

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL PROCEDURE - CRIMINAL INJURIES COMPENSATION

Introduced By: Senators Miller, Jabour, and Perry

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-25-19, 12-25-21 and 12-25-22 of the General Laws in Chapter
2 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as follows:

3 **12-25-19. Awarding compensation.** -- (a) In any case in which a person is injured or
4 killed by any act of a person or persons which is within the description of the offenses listed in
5 section 12-25-20, the victim, his or her guardian, the child advocate as provided in section 42-73-
6 9.1, or in the case of his or her death, a legal representative, may apply to the office for
7 compensation. The office shall provide notice of the application to the attorney general. The
8 office may award compensation in accordance with the provisions of this chapter if the act
9 occurs:

10 (1) Within the physical confines of the state of Rhode Island;

11 (2) Within the maritime jurisdiction of the state of Rhode Island;

12 (3) Outside the state of Rhode Island to any victim who has his or her residence in the
13 state of Rhode Island and had the residence in the state at the time that the offense occurred, and
14 is not entitled to compensation of any kind from the state, possession, or territory or district of the
15 United States in which the offense occurred; or

16 (4) Outside the state of Rhode Island to any victim who had his or her residence in the
17 state of Rhode Island at the time the offense occurred who is injured or killed by an act of
18 terrorism occurring either outside of the United States, as defined in 18 U.S.C. section 2331, or
19 within the United States as referred to in 42 U.S.C. section 10603b.

1 (b) The office may award compensation as described in this section:

2 (1) To or on behalf of the injured person, or his or her guardian;

3 (2) In the case of the personal injury of the victim where the compensation is for
4 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the
5 victim, to that person; or

6 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest
7 relative of the deceased victim, or any one or more of the dependents or to the legal representative
8 of the victim.

9 (c) For the purposes of this chapter, a person shall be deemed to have intended an act
10 notwithstanding that, by reason of age, insanity, drunkenness, or otherwise, he or she was legally
11 incapable of forming a criminal intent.

12 (d) (1) In determining whether to award compensation as described in this section and
13 the amount of compensation, the office shall consider any circumstances it determines to be
14 relevant, including, but not limited to: (i) compliance by the victim with the reasonable requests
15 of law enforcement agencies and personnel; (ii) violent felonious criminal conduct of the victim
16 committed within the past five (5) years or subsequent to his or her injury; (iii) any conviction of
17 a crime of violence by the victim; and (iv) the behavior of the victim which directly or indirectly
18 contributed to his or her injury or death, unless the injury or death resulted from the victim's
19 lawful attempt to prevent the commission of a crime or to apprehend an offender. The office may
20 reduce or deny an award based on these circumstances; provided, however, that an award of
21 compensation shall be made for any homicide victim, including, but not limited to, burial or
22 funeral expenses, unless said death resulted from the commission of a crime.

23 (2) Any individual who is incarcerated at any criminal institutional facility at the time of
24 his or her injury shall be deemed ineligible to receive an award of compensation as described in
25 this section.

26 (e) No compensation may be awarded unless the office so directs upon a finding that:

27 (1) The act did occur; and

28 (2) The injury or death resulted from the act.

29 (f) An award may be made under this section whether or not any person is prosecuted or
30 convicted of any offense arising out of the act, or if the act is the subject of any other legal action.
31 Upon application from the attorney general, the office shall suspend proceedings under this
32 chapter until the application is withdrawn or until a prosecution for an offense arising out of the
33 act is no longer pending or imminent. The office may suspend proceedings in the interest of
34 justice if a criminal or civil action arising from the act is pending or imminent.

1 (g) The office shall pay to the person named in the award of compensation, and the
2 payments shall be made from the violent crimes indemnity account and from any federal moneys
3 available as coordinated by the office.

