

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1068

By: Barrington

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5  
6 AS INTRODUCED

7 An Act relating to the Crime Victims Compensation  
8 Act; amending 21 O.S. 2011, Sections 142.3 and  
9 142.13, which relate to definitions and payment of  
10 award; modifying definitions; providing for  
11 reasonable costs associated with certain unreimbursed  
12 bereavement wage loss; stating when wage loss must  
13 occur to be considered; requiring certain  
14 verification by employer; providing for reasonable  
15 costs for reimbursement of certain travel and lodging  
16 expenses; providing for eligibility; providing for  
17 reimbursement if more than one person is eligible for  
18 such travel and lodging reimbursement; and providing  
19 an effective date.

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

21 SECTION 1. AMENDATORY 21 O.S. 2011, Section 142.3, is  
22 amended to read as follows:

23 Section 142.3. As used in the Oklahoma Crime Victims  
24 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, counseling, rehabilitation,

1 rehabilitative occupational training and other  
2 remedial treatment and care for the victim,

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

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

7 d. uncompensated bereavement wage loss for the next of  
8 kin in the closest degree of relationship to the  
9 homicide victim, as defined by Section 213 et seq. of  
10 Title 84 of the Oklahoma Statutes,

11 e. reasonable travel and lodging expenses for the next of  
12 kin in the closest degree of relationship to the  
13 homicide victim, as defined by Section 213 et seq. of  
14 Title 84 of the Oklahoma Statutes, to attend the  
15 criminal trial,

16 f. reasonable costs associated with homicide crime scene  
17 cleanup, and

18 e.

19 g. reasonable cost of vehicle impound fees associated  
20 with the collection and security of crime scene  
21 evidence;

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

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

- 3           a. a victim,
- 4           b. a dependent of a victim who has died because of  
5           criminally injurious conduct, ~~or~~
- 6           c. a person authorized to act on behalf of any of the  
7           persons enumerated in subparagraphs a and b of this  
8           paragraph, or
- 9           d a person otherwise entitled to compensation pursuant  
10           to the Oklahoma Crime Victims Compensation Act;

11           4. "Collateral source" means a source of benefits or advantages  
12 for economic loss for which the claimant would otherwise be eligible  
13 to receive compensation under ~~this act~~ the Oklahoma Crime Victims  
14 Compensation Act, and which the claimant has received, or which is  
15 readily available to the claimant, from any one or more of the  
16 following:

- 17           a. the offender,
- 18           b. the government of the United States or any agency  
19           thereof, in the form of benefits, such as social  
20           security, Medicare and Medicaid, a state or any of its  
21           political subdivisions or an instrumentality or two or  
22           more states, unless the law providing for the benefits  
23           or advantages makes them excessive or secondary to  
24

1 benefits under ~~this act~~ the Oklahoma Crime Victims  
2 Compensation Act,

3 c. state-required temporary nonoccupational disability  
4 insurance,

5 d. workers' compensation,

6 e. wage continuation programs of any employer including  
7 sick leave, personal time off leave, vacation leave or  
8 bonuses,

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

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

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

16 (1) life insurance proceeds or uninsured motorist  
17 proceeds in an amount of Fifty Thousand Dollars  
18 (\$50,000.00) or less shall not be considered a  
19 collateral source when computing loss of support,  
20 and

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



1 another person and evincing a depraved mind,  
2 although without any premeditated design to  
3 injure or effect the death of any particular  
4 person,

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

12 (4) the offense involving one or more vehicles  
13 results in the death of the victim due to the  
14 reckless disregard for the safety of others by  
15 the offender. As used in this division,  
16 "reckless disregard for the safety of others" is  
17 defined as the omission to do something which a  
18 reasonably careful person would do, or the lack  
19 of the usual and ordinary care and caution in the  
20 performance of an act usually and ordinarily  
21 exercised by a person under similar circumstances  
22 and conditions.

