

1 HB352
2 156298-2
3 By Representative DeMarco
4 RFD: Ways and Means General Fund
5 First Read: 22-JAN-14

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ENROLLED, An Act,

Relating to the Alabama Crime Victims Compensation Commission; to amend Sections 15-23-3, 15-23-5, and 15-23-15, Code of Alabama 1975, to further provide for the definition of allowance expense and work loss; to increase the maximum amount of compensation of victims and other claimants; and to provide for administrative expenditures of the commission.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-23-3, 15-23-5, and 15-23-15, Code of Alabama 1975, are amended to read as follows:

"§15-23-3.

"As used in this article the following words shall include, but are not limited to the following meanings unless the context clearly requires a different meaning:

"(1) COMMISSION. The Alabama Crime Victims Compensation Commission as created by Section 15-23-4.

"(2) CRIMINALLY INJURIOUS CONDUCT. Criminally injurious conduct includes any of the following acts:

"a. An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment, or death may be imposed.

"b. An act occurring or attempted outside the geographical boundaries of this state in another state of the

1 United States of America which is punishable by fine,
 2 imprisonment, or death and which results in personal injury or
 3 death to a citizen of this state, and shall include an act of
 4 terrorism, as defined in Section 2331 of Title 18, United
 5 States Code, committed outside of the United States, against a
 6 resident of this state; provided however, the citizen at the
 7 time such act was committed had a permanent place of residence
 8 within the geographical boundaries of this state, and in
 9 addition thereto any of the following circumstances apply,
 10 that the citizen:

11 "1. Had a permanent place of employment located
 12 within the geographical boundaries of this state.

13 "2. Was a member of the regular Armed Forces of the
 14 United States of America; or the United States Coast Guard; or
 15 was a full-time member of the Alabama National Guard, Alabama
 16 Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, or
 17 U.S. Air Force Reserve.

18 "3. Was retired and receiving Social Security or
 19 other retirement income.

20 "4. Was 60 years of age or older.

21 "5. Was temporarily in another state of the United
 22 States of America for the purpose of receiving medical
 23 treatment.

24 "6. Was temporarily in another state of the United
 25 States of America for the purpose of performing

1 employment-related duties required by an employer located
2 within the geographical boundaries of this state as an express
3 condition of employment or employee benefits.

4 "7. Was temporarily in another state of the United
5 States of America for the purpose of receiving occupational,
6 vocational, or other job-related training or instruction
7 required by an employer located within the geographical
8 boundaries of this state as an express condition of employment
9 or employee benefits.

10 "8. Was a full-time student at an academic
11 institution, college, or university located in another state
12 of the United States of America.

13 "9. Had not departed the geographical boundaries of
14 this state for a period exceeding 30 days or with the
15 intention of becoming a citizen of another state or
16 establishing a permanent place of residence in another state.

17 "The term "criminally injurious conduct" shall not
18 mean: An act committed outside the geographical boundaries of
19 this state upon a person who was not at the time a citizen of
20 Alabama, or an act committed outside the geographical
21 boundaries of this state upon a person who at the time had
22 departed the geographical boundaries of this state for the
23 purpose of becoming a citizen of, or establishing a permanent
24 place of residence in, another state.

1 "(3) VICTIM. A person who suffered serious personal
2 injury or death as a result of criminally injurious conduct.

3 "(4) DEPENDENT. A natural person wholly or partially
4 dependent upon the victim for care or support, and includes a
5 child of the victim born after the death of the victim where
6 the death occurred as a result of criminally injurious
7 conduct.

8 "(5) CLAIMANT. Any of the following persons applying
9 for compensation under this article:

10 "a. A victim.

11 "b. A dependent of a deceased victim, if such victim
12 died as a result of criminally injurious conduct.

13 "c. A person authorized to act on behalf of a victim
14 or a dependent of a deceased victim if such victim died as a
15 result of criminally injurious conduct.

16 "(6) ALLOWANCE EXPENSE. Charges incurred for needed
17 products, services, and accommodations, including, but not
18 limited to, medical care, rehabilitation, rehabilitative
19 occupational rehabilitation, rehabilitative occupational
20 training, and other remedial treatment and care. It also
21 includes a total charge not in excess of ~~five thousand dollars~~
22 ~~(\$5,000)~~ seven thousand dollars (\$7,000) for expenses related
23 to funeral, cremation, or burial.

24 "(7) WORK LOSS. Loss of income from work the victim
25 or claimant would have performed if the victim had not been

1 injured or died, reduced by any income from substitute work
2 actually performed by the victim or claimant or by income the
3 victim or claimant would have earned in available appropriate
4 substitute work which he or she was capable of performing but
5 unreasonably failed to undertake. Work loss also includes loss
6 of income of an offender charged with domestic violence under
7 Sections 13A-6-130, 13A-6-131, and 13A-6-132 when the victim
8 was residing with the offender at the time of commission of
9 the offense and the offender's income was a significant source
10 of direct support for the victim.

