decedent had not suffered the fatal injury, less expenses
9 of the dependents avoided by reason of decedent's death and not subtracted
10 in calculating dependent's economic loss.

11 (i) "Economic loss" means economic detriment consisting only of
12 allowable expense, work loss, replacement services loss and, if injury
13 causes death, dependent's economic loss and dependent's replacement
14 service loss. Noneconomic detriment is not loss, but economic detriment is
15 loss although caused by pain and suffering or physical impairment.

16 (j) "Noneconomic detriment" means pain, suffering, inconvenience,
17 physical impairment and nonpecuniary damage.

18 (k) "Replacement services loss" means expenses reasonably incurred
19 in obtaining ordinary and necessary services in lieu of those the injured
20 person would have performed, not for income, but for the benefit of self or
21 family, if such person had not been injured.

22 (l) "Work loss" means loss of income from work the injured person
23 would have performed if such person had not been injured, and expenses
24 reasonably incurred by such person in obtaining services in lieu of those
25 the person would have performed for income, reduced by any income from
26 substitute work actually performed by such person or by income such
27 person would have earned in available appropriate substitute work that the
28 person was capable of performing but unreasonably failed to undertake.

29 (m) "Victim" means a person who suffers personal injury or death as
30 a result of: (1) Criminally injurious conduct; (2) the good faith effort of
31 any person to prevent criminally injurious conduct; or (3) the good faith
32 effort of any person to apprehend a person suspected of engaging in
33 criminally injurious conduct.

34 (n) "Crime scene cleanup" means removal of blood, stains, odors or
35 other debris caused by the crime or the processing of the crime scene.

36 Sec. 2. K.S.A. 2017 Supp. 74-7301 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.