ENGROSSED SENATE
BILL NO. 1434

By: Douglass of the Senate

and

Bryant of the House

An Act relating to the Crime Victims Compensation Act; amending 21 O.S. 1991, Section 142.3, as last amended by Section 2, Chapter 177, O.S.L. 1999 (21 O.S. Supp. 1999, Section 142.3), which relates to definitions; providing certain exception to definition of criminally injurious conduct; authorizing consideration of claims for certain victims of accidents involving felonious failure to stop after being involved in an accident; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 142.3, as last amended by Section 2, Chapter 177, O.S.L. 1999 (21 O.S. Supp. 1999, Section 142.3), is amended to read as follows:

Section 142.3 As used in the Oklahoma Crime Victims Compensation Act, Section 142.1 et seq. of this title:

1. "Allowable expense" means:

a. charges incurred for needed products, services and accommodations, including, but not limited to, medical care, wage loss, rehabilitation, rehabilitative occupational training and other remedial treatment and care,

b. any reasonable expenses related to the funeral, cremation or burial,

c. reasonable costs for counseling family members of a homicide victim, and

d. reasonable costs associated with homicide crime scene cleanup;

2. "Board" means the Crime Victims Compensation Board created by Section 142.4 of this title;

3. "Claimant" means any of the following persons applying for compensation under the Crime Victims Compensation Act:

a. a victim,

b. a dependent of a victim who has died because of criminally injurious conduct, or

c. a person authorized to act on behalf of any of the persons enumerated in subparagraphs a and b of this paragraph;

4. "Collateral source" means a source of benefits or advantages for economic loss for which the claimant would otherwise be eligible to receive compensation under this act, and which the claimant has received, or which is readily available to the claimant, from any one or more of the following:

a. the offender,

b. the government of the United States or any agency thereof, in the form of benefits, such as social security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this act,

c. state-required temporary nonoccupational disability insurance,

d. workers' compensation,

e. wage continuation programs of any employer,

f. a contract providing prepaid hospital and other health care services or benefits for disability,

g. a contract providing prepaid burial expenses or benefits, or

h. proceeds of any contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct, except:

(1) life insurance proceeds or uninsured motorist proceeds in an amount of Fifty Thousand Dollars ($50,000.00) or less shall not be considered a collateral source when computing loss of support, and

(2) life insurance proceeds and proceeds from personal uninsured motorist coverage of any amount shall not be considered a collateral source for computing burial expenses;

5. a. "Criminally injurious conduct" means a misdemeanor or felony which occurs or is attempted in this state, or against a resident of this state in a state that does not have an eligible crime victims compensation program as such term is defined in the federal Victims of Crime Act of 1984, Public Law 98-473, that results in bodily injury, threat of bodily injury or death to a victim which:

(1) may be punishable by fine, imprisonment or death, or

(2) if the act is committed by a child, could result in such child being adjudicated a delinquent child.

b. Such term shall not include acts arising out of the negligent maintenance or use of a motor vehicle unless:

(1) the vehicle was operated or driven by the offender while under the influence of alcohol, with a blood alcohol level in excess of the legal

limit, or while under the influence of any other intoxicating substance ~~or~~,

(2) the vehicle was operated or driven by the offender with the intent to injure or kill the victim or in a manner imminently dangerous to another person and evincing a depraved mind, although without any premeditated design to injure or effect the death of any particular person, or

(3) the offense involved willful, malicious or felonious failure to stop after being involved in a personal injury accident to avoid detection or prosecution, provided the victim of the accident was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact.

c. "Criminally injurious conduct" shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside the United States;

6. "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct;

7. "Economic loss of a dependent" means loss after death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury;

8. "Replacement services loss of dependent" means the loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those the deceased victim would have performed for their benefit had the

deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent;

9. "Economic loss" means monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss;

10. "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and nonpecuniary damage;

11. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died;

12. "Traffic offense" means violation of a law relating to the operation of vehicles, but shall not mean negligent homicide due to operation of a motor vehicle, reckless driving, tampering with or damaging a motor vehicle, failure of a driver of a motor vehicle involved in an accident resulting in death or personal injury to stop at the scene of the accident, leaving the scene of an accident resulting in death or personal injury, operating or being in actual physical control of a motor vehicle while intoxicated or impaired due to alcohol or other intoxicating substance, or combination thereof, or operating a motor vehicle with a blood alcohol content in excess of the legal limit;

13. "Work loss for victim" means loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work that ~~he or she~~ the victim was capable of performing but unreasonably failed to undertake, or loss of income from work the victim’s caregiver would have performed if the

injuries of the victim sustained as a result of the criminally injurious conduct had not created the need for the caregiver to miss work to care for the injured victim; and

14. "Victim" means a person who suffers personal injury or death as a result of criminally injurious conduct and shall include a resident of this state who is injured or killed by an act of terrorism committed outside of the United States.

SECTION 2. This act shall become effective July 1, 2000.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 2nd day of March, 2000.

_____
President of the Senate

Passed the House of Representatives the ____ day of _____, 2000.

_____
Speaker of the House of Representatives