11 "(8) REPLACEMENT SERVICES LOSS. Expenses reasonably
12 incurred in obtaining ordinary and necessary services in lieu
13 of those the victim would have performed, not for income, but
14 for the benefit of self or family, if the victim had not been
15 injured or died.

16 "(9) ECONOMIC LOSS OF A DEPENDENT. A loss after the
17 death or injury of the victim of contributions of things of
18 economic value to the dependent, not including services which
19 would have been received from the victim if he or she had not
20 suffered the fatal injury, less expenses of the dependent
21 avoided by reason of death or injury of the victim.

22 "(10) REPLACEMENT SERVICES LOSS OF DEPENDENT. The
23 loss reasonably incurred by dependents after death of the
24 victim in obtaining ordinary and necessary services in lieu of
25 those the deceased victim would have performed for their

1 benefit had the deceased victim not suffered the fatal injury,
 2 less expenses of the dependent avoided by reason of death of
 3 the victim and not subtracted in calculating the economic loss
 4 of the dependent.

5 "(11) ECONOMIC LOSS. Monetary detriment consisting
 6 only of allowable expense, work loss, replacement services
 7 loss and, if injury causes death, economic loss and
 8 replacement services loss of a dependent, but shall not
 9 include noneconomic loss or noneconomic detriment.

10 "(12) NONECONOMIC LOSS or DETRIMENT. Pain,
 11 suffering, inconvenience, physical impairment, and
 12 nonpecuniary damage.

13 "(13) COLLATERAL SOURCE. Source of income, financial
 14 or other benefits or advantages for economic loss other than
 15 the compensation paid by the compensation commission which the
 16 claimant has received or is entitled to receive or is readily
 17 available to the claimant, from any one or more of the
 18 following:

19 "a. The offender.

20 "b. The government of the United States or any
 21 agency thereof, in the form of benefits, such as Social
 22 Security, Medicare and Medicaid, a state or any of its
 23 political subdivisions or an instrumentality of two or more
 24 states, unless the law providing for the benefits or

1 advantages makes them excessive or secondary to benefits under
2 this article.

3 "c. Any temporary nonoccupational disability
4 insurance.

5 "d. Workers' compensation.

6 "e. Wage continuation programs of any employer.

7 "f. Proceeds of a contract of insurance payable to
8 the claimant for loss which the victim sustained because of
9 the criminally injurious conduct.

10 "g. A contract providing prepaid hospital and other
11 health care services or benefits for disability.

12 "(14) OFFICE OF PROSECUTION SERVICES. The Office of
13 Prosecution Services as established by Section 12-17-230.

14 "§15-23-5.

15 "The commission shall have all the powers and
16 privileges of a corporation and all of its business shall be
17 transacted in the name of the commission. In addition to any
18 other powers and duties specified elsewhere in this article,
19 the commission shall have the power to:

20 "(1) Regulate its own procedures except as otherwise
21 provided in this chapter.

22 "(2) Define any term not defined in this article.

23 "(3) Prescribe forms necessary to carry out the
24 purposes of this article.

1 "(4) Obtain access to investigative reports made by
2 law enforcement officers or law enforcement agencies which may
3 be necessary to assist the commission in making a
4 determination of eligibility for compensation under this
5 article; provided however, the reports and the information
6 contained herein, when received by the commission, shall be
7 confidential and under no circumstances shall the commission
8 disclose the same except to a grand jury.

9 "(5) Take judicial notice of general, technical, and
10 scientific facts within their specialized knowledge.

11 "(6) Publicize the availability of compensation and
12 information regarding the filing of claims therefor.

13 "(7) Collect all moneys provided by this article to
14 be collected by the commission.

15 "(8) Provide for and maintain all necessary
16 administrative facilities and personnel.

17 "(9) Provide for payment of all administrative
18 salaries, fees, and expenses.

19 "(10) Cause its moneys to be invested and its
20 investments sold or exchanged and the proceeds and income
21 collected.

22 "(11) Determine who is a victim or dependent.

23 "(12) Pass upon all applications for compensation or
24 other benefits provided for in this article.

1 "(13) Authorize executive director to pass upon all
 2 supplemental applications for compensation in an amount not to
 3 exceed one thousand dollars (\$1,000) and to pass upon all
 4 original applications for claims in an amount not to exceed
 5 two thousand dollars (\$2,000).

6 "(14) Adopt rules and regulations as may be
 7 necessary or desirable to expedite the administration of the
 8 affairs of the commission not inconsistent with this article.

9 "(15) Provide descriptive literature and promotional
 10 items respecting the commission and its duties.