23 c. "Criminally injurious conduct" shall include an act of  
24 terrorism, as defined in Section 2331 of Title 18,

1 United States Code, committed outside the United  
2 States;

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

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

11 8. "Replacement services loss of dependent" means the loss  
12 reasonably incurred by dependents after death of the victim in  
13 obtaining ordinary and necessary services in lieu of those the  
14 deceased victim would have performed for their benefit had the  
15 deceased victim not suffered the fatal injury, less expenses of the  
16 dependent avoided by reason of death of the victim and not  
17 subtracted in calculating the economic loss of the dependent;

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

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

24

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

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

17        13. "Work loss for victim" means loss of income from work the  
18 victim would have performed if such person had not been injured or  
19 died, reduced by any income from substitute work actually performed  
20 by the victim or by income the victim would have earned in available  
21 appropriate substitute work that the victim was capable of  
22 performing but unreasonably failed to undertake, or loss of income  
23 from work the victim's caregiver would have performed if the  
24 injuries of the victim sustained as a result of the criminally



1 injurious conduct had not created the need for the caregiver to miss  
2 work to care for the injured victim; and

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

7 SECTION 2. AMENDATORY 21 O.S. 2011, Section 142.13, is  
8 amended to read as follows:

9 Section 142.13. A. The Crime Victims Compensation Board may  
10 compensate for work loss, replacement services loss, dependent's  
11 economic loss and dependent's replacement service loss.

12 Compensation for a caregiver who has out-of-pocket wage loss as a  
13 result of caring for the victim who was injured as a result of  
14 criminally injurious conduct may not exceed Three Thousand Dollars  
15 (\$3,000.00).

16 B. Compensation payable to a victim and to all other claimants  
17 sustaining economic loss because of injury to or death of that  
18 victim may not exceed Twenty Thousand Dollars (\$20,000.00) in the  
19 aggregate. The Board may, after approval of an initial award of  
20 Twenty Thousand Dollars (\$20,000.00), grant an additional sum not to  
21 exceed Twenty Thousand Dollars (\$20,000.00), specifically for loss  
22 of wages for the victim or loss of support for dependents of a  
23 deceased victim provided, there is verifiable economic loss after  
24 deducting payments from other sources. In no event shall

1 compensation payable to a victim and to all other claimants  
2 sustaining economic loss because of injury to or death of that  
3 victim exceed Forty Thousand Dollars (\$40,000.00) in the aggregate.

4 C. The Board may provide for the payment to a claimant in a  
5 lump sum or in installments. At the request of the claimant, the  
6 Board may convert future economic loss, other than allowable  
7 expense, to a lump sum.

8 D. An award payable in a lump sum or installments for loss of  
9 support for a dependent of the deceased victim may be computed  
10 through a formula which calculates the net loss of support for  
11 dependents based upon an estimated date of retirement or an  
12 estimated date of adulthood for dependent children, beginning with  
13 the date of death of the victim and ending with the least of one of  
14 the following time periods for each dependent filing loss of  
15 support:

16 1. The amount of time from the date of death of the victim to  
17 the date the victim would have been expected to reach sixty-two (62)  
18 years of age;

19 2. The amount of time from the date of death of the victim to  
20 the date the spouse of the victim is expected to reach sixty-two  
21 (62) years of age; or

22 3. The amount of time from the date of death of the victim to  
23 the date a dependent child is expected to reach eighteen (18) years  
24 of age or twenty-three (23) years of age if the dependent child is

1 enrolled as a full-time student. An award payable in installments  
2 for future loss of support may be modified by the Board in the event  
3 a dependent child receiving loss of support is between the ages of  
4 eighteen (18) and twenty-three (23) years of age and is no longer  
5 enrolled as a full-time student, the dependent dies before all  
6 installments are paid or the dependent receiving installments moves  
7 and leaves no forwarding address with the Board office.

8 E. An award shall not be subject to execution, attachment,  
9 garnishment or other process, except for child support and except  
10 that an award for allowable expense shall not be exempt from a claim  
11 of a creditor to the extent that such creditor has provided  
12 products, services or accommodations, the costs of which are  
13 included in the award.

