

Part 60. Crime Victims Reparations Board Rules

Codification Notes:

This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 1.1

Subpart 1. General Provisions

16 CAR § 60-101. Membership and officers of the board

- (a) The Crime Victims Reparations Board shall consist of five (5) members appointed by the Governor to serve four-year terms and until the successor is appointed and qualified.
- (b) At least two (2) members of the board shall be persons admitted to practice law in this state.
- (c) At least one (1) member of the board shall be:
 - (1) A victim of criminally injurious conduct;
 - (2) The next of kin of a homicide victim; or
 - (3) An individual experienced in providing victim assistance services.
- (d) Of the first members appointed:
 - (1) Two (2) shall be appointed for a term of two (2) years;
 - (2) Two (2) shall be appointed for a term of three (3) years; and
 - (3) One (1) shall be appointed for a term of four (4) years.
- (e) Vacancies shall be filled in the same manner.

16 CAR § 60-102. Purpose of the board

- (a) The purpose of the Crime Victims Reparations Board shall be to hear and decide all matters relating to crime victims reparations applications.
- (b) The board shall have the authority to award compensation to victims of crime for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met.

16 CAR § 60-103. Powers and duties of the board

The Crime Victims Reparations Board shall have the power:

- (1) To hear and determine all matters relating to applications filed with the board for compensation, including the power to reinvestigate or reopen claims without regard to the statutes of limitations;
- (2)(A) The board, or the Administrator of the Crime Victims Reparations Board, on behalf of the board, may:
 - (i) Subpoena witnesses and compel their attendance;
 - (ii) Enter orders;
 - (iii) Require the production of records and other evidence;
 - (iv) Administer oaths or affirmations;
 - (v) Conduct hearings; and
 - (vi) Receive relevant evidence.
- (B) The board shall be considered in continuous session for the purposes stated above;
- (3) To regulate its own procedures, except as otherwise provided in the Arkansas Crime Victims Reparations Act, Arkansas Code § 16-90-701 et seq.;
- (4) To adopt rules to implement the provisions of the Arkansas Crime Victims Reparations Act;
- (5) To define any term not defined in the Arkansas Crime Victims Reparations Act;
- (6) To prescribe forms necessary to carry out the purposes of the Arkansas Crime Victims R Reparations Act;
- (7) To request access to any reports of investigations or other data necessary to assist the board in making a determination of eligibility for compensation;
- (8) To publicize the availability of compensation and information regarding the filing of claims therefore;

- (9) To order the claimant to submit to a mental or physical examination or order the autopsy of a deceased victim if the results would be material to a claim;
- (10) To require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed;
- (11) To deny, withdraw, or reduce an award of compensation upon finding that the claimant did not fully cooperate with the appropriate law enforcement agencies;
- (12) To reconsider a decision granting or denying a compensation award, based on its own motion or on request of the claimant;
- (13) To suspend the application for compensation proceedings pending disposition of a criminal prosecution that has been commenced or is imminent, but the board may make a tentative award;
- (14) To join in a civil action as a part plaintiff to recover the compensation awarded if the claimant brings such action;
- (15) The board shall be provided such office, supplies, staff, and secretarial services as necessary by the Department of Public Safety;
- (16) All necessary and reasonable expenses of the board shall be paid for from the Crime Victims Reparations Revolving Fund;
- (17) The board shall have the duty of preparing and transmitting an annual report to the Governor; and
- (18) To reimburse any medical facility or licensed healthcare provider for the reasonable cost of providing medical-legal examinations to victims of sexual assault as outlined in Arkansas Code § 12-12-401 et seq.

16 CAR § 60-104. Meetings of the board

- (a) The Crime Victims Reparations Board shall meet on the third Thursday of January, March, May, July, September, and November, six (6) times each year, or at the call of the Chair of the Crime Victims Reparations Board, at 9:30 a.m. to hear appeal claims.
- (b)(1) The chair shall serve as presiding officer at all official meetings of the board.
 - (2) In the absence of the chair, the remaining board members present at the meeting may designate a president officer for that meeting.
- (c) The chair shall have the authority to vote on all matters coming before the board.
- (d)(1) A majority of the board shall constitute a quorum at hearings on appeal claims.
 - (2) The concurrence of two (2) members of the board shall be necessary to determine the outcome of a claim.
 - (3) The board may act in a panel of three (3) with proxies or consent decrees being permitted.
- (e) In the event of a tie vote the matter or matters shall be continued to the next meeting.
- (f)(1) The order of business at any meeting of the board shall follow the agenda prepared in advanced of the meeting.
 - (3) Such other matters may be brought before the board as shall be requested by any member in writing and presented to the chair.
- (g) Administrative staff shall be responsible for preparation of minutes for each board meeting.
- (h) Robert's Rules of Order, revised, shall govern all meetings of this board.

