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LC01813/SUB A/2
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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 12-25-17, 12-25-19 and 12-25-21.1 of the General Laws in
2 Chapter 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as follows:

3 **12-25-17. Definitions.** -- As used in this chapter:

4 (1) "Administrator" means the program administrator of this chapter.

5 (2) "Child" means an unmarried person who is under eighteen (18) years of age and
6 includes a stepchild or an adopted child.

7 (3) "Court" means the superior court.

8 (4) "Dependent" means a person wholly or partially dependent upon the income of the
9 victim at the time of his or her death or would have been so dependent but for the incapacity due
10 to the injury from which the death resulted. The term includes a child of the victim born after the
11 death of the victim.

12 (5) "Office" means the office of the general treasurer.

13 (6) "Pecuniary loss" includes:

14 (i) For personal injury:

15 (A) Medical expenses (including psychiatric care) for which the victim is not
16 compensated by any other source;

17 (B) Hospital expenses for which the victim is not compensated by any other source;

18 (C) Loss of past earnings for which the victim is not compensated by any other source;

19 (D) Loss of future earnings because of a disability resulting from the personal injury for

1 which the victim is not compensated by any other source.

2 (ii) For death:

3 (A) Funeral and burial expenses for which the victim's estate is not compensated by any
4 other source; and

5 (B) Loss of support to the dependents of the victim for which the dependents are not
6 compensated by any other source.

7 (iii) Any other expenses actually and necessarily incurred as a result of the personal
8 injury or death for which the victim or his or her estate is not compensated by any other source,
9 but it does not include property damage.

10 (7) "Personal injury" means actual bodily harm, mental or nervous shock, and a
11 pregnancy resulting from sexual attack.

12 (8) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child,
13 grandchild, brother, sister, half-brother, half-sister, and a spouse's parents.

14 (9) "Resident" means any person who has his or her residence within the state of Rhode
15 Island.

16 (10) "State" includes the District of Columbia, the fifty (50) states, and the United States'
17 territories and possessions.

18 (11) "Treasurer" means the general treasurer of the state of Rhode Island or his or her
19 designee.

20 (12) "Victim" means a person who is injured or killed by any act of a person or persons
21 which is within the description of any of the offenses specified in section 12-25-20 and which act
22 occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode Island
23 who is a victim of an act of terrorism as defined in 18 U.S.C. section 2331 occurring outside the
24 United States.

25 (13) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established
26 pursuant to former sections 12-25-1 -- 12-25-12.1.

27 (14) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established
28 pursuant to sections 12-25-16 -- 12-25-30.

29 (15) "Crime of violence" means and includes any of the following crimes or an attempt
30 to commit any of them: murder, manslaughter, rape, first or second degree sexual assault, first or
31 second degree child molestation, kidnapping, first and second degree arson, mayhem, robbery,
32 burglary, breaking and entering, any violation of sections 21-28-4.01.1 or 21-28-4.01.2 or
33 conspiracy to commit any violation of these statutes, assault with a dangerous weapon, assault or
34 battery involving grave bodily injury, and/or assault with intent to commit any offense punishable

1 [as a felony upon any conviction of an offense punishable as a felony offense under section 12-29-](#)
2 [5.](#)

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.

- 20 (b) The office may award compensation as described in this section:
- 21 (1) To or on behalf of the injured person, or his or her guardian;
 - 22 (2) In the case of the personal injury of the victim where the compensation is for
23 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the
24 victim, to that person; or
 - 25 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest
26 relative of the deceased victim, or any one or more of the dependents or to the legal representative
27 of the victim.

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

31 (d) (1) In determining whether to award compensation as described in this section and
32 the amount of compensation, the office shall consider any circumstances it determines to be
33 relevant, including, but not limited to: (i) compliance by the victim with the reasonable requests
34 of law enforcement agencies and personnel; ~~(ii) violent felonious criminal conduct of the victim~~

1 ~~committed within the past five (5) years or subsequent to his or her injury;~~ ~~(iii)~~ (ii) any conviction
2 of a crime of violence by the victim committed within the past five (5) years or subsequent to his
3 or her injury; and ~~(iv)~~(iii) the behavior of the victim which directly or indirectly contributed to his
4 or her injury or death, unless the injury or death resulted from the victim's lawful attempt to
5 prevent the commission of a crime or to apprehend an offender. The office may reduce or deny an
6 award based on these circumstances; provided, however, that an award of compensation shall be
7 made for any homicide victim, including, but not limited to, burial or funeral expenses, unless
8 said death resulted from the commission of a crime committed by the homicide victim.

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

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

13 (1) The act did occur; and

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

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

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

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

1 **12-25-21.1. Emergency fund for victims.** -- (a) The office may award emergency
2 compensation under this chapter for the burial expenses of a victim who dies as a direct result of a
3 violent crime as defined in this chapter.

4 (b) The award for emergency compensation shall be awarded at the sole discretion of the
5 program administrator.

6 (c) An award for emergency compensation for burial expenses shall not exceed the sum
7 of ~~five thousand dollars (\$5,000)~~ eight thousand dollars (\$8,000).

8 (d) The award for emergency compensation for burial expenses shall be deducted from
9 the final award. In the event the victim is not eligible for an award, the victim shall repay the
10 amount of the emergency award to the fund.

11 (e) The office may award emergency compensation for pecuniary loss to the dependents
12 of the deceased victim, including, but not limited to, the cost of crime scene clean-up,
13 replacement of clothing lost or held as evidence in an investigation, and the cost of lodging, meals
14 and transportation for out-of-state family members to attend the trial of a homicide victim;
15 compensation for these items shall not exceed five thousand dollars (\$5,000).

16 (f) Any payments made for emergency compensation shall be deducted from the final
17 award. In no event shall the final award exceed the maximum award of twenty-five thousand
18 dollars (\$25,000).

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE - CRIMINAL INJURIES COMPENSATION

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

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