14 F. An assignment by the claimant to any future award under the  
15 provisions of ~~this act~~ the Oklahoma Crime Victims Compensation Act  
16 is unenforceable, except:

17 1. An assignment of any award for work loss to assure payment  
18 of court ordered alimony, maintenance or child support; or

19 2. An assignment of any award for allowable expense to the  
20 extent that the benefits are for the cost of products, services or  
21 accommodations necessitated by the injury or death on which the  
22 claim is based and are provided or to be provided by the assignee.

23 G. The Board may, in its discretion, approve payment of crisis  
24 counseling, occurring within three (3) years of the crime, in an

1 amount not to exceed Three Thousand Dollars (\$3,000.00) for each  
2 family member of a homicide victim; provided, the counselor is a  
3 qualified mental health care provider. Medical and pharmaceutical  
4 treatment is not compensable for any family member of a deceased  
5 victim.

6 H. Outpatient counseling expenses for a victim of criminally  
7 injurious conduct may be considered by the Board provided the  
8 counseling is focused on the crime and the counselor is a qualified  
9 mental health care provider. A total not to exceed Three Thousand  
10 Dollars (\$3,000.00) may be awarded for individual counseling  
11 sessions for victims of criminally injurious conduct. Sessions  
12 between the mental health care provider and nonoffending parents of  
13 a victimized child under eighteen (18) years of age may also be  
14 included in the award provided the combined total for the counseling  
15 and parental sessions do not exceed Three Thousand Dollars  
16 (\$3,000.00) and the parental sessions relate to the victimization.  
17 In extreme cases, the Board may, in its discretion, waive the three-  
18 thousand-dollar limit. Inpatient mental health treatment will be  
19 reviewed on a case-by-case basis and may be compensated, at the  
20 discretion of the Board, in an amount not to exceed Twenty Thousand  
21 Dollars (\$20,000.00).

22 I. Reasonable funeral, cremation or burial expenses shall not  
23 exceed Seven Thousand Five Hundred Dollars (\$7,500.00).

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1 J. Reasonable costs associated with crime scene cleanup shall  
2 not exceed Two Thousand Dollars (\$2,000.00).

3 K. Loss of income of a caregiver shall not exceed Three  
4 Thousand Dollars (\$3,000.00).

5 L. Reasonable costs for vehicle impound fees are limited to  
6 violent crimes occurring in a vehicle owned by the victim of the  
7 violent crime or an eligible claimant, provided such fee is  
8 associated with the collection and security of crime scene evidence.  
9 Reimbursement for vehicle impound fees shall not exceed Seven  
10 Hundred Fifty Dollars (\$750.00).

11 M. Reasonable costs associated with unreimbursed bereavement  
12 wage loss for the next of kin in the closest degree of relationship  
13 to the homicide victim, as defined by Section 213 et seq. of Title  
14 84 of the Oklahoma Statutes, shall not exceed One Thousand Dollars  
15 (\$1,000.00) per eligible next of kin. Wage loss must occur within  
16 thirty (30) days following the death or burial upon which the claim  
17 is based in order to be considered. Unreimbursed wage loss shall be  
18 verified by the employer.

19 N. Reasonable costs for reimbursement of travel and lodging  
20 expenses for the next of kin in the closest degree of relationship  
21 to the homicide victim, as defined by Section 213 et seq. of Title  
22 84 of the Oklahoma Statutes, to attend the criminal trial shall not  
23 exceed Two Thousand Dollars (\$2,000.00) in the aggregate. Persons  
24 eligible to make claim for travel and lodging reimbursement must

1 live more than three hundred (300) miles from the trial location in  
2 order to be eligible. If more than one person is eligible for  
3 travel and lodging reimbursement, the maximum award of Two Thousand  
4 Dollars (\$2,000.00) will be prorated based on actual out-of-pocket  
5 loss.

6 SECTION 3. This act shall become effective November 1, 2012.

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