16 CAR § 60-105. Board staff

- (a) The Administrator of the Crime Victims Reparations Board shall be the chief executive officer of the board staff.
- (b) He or she shall be hired by the Secretary of the Department of Public Safety with the advice and consent of the board.
- (c) He or she shall be responsible for the administration of the rules, policies, and procedures promulgated by the board, pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., and within such restraints as mandated by statute.
- (d) The administrator shall:
 - (1) Be responsible for employment, supervision, evaluation, and termination of board employees; and
 - (2) Delegate appropriate powers and duties to them, subject to the advice and/or consent of the secretary and the board.

16 CAR § 60-106. Amendment to rules

Any modification or amendment to this part shall be made pursuant to the procedure as outlined in the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

16 CAR § 60-107. Conflict of interest

- (a)(1) No member of the Crime Victims Reparations Board shall use such appointment for purposes that are motivated by private gain, including gain for providers, claimants, or victims with which the board member is associated within any capacity.
- (2) There shall exist a conflict of interest when a provider, claimant, or victim with whom the board member is associated with appears before the board in the course of business of the board.
- (b)(1) When such a conflict arises for a member, the individual member should declare the conflict.
- (2) Additionally, any member of the board who questions whether or not another member has a conflict of interest in the matter under discussion may ask for a determination by the board.
- (3) If the board finds that a conflict exists, the affected member shall also follow the aforementioned procedure.
- (c) Any member of the board who declares a conflict of interest, or who is found to have a conflict, should neither participate in debate nor vote on the issue in question.
- (d) A conflict of interest shall exist among members of the administrative staff in any case where a member of the Department of Public Safety's staff or a person related, whether by blood, adoption, or marriage within the second degree of consanguinity to a member of the department's staff is the claimant or victim on a claim for compensation.
- (e) Additionally, the Administrator of the Crime Victims Reparations Board and the staff attorney may determine that a conflict of interest exists on claims where one (1) or more members of the administrative staff know the claimant or victim.
- (f) Administrative staff members shall immediately notify the administrator when another member of the department's staff or someone whom they believe is known by one (1) or more members of the administrative staff has filed a claim.
- (g) In the event that a conflict arises or exists among all members of the administrative staff, the administrative staff may gather necessary information and present the application and attachments to the board, but shall not:
 - (1) Participate in the debate; or
 - (2) Vote on the claim in question.

(h) The administrative staff shall also immediately notify the administrator when such staff members know the victim or claimant on a particular claim.

(i)(1) If only one (1) staff member is determined to have a conflict, then that staff member shall not:

(A) Participate in the debate; or

(B) Vote on the claim in question.

(2) If that staff member has been assigned to investigate the claim, then the administrator shall immediately reassign the claim to another investigator.

Subpart 2. Crime Victims Reparations

16 CAR § 60-201. Definitions

As used in this subpart:

(1)(A) “Allowable expense” means a charge incurred for needed products, services, and accommodations, including, but not limited to:

- (i) Medical care;
- (ii) Rehabilitation;
- (iii) Rehabilitative occupational training;
- (iv) Crime scene cleanup; and
- (v) Other remedial treatment and care.

(B) It also includes a total charge not in excess of seven thousand five hundred dollars (\$7,500) for expenses related to:

- (i) Funeral;
- (ii) Cremation; or
- (iii) Burial.

