

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

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8 SYNOPSIS: Under existing law, victims of crime may be  
9 compensated by the Alabama Crime Victims  
10 Compensation Commission for economic loss from the  
11 crime.

12 This bill would increase the allowable  
13 amount of funeral expense and further define work  
14 loss when a victim of domestic violence loses  
15 support from the offender. The bill would also  
16 increase the per week compensation payable to a  
17 victim and the total compensation payable to a  
18 victim and all other claimants and further provide  
19 for lump sum payments.

20 The bill would also specify that the  
21 commission may spend funds for promotional items.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
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1           Relating to the Alabama Crime Victims Compensation  
2 Commission; to amend Sections 15-23-3, 15-23-5, and 15-23-15,  
3 Code of Alabama 1975, to further provide for the definition of  
4 allowance expense and work loss; to increase the maximum  
5 amount of compensation of victims and other claimants; and to  
6 provide for administrative expenditures of the commission.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10           "§15-23-3.

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

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

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

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

22           "b. An act occurring or attempted outside the  
23 geographical boundaries of this state in another state of the  
24 United States of America which is punishable by fine,  
25 imprisonment, or death and which results in personal injury or  
26 death to a citizen of this state, and shall include an act of  
27 terrorism, as defined in Section 2331 of Title 18, United

1 States Code, committed outside of the United States, against a  
2 resident of this state; provided however, the citizen at the  
3 time such act was committed had a permanent place of residence  
4 within the geographical boundaries of this state, and in  
5 addition thereto any of the following circumstances apply,  
6 that the citizen:

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

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

14 "3. Was retired and receiving Social Security or  
15 other retirement income.

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

17 "5. Was temporarily in another state of the United  
18 States of America for the purpose of receiving medical  
19 treatment.

20 "6. Was temporarily in another state of the United  
21 States of America for the purpose of performing  
22 employment-related duties required by an employer located  
23 within the geographical boundaries of this state as an express  
24 condition of employment or employee benefits.

25 "7. Was temporarily in another state of the United  
26 States of America for the purpose of receiving occupational,  
27 vocational, or other job-related training or instruction

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

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

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

11 "The term "criminally injurious conduct" shall not  
12 mean: An act committed outside the geographical boundaries of  
13 this state upon a person who was not at the time a citizen of  
14 Alabama, or an act committed outside the geographical  
15 boundaries of this state upon a person who at the time had  
16 departed the geographical boundaries of this state for the  
17 purpose of becoming a citizen of, or establishing a permanent  
18 place of residence in, another state.

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

21 "(4) DEPENDENT. A natural person wholly or partially  
22 dependent upon the victim for care or support, and includes a  
23 child of the victim born after the death of the victim where  
24 the death occurred as a result of criminally injurious  
25 conduct.

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

1 "a. A victim.

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

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

7 "(6) ALLOWANCE EXPENSE. Charges incurred for needed  
8 products, services, and accommodations, including, but not  
9 limited to, medical care, rehabilitation, rehabilitative  
10 occupational rehabilitation, rehabilitative occupational  
11 training, and other remedial treatment and care. It also  
12 includes a total charge not in excess of ~~five thousand dollars~~  
13 ~~(\$5,000)~~ seven thousand dollars (\$7,000) for expenses related  
14 to funeral, cremation, or burial.

15 "(7) WORK LOSS. Loss of income from work the victim  
16 or claimant would have performed if the victim had not been  
17 injured or died, reduced by any income from substitute work  
18 actually performed by the victim or claimant or by income the  
19 victim or claimant would have earned in available appropriate  
20 substitute work which he or she was capable of performing but  
21 unreasonably failed to undertake. Work loss also includes loss  
22 of income of an offender charged with domestic violence under  
23 Sections 13A-6-130, 13A-6-131, and 13A-6-132 when the victim  
24 was residing with the offender at the time of commission of  
25 the offense and the offender's income was a significant source  
26 of direct support for the victim.

1           "(8) REPLACEMENT SERVICES LOSS. Expenses reasonably  
2 incurred in obtaining ordinary and necessary services in lieu  
3 of those the victim would have performed, not for income, but  
4 for the benefit of self or family, if the victim had not been  
5 injured or died.

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

12           "(10) REPLACEMENT SERVICES LOSS OF DEPENDENT. The  
13 loss reasonably incurred by dependents after death of the  
14 victim in obtaining ordinary and necessary services in lieu of  
15 those the deceased victim would have performed for their  
16 benefit had the deceased victim not suffered the fatal injury,  
17 less expenses of the dependent avoided by reason of death of  
18 the victim and not subtracted in calculating the economic loss  
19 of the dependent.