4 (h) Where compensable medical services have been rendered, any award made payable
5 to a medical provider shall be based on the current final adjustment to charge ratio approved by
6 the department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode
7 Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency
8 room charges, and ambulatory surgery charges. Amounts awarded for all other medical services
9 shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the
10 provider employs a sliding scale fee structure for any category of patient or service, the award
11 shall not exceed the amount the applicant would be charged if he or she qualified under the
12 provider's sliding scale fee structure. Medical service providers shall be required to accept these
13 awards as full payment for services rendered and shall be prohibited from assessing any
14 additional charges against the victim.

15 **12-25-21. Nature of compensation.** -- (a) The office may award compensation under this
16 chapter for:

17 (1) Expenses actually and reasonably incurred as a result of the personal injury or death
18 of the victim;

19 (2) Pecuniary loss to the dependents of the deceased victim, including, but not limited to,
20 the cost of crime scene clean-up, replacement of clothing lost or held as evidence in an
21 investigation, and the cost of lodging, meals and transportation for out-of-state family members to
22 attend the trial of a homicide victim;

23 (3) Any other pecuniary loss resulting from the personal injury or death of the victim, the
24 amount of which the office finds upon the evidence to be reasonable and necessary;

25 (4) The administrator may issue a supplemental award for compensation for additional
26 medical expenses, including psychiatric care and mental health counseling, provided that the
27 victim provides proper documentation that the additional medical expenses have been actually
28 and reasonably incurred as a direct result of the personal injury. The administrator shall issue a
29 supplemental award as long as the total award does not exceed the maximum award allowable
30 under this chapter; and

31 (5) The administrator may issue an award for expenses related to psychiatric care and
32 mental health counseling for a parent, spouse, sibling or child of a victim who dies as a direct
33 result of a violent crime as defined in this chapter, provided that the parent, spouse, sibling or
34 child provide proper documentation that the psychiatric care and mental health counseling have

1 been actually and reasonably incurred as a direct result of the death of the victim.

2 (b) In determining the amount of the judgment or order approving a settlement, the office
3 shall take into consideration the rates and amounts payable for injuries and death under other
4 statutes of this state and of the United States, and the amount of revenue in the violent crimes
5 indemnity account and the number and nature of claims pending against it. The office shall make
6 every effort to ensure that compensation awards are paid within six (6) months of the date of
7 application.

8 (6) The administrator may issue an award for funeral and burial expenses in an amount
9 not to exceed eight thousand dollars (\$8,000).

10 **12-25-22. Limitations upon awarding compensation.** -- (a) Actions for compensation
11 under this chapter shall be commenced within three (3) years after the date of the personal injury
12 or death, and no compensation shall be awarded for an injury or death resulting from a crime
13 which was not reported to the appropriate law enforcement authority within ten (10) days of its
14 occurrence; provided, that the office shall have the authority to allow a claim which was not
15 reported pursuant to this section when the victim was below the age of eighteen (18) years of age
16 or of unsound mind, or for good cause shown.

17 (b) No compensation shall be awarded under this chapter to the victim, ~~or in the case of~~
18 ~~death to dependent relatives or to the legal representative,~~ in a total amount in excess of twenty-
19 five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to
20 the superior court pursuant to section 12-25-25; provided, however, that in the case of death,
21 dependent relatives or the legal representative of the victim, shall be compensated in a total
22 amount not to exceed fifty thousand dollars (\$50,000), inclusive of up to eight thousand dollars
23 (\$8,000) for funeral and burial expenses.

24 (c) No compensation shall be awarded when the office, in its discretion, determines that
25 unjust enrichment to or on behalf of the offender would result. Compensation under this chapter
26 shall not be awarded to any victim or dependent relative or legal representative if the award
27 would directly or indirectly inure to the benefit of the offender.

28 (d) No interest shall be included in or added to an award of compensation under this
29 chapter.

30 (e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the
31 victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her
32 estate is not compensated by any other source and for the loss of support to the dependents of the
33 victim.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE - CRIMINAL INJURIES COMPENSATION

- 1 This act would increase and expand the compensation provided to homicide victims
- 2 under the criminal injuries compensation act.
- 3 This act would take effect upon passage.

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