(C) Such term shall also include the cost of legal services for the establishment of guardianship for minor children pursuant to this part;

(2) “Board” means the Crime Victims Reparations Board, hereinafter referred to as the board;

(3) “Catastrophic” means injuries involving a sustained loss of function, including, but not limited to, any of the following conditions:

- (A) Mangling, crushing, or amputation of a major portion of an extremity;
- (B) Traumatic injury to the spinal cord that has caused or may cause paralysis;
- (C) Severe burns that require burn center care; or
- (D) Serious head injury, loss of vision, or loss of hearing;

(4)(A) “Claimant” means any of the following persons applying for reparations under the Arkansas

Crime Victims Reparations Act, Arkansas Code § 16-90-701 et seq.:

- (i) A victim;
- (ii) A dependent of a victim who has died because of criminally injurious conduct; or
- (iii) A person authorized to act on behalf of any of the persons listed above.

(B) The term shall not include a service provider;

(5) “Collateral source” means a source of benefits or advantages for economic loss that the claimant has received or that is readily available to the claimant, including, but not limited to, any one

(1) or more of the following:

- (A) The offender;
- (B) The United States Government or any agency thereof, in the form of benefits, such as Social Security, Medicare, and Medicaid, or a state or any of its political subdivisions;
- (C) State-required temporary nonoccupational disability insurance;
- (D) Workers’ compensation;
- (E) Wage continuation programs of any employer;
- (F) Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
- (G) A contract providing prepaid hospital and other health care service or benefits for disability;

(6)(A) “Criminally injurious conduct” means an act that occurs or is attempted in this state that results in personal injury or death to a victim that is punishable by:

- (i) Fine;
- (ii) Imprisonment; or
- (iii) Death.

(B) This term shall include acts of terrorism committed outside of the United States as defined in 18 U.S.C. § 2331 against any Arkansas resident.

- (C) This term shall not include acts arising out of the operation of motor vehicles, boats, or aircraft unless the acts involve any of the following:
- (i) Injury or death intentionally inflicted through the use of a motor vehicle, boat, or aircraft;
 - (ii) A violation of the Omnibus DWI or BWI Act, Arkansas Code § 5-65-101 et seq.; or
 - (iii) A violation of Arkansas Code § 27-53-101 (leaving the scene of an accident involving serious injury or death);
- (7) “Dependent” means a natural person wholly or partially dependent upon the victim for care or support and includes a child of a victim born after the death of the victim where the death occurred as a result of criminally injurious conduct;
- (8) “Economic loss” means monetary detriment consisting of allowable expense and work loss, but shall not include noneconomic detriment;
- (9) “Immediate family” means a person's spouse, children, parents or guardian, siblings, and grandparents, whether related by:
- (A) Blood;
 - (B) Adoption; or
 - (C) Marriage;
- (10) “Noneconomic detriment” means:
- (A) Pain;
 - (B) Suffering;
 - (C) Inconvenience;
 - (D) Physical impairment; and
 - (E) Nonpecuniary damage;
- (11) “Personal injury” means actual bodily harm, including pregnancy or mental anguish, that is the direct result of a violent criminal act;
- (12) “Total and permanent disability” means an impairment based upon demonstrable medical evidence that restricts the victim from performing the usual tasks of a worker to such an extent that the victim cannot maintain employment;

(13)(A) "Victim" means a person who suffers personal injury or death as a result of criminally injurious conduct committed within the State of Arkansas.

(B) The term further includes:

- (i) Any Arkansas resident who suffers personal injury as the result of criminally injurious conduct that occurs in states presently not having crime victims reparations programs for which the victim is eligible; and
- (ii) Any Arkansas resident who is injured or killed by an act of terrorism committed outside of the United States as defined in 18 U.S.C. § 2331.

(C) The term "victim" shall include a person who:

(i) Is an immediate family member of a:

- (a) Deceased victim;
- (b) Victim of sexual assault; or
- (c) Child victim;

(ii) Is not an immediate family member, but resided, at the time of the crime, in the same permanent household as a deceased victim;

(iii) Discovered the body of a victim who dies as the result of criminally injurious conduct;
or

(iv) Is the minor child, whether by blood, adoption, or marriage, of an eligible victim; and

(14)(A) "Work loss" means loss of income from work the victim or claimant would have performed in their regular course of employment if the victim had not been injured or died, reduced by:

- (i) Any income from substitute work actually performed by the victim or claimant; or
- (ii) Income the victim or claimant would have earned in available appropriate substitute work that he or she was capable of performing but unreasonably failed to undertake.

(B) Individuals filing claims must provide clear and convincing evidence of employment, including, but not limited to:

- (i) Pay stubs;
- (ii) Tax returns; or
- (iii) Certified documentation from employer.

