

CHAPTER 135

S.B. No. 76

An Act relating to the eligibility of certain victims to receive benefits under the Crime Victims Compensation Act; defining certain terms; providing for cost collection enforcement; prescribing sanctions for lack of enforcement by courts; amending the Crime Victims Compensation Act, as amended (Article 8309-1, Vernon's Texas Civil Statutes), by amending Subdivisions (7), (9), and (10) of Section 3, by adding Subdivision (11) to Section 3, by amending Subsections (b) and (c) of Section 6, and by amending Subsection (b) and both Subsections (h) of Section 14.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (7), (9), and (10) and adding Subdivision (11) to read as follows:

“(7) ‘Pecuniary loss’ means the amount of expense reasonably and necessarily incurred:

“(A) regarding personal injury for:

“(i) medical, hospital, nursing, or psychiatric care or counseling, and physical therapy;

“(ii) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed \$150 per week *unless the victim is an accomplice of the offender or residing in the same household as the offender, then compensation for actual loss of past earnings and anticipated loss of future earnings is strictly prohibited*; and

“(iii) care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed \$30 per child per week up to a maximum of \$75 per week for any number of children; and

“(B) as a consequence of death for:

“(i) funeral and burial expenses;

“(ii) loss of support to a dependent or dependents not otherwise compensated for as a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate of not more than a total of \$150 per week for all dependents; and

“(iii) care of minor children enabling the surviving spouse of a victim to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury, at a rate not to exceed \$30 per week per child, up to a maximum of \$75 per week for any number of children.

“(C) Pecuniary loss does not include loss attributable to pain and suffering.”

“(9) ‘Victim’ means:

“(A) a person who is a Texas resident *or a resident of another state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession or territory of the United States who is in this state* at the time of the crime and who suffers personal injury or death as a result of criminally injurious conduct;

“(B) an intervenor;

“(C) a dependent of a deceased victim; and

“(D) in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or burial expenses incurred as a direct result of the crime.

“(10) ‘Crime of violence’ means any *criminal offense as defined in the Penal Code of this state or in a federal criminal law* that results in a personal injury to a victim ~~resident of this state~~. No act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime of violence for the purposes of this Act, except that a crime of violence includes injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle, or injury or death sustained in an accident caused by a driver in violation of Section 38, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or Article 6701I-1 or 6701I-2, Revised Civil Statutes of Texas, 1925, as amended.

“(11) ‘Personal injury’ means *physical harm to the victim or intervenor.*”

SECTION 2. Subsections (b) and (c), Section 6, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), are amended to read as follows:

“(b) The board shall establish that as a direct result of criminally injurious conduct the victim suffered *personal* ~~physical~~ injury or death that resulted in a pecuniary loss which the victim is unable to recoup without suffering financial stress and for which he or she is not compensated from any collateral source.

“(c) The board shall deny the application if:

“(1) the criminally injurious conduct is not reported or the application is not made in the manner specified in Section 4 of this Act;

“(2) the victim or person whose injury or death gives rise to the application knowingly and willingly participated in the criminally injurious conduct;

“(3) the claimant will not suffer financial stress as a result of the pecuniary loss arising out of criminally injurious conduct; ~~[or]~~

“(4) *the claimant is the offender or an accomplice of the offender;*

“(5) *an award of compensation to the claimant would benefit the offender or an accomplice of the offender; or*

“(6) *the victim was incarcerated in a penal institution, as defined in Subdivision (26), Section 1.07, Penal Code, at the time the offense was committed [the victim resided in the same household as the offender or his or her accomplice].”*

SECTION 3. Section 14, Crime Victims Compensation Act, as amended (Article 8309-1, Vernon’s Texas Civil Statutes), is amended by amending Subsection (b) and both Subsections (h) to read as follows:

“(b) A person shall pay \$20 as a court cost [~~; in addition to other court costs;~~] on conviction of any felony, \$15 as a court cost, [~~in addition to other court costs;~~] on conviction of a misdemeanor punishable by imprisonment or by a fine of more than \$200, and \$12.50 as a court cost, [~~in addition to other court costs;~~] on conviction of a misdemeanor punishable by a fine of not more than \$200. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon’s Texas Civil Statutes), or under the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon’s Texas Civil Statutes), is specifically excluded. *The court shall assess and make a reasonable effort to collect the cost due under this section whether or not any other court cost is assessed or collected.* The court shall require a person convicted of an offense listed under this section to pay the court cost whether or not the court grants the person a probated sentence. If a person is granted deferred adjudication under Article 42.12, 42.13, or 45.54, Code of Criminal Procedure, 1965, as amended, at the time the court grants deferred adjudication, the person shall pay as a court cost the amount that the person would have otherwise been required to pay under this subsection had the adjudication not been deferred and had the person been finally convicted of the offense.”

“(h)(1) *If the board has reason to believe that a court has not been assessing and/or has not been making a reasonable effort to collect the costs due under this section, the board shall issue a letter of warning to the court or to the governing body of the governmental unit in which the court is located.*

“(2) *The court or governing body shall respond in writing to the board within 60 days, making specific references to the charges contained in the letter of warning.*

“(3) *If no response is made or if the board deems the response inadequate, the board may request the comptroller of public accounts to audit the records of the court, the records of the officer charged with collecting the cost, or the treasury of the governmental unit in which the court is located.*

“(4) *The comptroller will provide the board with the results of said audit.*

“(5) *Using the results of said audit and any other evidence available, the board may find that a court is not assessing and/or is not making a reasonable effort to collect costs due under this section.*

“(6) *The board, upon making such a finding may refuse to make any awards under this Act to residents of the jurisdiction served by the court and/or notify the State Commission on Judicial Conduct of its findings.*

“(7) *The failure, refusal, or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.*

“(h) ~~If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board shall issue a public letter of warning to the court. If the court is a county court, the board shall send a copy of the letter to the commissioners court of the county in which the court presides. If the court is a municipal court, the board shall send a copy of the letter to the governing body of the municipality in which the court presides.~~

“(h) ~~If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board may not make any awards under this Act to residents of the jurisdiction served by the court.]”~~

SECTION 4. This Act takes effect September 1, 1985, and applies to a claim for compensation for crimes or incidents occurring on or after September 1, 1985.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 26, 1985, by a viva-voce vote; Senate concurred in House amendment on May 10, 1985, by a viva-voce vote; passed the House, with amendment, on May 9, 1985, by a non-record vote.

Approved: May 24, 1985

Effective: September 1, 1985