

## CHAPTER 380

AN ACT concerning compensation for victims of crime and amending various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1971, c.317 (C.52:4B-2) is amended to read as follows:

C.52:4B-2 Definitions.

2. As used in P.L.1971, c.317:

"Agency" means the Victims of Crime Compensation Agency;

"Child" means an unmarried person who is under 21 years of age and includes a stepchild or an adopted child;

"Dependent" means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of the victim's death and shall include the child of a victim born after the victim's death;

"Legal assistance" means assistance provided to a crime victim in the enforcement of victims' rights in all courts; family law matters, including but not limited to child protection actions, divorce, custody, parenting time, child support, emancipation, dependency, guardianship, and family reunification; obtaining protective and restraining orders; employment matters, including but not limited to wage and hour claims; accessing public benefits; life planning; and any other situation for which an eligible crime victim needs legal services related to the victimization;

"Personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock;

"Relative" of any person means the person's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or parent of the person's spouse;

"Relevant evidence" means evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action and that is deemed to be admissible under the rules of evidence and does not include rumor, supposition, speculation, hearsay or opinion, except as otherwise deemed admissible under the rules of evidence;

"Review Board" or "board" means the Victims of Crime Compensation Review Board established by section 2 of P.L.2007, c.95 (C.52:4B-3.2);

"Victim" means a person who suffers personal, physical, or psychological injury or death as a result of the conduct of another person who commits against that person any of the offenses specified in section 11 of P.L.1971, c.317 (C.52:4B-11) or an act by a juvenile, which if committed by an adult, would constitute a violation of any of these offenses. The term shall include, in the case of a criminal homicide or an act by a juvenile which, if committed by an adult, would constitute a criminal homicide, the spouse, parent, legal guardian, grandparent, child, sibling, domestic or civil union partner of the decedent, or parent of the decedent's child;

"Victims of Crime Compensation Office" or "office" means the Victims of Crime Compensation Agency established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) which is continued as the Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

2. Section 6 of P.L.1971, c.317 (C.52:4B-6) is amended to read as follows:

C.52:4B-6 Principal office; place to conduct affairs.

6. The principal office of the Victims of Crime Compensation Office shall be in Newark, New Jersey, but the office may sit and conduct its affairs in any place.

3. Section 8 of P.L.1971, c.317 (C.52:4B-8) is amended to read as follows:

C.52:4B-8 Attorney fees and costs.

8. a. (1) The Victims of Crime Compensation Office may, as a part of any order entered under P.L.1971, c.317 (C.52:4B-1 et seq.), determine and allow reasonable attorney fees and costs, which shall not exceed 15 percent of the amount awarded as compensation under section 10 of P.L.1971, c.317 (C.52:4B-10), to be paid in addition to the amount of this compensation, to the attorney representing the applicant. Notwithstanding the provisions of this subsection, an award for attorney fees shall not be less than \$500, unless the office determines that the attorney has not acted diligently or in good faith representing the claimant.

(2) If the office enters an order denying compensation, it may nevertheless allow attorney fees of \$500 to the attorney representing the claimant if the office determines that the attorney has acted diligently or in good faith representing the claimant.

(3) It shall be unlawful for any attorney to ask for, contract for, or receive any larger sum than the amount allowed under paragraph (1) or (2) of this subsection.

b. The office may allow payment up to a maximum of \$10,000, at an hourly rate of \$275 or more to be fixed by the office, to an attorney who provides legal assistance to a victim in any legal matter arising out of the victimization, other than a decision of the Victims of Crime Compensation Office involving victim compensation or any related appeal, arising from or related to having been the victim of an offense specified in section 11 of P.L.1971, c.317 (C.52:4B-11), provided that the victim is otherwise eligible to receive compensation. Payment pursuant to this subsection shall be subject to the limitation on compensation set forth in section 18 of P.L.1971, c.317 (C.52:4B-18).

4. Section 10 of P.L.1971, c.317 (C.52:4B-10) is amended to read as follows:

C.52:4B-10 Persons entitled to compensation; order.

10. In any case in which a person suffers personal, physical, or psychological injury or death as a result of the conduct of another person who commits an offense against that person which is within the description of the offenses listed in section 11 of P.L.1971, c.317 (C.52:4B-11), the office may, upon application, order the payment of compensation in accordance with the provisions of P.L.1971, c.317 (C.52:4B-1 et seq.):

a. to or on behalf of the victim,

b. in the case of the personal, physical, or psychological injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person, or

c. in the case of the death of the victim, to or for the benefit of the dependents of the deceased victim, or any one or more of the dependents.