16 CAR § 60-202. Types of compensation available

For victims, as defined by Arkansas Code § 16-90-703(11), compensation is available for the following types of expenses:

- (1)(A) Economic loss sustained by the victim or a dependent arising from the criminally injurious conduct of another.
- (B) Future economic loss is also compensable but may be reduced or discontinued if the recipient's circumstances change; and
- (2)(A) Mental health expenses incurred as a result of the criminally injurious conduct of another.
- (C) Awards for mental health expenses, for any victim, shall be made in accordance with guidelines established by a committee of mental health professionals appointed by the Crime Victims Reparations Board.

16 CAR § 60-203. Eligibility criteria for compensation

- (a) The criminally injurious conduct leading to the filing of the reparations claim must have occurred:
 - (1) In Arkansas;
 - (2) To a resident of Arkansas in a state without a reparations program for which the victim is eligible; or
 - (3) To a resident of Arkansas who is injured or killed by an act of terrorism committed outside of the United States as defined in 18 U.S.C. § 2331.
- (b) The incident must have occurred on or after July 1, 1988.
- (c)(1) The incident must have been reported to the proper authorities within seventy-two (72) hours or would have been reported within the period of time except for good cause.
 - (2) Good cause shall include, but not be limited to, the:
 - (A) Physical incapacity of a victim;
 - (B) Mental incompetence of a victim;
 - (C) Age of the victim; and
 - (D) Injury was not reasonably discoverable.
- (d)(1) The application for compensation must be filed within one (1) year of the incident, unless the Crime Victims Reparations Board finds good cause for failure to file a timely claim.
 - (2) Good cause shall include, but not be limited to:
 - (A) The physical incapacity of a victim;
 - (B) The mental incompetence of a victim;
 - (C) The age of the victim;
 - (D) The injury was not reasonably discoverable;
 - (E) Restitution or other collateral source was regularly being paid and then terminated; and
 - (E) Postal service delays that are verifiable.
- (d) The victim must have suffered personal injury or death as a result of the criminal act of another.
- (f)(1) The claimant and/or victim must, to the extent able, have cooperated with law enforcement officials during their investigation.

- (3) The following issues may be considered when determining cooperation:
- (A) Failure to cooperate in the prosecution of the defendant or to appear as a witness;
 - (B) Not cooperating initially but later deciding to cooperate and the delay allows the defendant to escape prosecution;
 - (C) Not cooperating initially but later deciding to cooperate without any good cause as to the delay;
 - (D) Causing extra or unnecessary effort on the part of law enforcement to gain prosecution;
 - (F) Reluctantly providing information pertaining to the crime, failing to appear when requested without good cause, giving false or misleading information, or attempting to avoid law enforcement;
 - (G) Failing to prosecute or cooperate with law enforcement because of fear for his or her personal safety;
 - (H) Failing to give testimony or otherwise cooperate with the prosecutor's office; and
 - (I) Failing to cooperate with the board's administrative staff by not returning requested information, not returning telephone calls, not providing accurate information, etc.
- (g) The net amount of compensation requested in the application must not have been paid by another source.
- (h)(1) The claimant and/or victim was not the offender or an accomplice of the offender.
- (2) Claimant/victim may be denied if he or she has been engaged in an illegal activity during his or her victimization.
- (4) Illegal activity may consist of any of the following, but is not limited to:
- (A) Victim was buying drugs;
 - (B) Victim was using drugs;
 - (C) Victim was a minor and drinking alcohol; or
 - (D) Victim was in an illegal place of business, such as a:

- (i) Crack house;
- (ii) House of prostitution; or
- (iii) Gambling establishment.

(5) If claimant/victim contributed or was offender.