20           "(11) ECONOMIC LOSS. Monetary detriment consisting  
21 only of allowable expense, work loss, replacement services  
22 loss and, if injury causes death, economic loss and  
23 replacement services loss of a dependent, but shall not  
24 include noneconomic loss or noneconomic detriment.

25           "(12) NONECONOMIC LOSS or DETRIMENT. Pain,  
26 suffering, inconvenience, physical impairment, and  
27 nonpecuniary damage.

1           "(13) COLLATERAL SOURCE. Source of income, financial  
2 or other benefits or advantages for economic loss other than  
3 the compensation paid by the compensation commission which the  
4 claimant has received or is entitled to receive or is readily  
5 available to the claimant, from any one or more of the  
6 following:

7           "a. The offender.

8           "b. The government of the United States or any  
9 agency thereof, in the form of benefits, such as Social  
10 Security, Medicare and Medicaid, a state or any of its  
11 political subdivisions or an instrumentality of two or more  
12 states, unless the law providing for the benefits or  
13 advantages makes them excessive or secondary to benefits under  
14 this article.

15           "c. Any temporary nonoccupational disability  
16 insurance.

17           "d. Workers' compensation.

18           "e. Wage continuation programs of any employer.

19           "f. Proceeds of a contract of insurance payable to  
20 the claimant for loss which the victim sustained because of  
21 the criminally injurious conduct.

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

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

26           "§15-23-5.



1           "The commission shall have all the powers and  
2 privileges of a corporation and all of its business shall be  
3 transacted in the name of the commission. In addition to any  
4 other powers and duties specified elsewhere in this article,  
5 the commission shall have the power to:

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

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

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

11           "(4) Obtain access to investigative reports made by  
12 law enforcement officers or law enforcement agencies which may  
13 be necessary to assist the commission in making a  
14 determination of eligibility for compensation under this  
15 article; provided however, the reports and the information  
16 contained herein, when received by the commission, shall be  
17 confidential and under no circumstances shall the commission  
18 disclose the same except to a grand jury.

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

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

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

25           "(8) Provide for and maintain all necessary  
26 administrative facilities and personnel.

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

3           "(10) Cause its moneys to be invested and its  
4 investments sold or exchanged and the proceeds and income  
5 collected.

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

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

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

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

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

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

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

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

1           "(19) Accept and administer loans, grants, and  
2 donations from the federal government, its agencies, and all  
3 other sources, public and private, for carrying out any of its  
4 functions.

5           "(20) Develop a comprehensive analysis of the  
6 problems regarding victims of crime within the criminal  
7 justice system or systems of this state and formulate model  
8 programs, plans, or methods for lessening the physical,  
9 mental, or financial burdens placed on innocent crime victims  
10 by the operation of the criminal justice system both on the  
11 state and local level.

12           "(21) Identify laws, rules, or regulations proposed  
13 or adopted by any agency or institution of this state or any  
14 political subdivision thereof which have or will have a  
15 significant adverse or beneficial impact upon crime victims  
16 and to advocate the adoption, repeal, or modification thereof  
17 in the interest of innocent victims of crime.

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

1           "(23) Award loans or grants of money, equipment, or  
2 personnel to public or private nonprofit corporations or  
3 associations, agencies of the State of Alabama or political  
4 subdivisions thereof, or to state, county, or municipal law  
5 enforcement, prosecutorial or judicial agencies upon terms and  
6 conditions as the commission may deem proper for the purpose  
7 of developing, enhancing, or establishing bona fide model  
8 crime victims service programs which emphasize the collection  
9 of restitution from criminals as an integral part of the  
10 criminal justice process, but the loans or grants shall only  
11 be awarded when sufficient funds are available in excess of  
12 reasonably anticipated or projected claims for compensation.

13           "(24) Provide for the cost of medical examinations  
14 for the purpose of gathering evidence and treatment for  
15 preventing venereal disease in sexual abuse crimes and  
16 offenses.

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

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

21           "§15-23-15.

22           "(a) Compensation for work loss, replacement  
23 services loss, dependent's economic loss, and dependent's  
24 replacement services loss may not exceed ~~four hundred dollars~~  
25 ~~(\$400)~~ six hundred dollars (\$600) per week.

26           "(b) Compensation payable to a victim and to all  
27 other claimants sustaining economic loss because of injury to

1 or death of that victim may not exceed ~~fifteen thousand~~  
2 ~~dollars (\$15,000)~~ twenty thousand dollars (\$20,000) in the  
3 aggregate.

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

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

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

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

20 "(e) An award shall not be subject to state or  
21 municipal taxation or to execution, attachment, or  
22 garnishment, except as the same may pertain to an obligation  
23 for the support of dependent children or as the same may  
24 pertain to a creditor which has provided products, services,  
25 or accommodations, the costs of which are included in the  
26 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.