In determining whether to make an order under this section, the office may consider any facts that provide relevant evidence as to whether the victim contributed to the victim's injury or death and as to whether the victim's conduct was the proximate cause of the victim's injury or death. Notwithstanding any other provision of P.L.1971, c.317 (C.52:4B-1 et seq.) to the contrary, the office is authorized to make a limited award for funeral benefits,

mental health counseling, loss of support for dependent children, and attorneys' fees in any case in which it is determined that the victim's conduct was the contributing factor to the victim's death.

An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission. Upon application made by an appropriate prosecuting authority, the office may suspend proceedings under P.L.1971, c.317 (C.52:4B-1 et seq.) for the period it deems appropriate on the ground that a prosecution for an offense arising out of the act or omission has been commenced or is imminent.

5. Section 1 of P.L.1981, c.258 (C.52:4B-10.1) is amended to read as follows:

C.52:4B-10.1 Emergency award.

1. a. The Victims of Crime Compensation Office may make one or more emergency awards to any applicant for compensation pending final determination of a case, when it determines that compensation is likely to be provided and that the applicant will suffer undue hardship if funds are not made immediately available. The amount of any one emergency award shall not exceed \$7,500. Any emergency awards made to an applicant shall be deducted from the final amount of compensation provided to an applicant by the office. If the amount of compensation made by the office to an applicant is less than the sum provided to the applicant through emergency grants, the applicant shall pay to the office an amount of money equal to the difference. If the office determines that an applicant who has received emergency awards shall receive no compensation, the applicant shall repay to the office the total amount of all emergency awards which the applicant received.

b. In addition to any emergency award made pursuant to the provisions of subsection a. of this section, the office may make an emergency award in an amount not to exceed \$1,000 for compensation for funds stolen from a victim in connection with any of the incidents specified in section 11 of P.L.1971, c.317 (C.52:4B-11) except burglary pursuant to paragraph (11) of subsection b. of section 11 of P.L.1971, c.317 (C.52:4B-11), whether or not the victim suffered personal injury, under the following circumstances:

(1) The victim is 60 years of age or older or is disabled as defined pursuant to the federal Social Security Act, 42 U.S.C. s. 416(i);

(2) The victim's income does not exceed the limits adopted by the State Department of Human Services as the standard of need for the General Assistance Program;

(3) (Deleted by amendment, P.L.2019, c.380)

(4) The victim establishes:

(a) that the victim has filed a police report indicating, among other things, the amount stolen;

(b) that the victim has cooperated with investigative and prosecuting authorities; and

(c) the source of the funds stolen; and

(5) The office is satisfied that there are no other sources available to provide the victim with funds necessary to cover immediate costs of essential shelter, food, or medical expenses, and that, but for the victim's loss, the victim would otherwise have had the funds to pay these costs.

c. The office shall direct that any funds awarded pursuant to this act be expended solely to cover the costs established pursuant to paragraph (5) of subsection b. of this section.

d. (Deleted by amendment, P.L.2007, c.95).

6. Section 3 of P.L.1995, c.135 (C.52:4B-10.2) is amended to read as follows:

C.52:4B-10.2 Additional compensation.

3. In addition to ordering the payment of compensation for personal injury or death which resulted from the incidents specified in section 11 of P.L.1971, c.317 (C.52:4B-11), the Victims of Crime Compensation Office may order the payment of compensation for funds in connection with those incidents to compensate certain victims, whether or not those victims suffered personal injury, as specified in paragraphs (1) through (5) of subsection b. of section 1 of P.L.1981, c.258 (C.52:4B-10.1), in an amount not to exceed \$1,000.

7. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to read as follows:

C.52:4B-11 Victim compensation.

11. The Victims of Crime Compensation Office may order the payment of compensation in accordance with the provisions of P.L.1971, c.317 (C.52:4B-1 et seq.) for personal injury or death which resulted from:

- a. an attempt to prevent the commission of crime or to arrest a suspected criminal or in aiding or attempting to aid a police officer to do so; or
- b. the commission or attempt to commit any of the following offenses:
  - (1) aggravated assault;
  - (2) (Deleted by amendment, P.L.1995, c.135).
  - (3) threats to do bodily harm;
  - (4) lewd, indecent, or obscene acts;
  - (5) indecent acts with children;
  - (6) kidnapping;
  - (7) murder;
  - (8) manslaughter;
  - (9) aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact;
  - (10) any other crime involving violence including domestic violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or section 3 of P.L.1991, c.261 (C.2C:25-19);
  - (11) burglary;
  - (12) tampering with a cosmetic, drug or food product;
  - (13) a violation of human trafficking, section 1 of P.L.2005, c.77 (C.2C:13-8); or
- c. the commission of a violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), or section 3 of P.L.1952, c.157 (C.12:7-46); or
- d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c., or d. of N.J.S.2C:20-10 where injuries to the victim occur in the course of operating an automobile in furtherance of the offense; or
- e. the commission of a violation of N.J.S.2C:16-1, bias intimidation; or
- f. simple assault pursuant to N.J.S.2C:12-1 or disorderly conduct pursuant to N.J.S.2C:33-2; or
- g. a motor vehicle accident resulting in injury or death where the driver of the vehicle left the scene of the accident in violation of R.S.39:4-129.

8. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to read as follows:

C.52:4B-18 Compensation for criminal injuries; statute of limitations for claims.

18. An order for the payment of compensation shall not be made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has been made within five years after the date of the personal injury or death or after that date upon determination by the office that good cause exists for the delayed filing, and the personal injury or death was the result of an offense listed in section 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the police or other appropriate law enforcement agency within nine months after its occurrence or reasonable discovery. If the victim is under 18 years of age, the five-year limit on filing shall commence on the day the victim turns 18 years old. For the purposes of this section, "good cause" shall include, but not be limited to, instances where the victim or the victim's dependents were not appropriately informed of the benefits offered by the office as required by law. The office will make its determination regarding the application within 90 days of acknowledgment by the office of receipt of the completed application and any and all necessary supplemental information, provided that this period may be extended for good cause if an administrative denial would otherwise result. Notwithstanding this time period, the office shall reimburse the claimant or pay to any third-party service provider the amount claimed to be due and owing within 30 days after eligibility has been determined and the amount submitted for payment has been determined by the office to be fair and reasonable.

In determining the amount of an award, the office shall determine whether, because of the victim's conduct, the victim of such crime contributed to the infliction of the victim's injury, and the office shall reduce the amount of the award or reject the application altogether, in accordance with the determination, except that the office is authorized to make a limited award for funeral benefits, mental health counseling, loss of support for dependent children, and attorneys' fees in cases of criminal homicide when it is determined that the victim's conduct was a contributing factor to the victim's death. The office shall not consider any conduct of the victim contributory toward the victim's injury, if the record indicates the conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in the victim's presence or had in fact committed a crime.

The office may reduce an award where the victim has not paid in full any payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction for a crime and the office may deduct any amount due for these assessments or restitution from an award of compensation and make payments to satisfy these obligations prior to making any payments of compensation to the victim.

No compensation shall be awarded if:

- a. Compensation to the victim proves to be substantial unjust enrichment to the offender or if the victim did not cooperate with the reasonable requests of law enforcement authorities unless the victim demonstrates a compelling health or safety reason for not cooperating; or
- b. (Deleted by amendment, P.L.1990, c.64.)
- c. The victim was guilty of a violation of subtitle 10 or 12 of Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused or contributed to the victim's injuries; or
- d. The victim was injured as a result of the operation of a motor vehicle, except as provided in subsection c. or d. of section 11 of P.L.1971, c.317 (C.52:4B-11), boat, or airplane unless the vehicle, boat, or airplane was used as a weapon in a deliberate attempt to run the victim down; or
- e. The victim suffered personal injury or death while an occupant of a motor vehicle or vessel where the victim knew or reasonably should have known that the driver was operating the vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), section 3 of P.L.1952, c.157 (C.12:7-46),

subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of N.J.S.2C:29-2 or subsection b., c., or d. of N.J.S.2C:20-10 .

f. (Deleted by amendment, P.L.2019, c.380)

g. (Deleted by amendment, P.L.2019, c.380)

Except as provided in this section, compensation shall not be awarded under P.L.1971, c.317 (C.52:4B-1 et seq.) in an amount in excess of \$25,000, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support.

An award made pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) shall not be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

Compensation may be awarded in an amount not exceeding the actual cost of a rehabilitative service of the type enumerated in section 2 of P.L.1999, c.166 (C.52:4B-18.2).

The award may provide for periodic payments in the case of protracted care or rehabilitative assistance.

9. This act shall take effect on the first day of the seventh month next following enactment, but the Director of the Victims of Crime Compensation Office may take any anticipatory administrative action in advance as shall be necessary to implement the provisions of this act.

Approved January 21, 2020.