- (A) Compensation shall not be awarded to a claimant/victim who was the offender or an accomplice to the offender or who encouraged or in any way participated in the criminally injurious conduct.
 - (B) Compensation may be diminished to the extent or the degree of responsibility for the cause of the injury or death attributable to the victim, as determined by the board.
- (6) In determining the amount of an award, the board shall determine whether, because of his or her conduct, the victim of such crime or the intervenor contributed to the infliction of his or her injury or to his or her death, and the board shall reduce the amount of the award or reject the claim altogether, in accordance with such determination.
- (7) Contribution is determined by the action portrayed by the victim at the time of or immediately preceding the crime.
- (8) While there is no set formula for calculating the percentage of contribution to be assessed, the following factors should serve as a guideline:
- (A) If it appears that the victim was provoked by the defendant in a manner threatening bodily harm to the victim, and the victim acted in self-defense, no contribution should be assessed;
 - (B) If it appears that the victim was provoked by the defendant in a manner where bodily harm to the victim appeared unlikely, and the victim used poor judgment because of intoxication or other drug involvement, a twenty-five percent (25%) contribution factor should be assessed;
 - (C) If it appears that the defendant was provoked by the victim in a manner where bodily harm appeared unlikely, a fifty percent (50%) contribution factor should be assessed;
 - (D) If the victim is injured as a result of his or her conduct not being that of a prudent person, a fifty percent (50%) contribution factor should be assessed;

- (E) If it appears that the defendant was provoked by the victim in a manner where bodily harm to the defendant appears intentional, a seventy-five percent (75%) contribution factor should be assessed;
- (F) If it appears that the defendant was provoked by the victim in a manner where bodily harm to the defendant is unquestionable, a one hundred percent (100%) contribution factor should be assessed and the claim denied;
- (G)(i) If the victim is not wearing protective equipment as prescribed by law, a twenty-five percent (25%) contribution factor shall be assessed.
 - (ii) This includes helmets, seat belts, etc.; and
- (G) If the victim was involved in drugs as verified by the police report or other official documents, a one hundred percent (100%) contribution factor should be assessed and the claim denied.
- (i) The injury or death must not have been the result of negligent maintenance or use of a motor vehicle unless the acts are committed with the intent to inflict injury or death or unless the acts committed were in violation of:
 - (1) The Omnibus DWI or BWI Act, Arkansas Code § 5-65-101 et seq.; or
 - (2) Arkansas Code § 27-53-101, leaving the scene of an accident involving serious injury or death.
- (j) Claimant/victim has not been convicted of a felony involving criminally injurious conduct.
- (k) Awards shall not be made to a victim who is injured or killed while confined in state, county, or municipal jail, prison, or other correctional facility as a result of conviction of any crime.
- (l) The award would unjustly benefit the offender or accomplice except as permitted by this part.
- (m) In those cases where the victim has died, the claimant will be considered to have no compensable loss for the expenses incurred by the victim as a result of the criminally injurious conduct if the claimant has no legal obligation to pay for these expenses.

16 CAR § 60-204. Unjust enrichment

- (a)(1) No portion of a compensation award shall unjustly benefit the offender or accomplice.
 - (3) However, no award shall be denied solely on the basis of the:
 - (A) Victim's familial relationship to the offender; or
 - (B) Presence of the offender in the household at the time of the award.
- (c) In determining whether or not an award would unjustly benefit the offender, the following factors should be considered:
 - (1)(A) The legal responsibilities of the offender to the victim and collateral resources available to the victim from the offender.
 - (C) Victims of family violence must not be penalized when collateral sources of payment are not viable;
 - (2) Payments to victims of family violence that only minimally or inconsequentially benefit the offender; and
 - (3) The special needs of child witnesses to violence and child victims of criminal violence, especially when the perpetrator is a parent who may or may not live in the same residence.
- (c)(1) Collateral resources available to the victim from the offender shall be considered when awarding a claim.
 - (2) However, the victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.
- (d) Payments to third-party providers shall be made to prevent cash intended for the victim's bills to be used by or on behalf of the offender.
- (e) The Crime Victims Reparations Board shall not penalize child victims by denying or delaying payment when offender or collateral resources are not forthcoming.