11 "(16) Pay all compensation or other benefits that
 12 may be determined to be due under this article and under the
 13 rules and regulations of the commission.

14 "(17) Employ such agents, attorneys, actuaries, and
 15 other specialized personnel as shall be necessary or desirable
 16 to enable the commission to carry on its functions in a proper
 17 and sound manner.

18 "(18) Receive by gift, grant, devise, or bequest any
 19 moneys or properties of any nature or description.

20 "(19) Accept and administer loans, grants, and
 21 donations from the federal government, its agencies, and all
 22 other sources, public and private, for carrying out any of its
 23 functions.

24 "(20) Develop a comprehensive analysis of the
 25 problems regarding victims of crime within the criminal

1 justice system or systems of this state and formulate model
2 programs, plans, or methods for lessening the physical,
3 mental, or financial burdens placed on innocent crime victims
4 by the operation of the criminal justice system both on the
5 state and local level.

6 "(21) Identify laws, rules, or regulations proposed
7 or adopted by any agency or institution of this state or any
8 political subdivision thereof which have or will have a
9 significant adverse or beneficial impact upon crime victims
10 and to advocate the adoption, repeal, or modification thereof
11 in the interest of innocent victims of crime.

12 "(22) Collect, develop, and maintain statistical
13 information, records, and reports as the commission may
14 determine relevant or necessary to carry out its powers,
15 duties, or functions pursuant to this article. All agencies
16 and institutions of this state or the political subdivisions
17 thereof shall, upon a written request by the commission,
18 furnish to the commission statistical information or data as
19 the commission shall deem necessary to fulfill its duties and
20 responsibilities.

21 "(23) Award loans or grants of money, equipment, or
22 personnel to public or private nonprofit corporations or
23 associations, agencies of the State of Alabama or political
24 subdivisions thereof, or to state, county, or municipal law
25 enforcement, prosecutorial or judicial agencies upon terms and

1 conditions as the commission may deem proper for the purpose
2 of developing, enhancing, or establishing bona fide model
3 crime victims service programs which emphasize the collection
4 of restitution from criminals as an integral part of the
5 criminal justice process, but the loans or grants shall only
6 be awarded when sufficient funds are available in excess of
7 reasonably anticipated or projected claims for compensation.

8 "(24) Provide for the cost of medical examinations
9 for the purpose of gathering evidence and treatment for
10 preventing venereal disease in sexual abuse crimes and
11 offenses.

12 "(25) Carry out any powers expressly granted
13 elsewhere in this article to the commission.

14 "(26) All other powers necessary for the proper
15 administration of this article.

16 "§15-23-15.

17 "(a) Compensation for work loss, replacement
18 services loss, dependent's economic loss, and dependent's
19 replacement services loss may not exceed ~~four hundred dollars~~
20 ~~(\$400)~~ six hundred dollars (\$600) per week.

21 "(b) Compensation payable to a victim and to all
22 other claimants sustaining economic loss because of injury to
23 or death of that victim may not exceed ~~fifteen thousand~~
24 ~~dollars (\$15,000)~~ twenty thousand dollars (\$20,000) in the
25 aggregate.

1 "(c) The commission may provide for the payment to a
2 claimant in a lump sum or in installments. At the request of
3 the claimant, the commission may convert future economic loss,
4 other than allowable expense, to a lump sum, but only upon a
5 finding by the commission ~~of either of the following:~~

6 ~~"(1) That that the award in a lump sum will promote~~
7 ~~the interests of the claimant; or.~~

8 ~~"(2) That the present value of all future economic~~
9 ~~loss, other than allowable expense, does not exceed five~~
10 ~~thousand dollars (\$5,000).~~

11 "(d) An award payable in installments for future
12 economic loss may be made only for a period as to which the
13 commission can reasonably determine future economic loss. An
14 award payable in installments for future economic loss may be
15 modified by the commission upon its findings that a material
16 and substantial change of circumstances has occurred.

17 "(e) An award shall not be subject to state or
18 municipal taxation or to execution, attachment, or
19 garnishment, except as the same may pertain to an obligation
20 for the support of dependent children or as the same may
21 pertain to a creditor which has provided products, services,
22 or accommodations, the costs of which are included in the
23 award.

1 "(f) An assignment by the claimant to any future
2 award under the provisions of this article is unenforceable,
3 except any of the following assignments:

4 "(1) An assignment of any award for work loss to
5 assure payment of court-ordered child support.

6 "(2) An assignment of any award for an allowable
7 expense to the extent that the benefits are for the cost of
8 products, services, or accommodations necessitated by the
9 injury or death on which the claim is based and are provided
10 or to be provided by the assignee."

11 Section 2. This act shall become effective on
12 October 1, 2014, following its passage and approval by the
13 Governor, or its otherwise becoming law.