16 CAR § 60-205. Maximum compensation amounts and methods of payments

- (a)(1) Compensation payable to a victim or claimant incurring expenses due to injury or death may not exceed a total of ten thousand dollars (\$10,000).
- (2) However, for those victims whose injuries are catastrophic and result in a total and permanent disability, the maximum reparations amount shall not exceed twenty-five thousand dollars (\$25,000).
- (b)(1) Compensation for funeral expenses of deceased victims may not exceed seven thousand five hundred dollars (\$7,500).
- (2) Collateral sources of income, such as burial policies, workers' compensation, etc., will be applied towards the total cost of the victim's funeral.
- (3) Life insurance may not be used as a collateral source when dependents of the deceased victim remain and may benefit from the proceeds of this policy.
- (4) Life insurance will be utilized as a collateral source and be applied against funeral expenses in those cases involving no surviving dependents.
- (c) The Crime Victims Reparations Board may provide for the payment to a claimant in a lump sum or in installments.
- (d) The board shall pay all or part of an award directly to service providers unless evidence of prior payment for services is submitted.
- (e)(1) The board may also provide for payment of legal fees, not to exceed two hundred fifty dollars (\$250), plus filing fees, of a guardianship when an award has been made to a minor child pursuant to this part.
- (2) Legal services expenses shall not be deducted from the otherwise compensable amount unless amount is over ten thousand dollars (\$10,000).
- (f) Upon request of the claimant, the board may convert future economic loss, other than allowable expense, to a lump sum, but only upon a finding by the board of either of the following:
 - (1) That the award in a lump sum will promote the interests of the claimant; or
 - (2) That the present value of all future economic loss does not exceed one thousand dollars (\$1,000).

- (g) An award payable in installments for future economic loss may be made only for a period that the board can reasonably determine future economic loss and may be modified by the board upon finding that a significant change in circumstances has occurred.
- (h) Approved claims will be paid in the order of their approval by the board as funds become available.

16 CAR § 60-206. Application review procedure

(a)(1) A victim, dependent of a victim, or person legally acting on behalf of the victim must first secure a copy of the official Victims Reparations Application form from:

(A) Their local prosecuting attorney's office, law enforcement agency, victim/witness coordinator, service provider; or

(B) The Crime Victims Reparations Board.

(2) Assistance in completing the form may be provided by the:

(A) Victim/witness coordinator; or

(B) Prosecuting attorney's staff in districts that have no victim/witness coordinator.

(3) The board's staff will also be available to assist in the completion of the form.

(b) A form must be:

(1) Completed in its entirety; and

(2) Accompanied with an itemized statement and police offense report or other official documentation from the agency to which the incident was reported.

(c)(1) A victim must submit a Victims Reparations Application as a necessary (but not sufficient) condition of directly receiving payment.

(2) The board may directly reimburse a medical care provider for costs associated with a sexual assault testing kit, even in the absence of a victim's application.

(3) Such costs, which include those associated with testing for sexually transmitted diseases, may be reimbursed regardless of which fund or cost center is used to make the reimbursement.

(d) The staff of the board shall:

(1) Log the application as being received; and

(2) Begin a thorough review and verification process.

(e) The board and staff have the authority to conduct investigations and/or request any additional information from:

- (1) The victim;
 - (2) The investigating law enforcement agency;
 - (3) Medical personnel and/or facilities;
 - (4) Witnesses;
 - (5) Employers; and
 - (5) Others as may be deemed necessary for the proper review and verification of the application.
- (f) The staff shall make a thorough analysis of the application and attachments, then prepare staff comments relative to the application, which shall be filed in the application folder along with supportive data that is pertinent to the investigation.
- (g) The administrative staff shall have the authority to review and decide crime victim reparations claims up to the maximum allowable amount of:
- (1) Ten thousand dollars (\$10,000); or
 - (2) Twenty-five thousand dollars (\$25,000) for victims whose injuries are catastrophic and result in a total and permanent disability.
- (h)(1) The administrative staff of the board shall then make a decision regarding the claim.
- (2) The claimant/victim shall be mailed notification of the administrative decision within fifteen (15) calendar days by mail.
 - (3) If the claim is denied, the claimant/victim will be notified by certified mail, return receipt requested.
- (i) The claimant shall have the right to appeal decisions of the board in the manner set forth in 16 CAR § 60-208.

16 CAR § 60-207. Advance (emergency) award of compensation

(a)(1) The Crime Victims Reparations Board may make or authorize the Administrator of the Crime Victims Reparations Board to make an advance (emergency) award of compensation to the claimant/victim prior to taking action on an application and pending a final decision when:

- (A) It appears the claim is one for which compensation is probable; and
- (B) Undue hardship will result to the claimant/victim if immediate payment is not made.

(2) The claimant/victim may:

- (A) Request in the application that consideration be given for an advance award; and
- (B) Provide justification for such award.

(3) A decision denying emergency relief shall not be appealable.

(b)(1) The amount of such advance (emergency) award shall not exceed five hundred dollars (\$500).

(2) Any advance award shall be deducted from the final compensation made to the claimant/victim.

(3) If the final award amount is less than the amount of the advance award, the claimant/victim must repay the excess to the board.

(4) If an emergency award is made and the claimant/victim later does not follow through with prosecution or some other requirement of this program, the claimant/victim will be required to reimburse the board for the amount of the award made.

(c) Criteria for payment of emergency awards is listed below:

(1) Claimant/victim is without an income at the time of application resulting in loss of:

- (A) Food;
- (B) Heat; or
- (C) Shelter; or

(2) Claimant/victim cannot receive emergency service (i.e. burial) without the emergency payment.

(d) Documentation required:

- (1) Proof of financial emergency should be obtained for the file, such as:
 - (A) Notice of eviction from the landlord; or
 - (B) A shut-off notice from the power company;
- (2) If no proof is available, then the investigator should note in file why he or she thinks the application is considered an emergency;
- (3)(A) There must be contact with the investigating law enforcement officer to verify:
 - (i) What occurred;
 - (ii) The victim's innocence; and
 - (iii) The victim's cooperation.

(B) A law enforcement offense report and Crime Victims Reparations Board Law Enforcement Form must be included in the file;
- (4)(A) For wage loss claims, the employer may be contacted by telephone but the written verification must follow to go in the file.

(B) If self-employed, the applicant must provide a copy of his or her last three (3) years' tax returns or check stubs for the last three (3) months as proof of his or her income.

(C) If proof is not available, lost wages cannot be considered;
- (5) If the injury is not commensurate with the time lost from work, a doctor's excuse will be required; and
- (6) Claimant/victim is required to sign a promissory (demand) note, which must be signed and executed by the claimant/victim with the administrator prior to receiving the emergency award.

16 CAR § 60-208. Appeals procedure

- (a) In the event an application for compensation is approved in a modified form or denied, the administrative staff of the Crime Victims Reparations Board shall notify the claimant/victim by certified mail, return receipt requested, within fifteen (15) calendar days setting forth the basis of the decision.
- (b) The claimant/victim shall have the right to appeal and may do so by notifying the administrative staff of the board, in writing, by certified mail, return receipt requested, of the intent to appeal within forty-five (45) calendar days of the date of the notification letter setting forth the board's decision.
- (c)(1) The claimant/victim shall then be entitled to a formal hearing before the board.
 - (2) The hearing shall be held within ninety (90) calendar days of the date of the notice from the claimant/victim stating the intent to appeal.
- (d)(1) The claimant/victim, or an authorized representative in the event the claimant/victim is incapacitated, must be present at the appeal hearing.
 - (2) In an appeals hearing, all parties shall be afforded an opportunity to appear and be heard.
 - (3) A record of the proceedings shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the board.
- (e) Notification of board meetings shall be made in compliance with the Freedom of Information Act of 1967, Arkansas Code §§ 25-19-101 – 25-19-107.
- (f) All agendas and supporting documentation necessary shall be mailed to the board ten (10) calendar days in advance of the board meeting.
- (g) The board may, without a hearing, settle a claim by:
 - (1) Stipulation;
 - (2) Agreed settlement;
 - (3) Consent order; or
 - (4) Default.

- (h) The board shall render its decision relative to the appeal within ten (10) calendar days of the formal hearing, and the claimant/victim will be notified by mail.
- (i) The claimant/victim, if not successful in the appeal to the board shall then have thirty (30) days from the receipt of the decision to file a petition for judicial review pursuant to Arkansas Code § 25-15-212 in the circuit court of:
 - (1) His or her county of residence; or
 - (2) Pulaski County.

16 CAR § 60-209. Claims of incompetents or minor children

- (a) Proof of the establishment of the guardianship may be required by the Crime Victims Reparations Board prior to release of funds to the claimant.
- (b) A certified copy of the order of guardianship shall be sufficient proof.

16 CAR § 60-210. Cost ceiling on medical bills

- (a)(1) In connection with claims for payment on medical bills not covered by insurance made by victims, the Crime Victims Reparations Board will award up to sixty-five percent (65%) of medical bills, not to exceed a total reimbursement of ten thousand dollars (\$10,000).
- (2) However, for those victims whose injuries are catastrophic and result in a total and permanent disability, the total reimbursement shall not exceed twenty-five thousand dollars (\$25,000).
- (b) The provider of medical services to whom the award is made will be notified that by accepting the payment of sixty-five percent (65%) of their bill, they are agreeing not to commence civil actions against the victim or his or her legal representative to recover the balance due under the bill.
- (c) Acceptance of payment for services paid by the board:
 - (1) Shall be considered payment in full; and
 - (2) Bars any legal action for collection.

16 CAR § 60-211. Cost ceiling on mental health bills

- (a)(1) In connection with claims for payment of mental health services, not covered by insurance, incurred by victims, the Crime Victims Reparations Board will pay a maximum of two thousand five hundred dollars (\$2,500) or provide for six (6) months, whichever occurs first, provided the treatment plan is submitted within thirty (30) days of:
 - (A) The application to the board for those victims receiving ongoing therapy; or
 - (B) Beginning therapy for those victims who seek mental health treatment after making application to the board.
- (2) This treatment plan must state:
 - (A) The basis for the necessity of such treatment;
 - (B) The anticipated extent of the treatment;
 - (C) The relationship of the treatment to the crime perpetrated upon the victim; and
 - (D) Whether or not the diagnosis is related to a preexisting condition.
- (b)(1) A mandatory review by the board is required after ninety (90) days or two thousand five hundred dollars (\$2,500), whichever occurs first, should the victim of the provider find that further services are required.
- (2) The provider will be required to submit a new treatment plan to justify the continued need for the treatment and its continued relationship to the crime.
- (3) The board may waive the maximum upon a justification of special need based upon documentation to be submitted by the provider.
- (4) The board also reserves the right to have any mental health claims and treatment plans reviewed by an independent peer review committee should it so desire.

16 CAR § 60-212. Supplemental awards

- (a)(1) If at the time of the application, the victim or claimant was unable to submit all of the itemized bills, he or she may submit supplemental bills to be considered after the original award.
 - (2) If a victim or claimant has been awarded their original claim at a reduced amount due to contribution, then the Crime Victims Reparations Board will note at the time of approval whether or not they will consider any supplemental awards concerning this claim.
 - (3) If the board determines that supplemental awards will not be considered after the initial award, the board shall so note at the time of the initial award.
 - (4) Each case will be considered on its own merits.
- (b) The total of the original award and any and all supplemental awards may not exceed ten thousand dollars (\$10,000).
- (c) Supplemental awards may be paid quarterly.
- (d) Supplemental bills will be considered only if submitted within one (1) year of:
- (1) The date of treatment; or
 - (2) Notification of payment or denial by a collateral source.

16 CAR § 60-213. Financial obligation requirement

- (a) Reparations shall not be awarded to any victim/claimant who owes a financial obligation ordered or imposed as a result of a previous criminal conviction until the Crime Victims Reparations Board receives information or materials establishing to the satisfaction of the board that the financial obligation has been satisfied.
- (b) If the board does not receive the information or materials within six (6) months after the board notifies the victim/claimant, the:
 - (1) Application will be closed; and
 - (2) Victim notified of their right to appeal.

16 CAR § 60-214. Penalty for false claims

- (a) The filing of a false claim for compensation pursuant to the Arkansas Crime Victims Reparations Act, Arkansas Code § 16-90-701 et seq., shall constitute a Class D felony.
- (b) If a victim or a claimant knowingly files a false claim or provides false information or fails to provide material facts or circumstances necessary to substantiate the claim, he or she may not at a later date file a correct claim.
- (c) If this happens, the claim shall be denied.

Subpart 3. Sexual Assault Reimbursement

16 CAR § 60-301. Definitions

As used in this subpart:

- (1) “Board” means the Crime Victims Reparations Board, hereinafter referred to as the board;
- (2) “Collateral source” means a source of benefits or advantages for economic loss, including, but not limited to:
 - (A) The United States Government or any agency thereof, in the form of benefits such as Social Security, Medicare, and Medicaid, or a state or any of its political subdivisions;
 - (B) Proceeds of a contract of insurance payable to the sexual assault victim; and
 - (C) A contract providing prepaid hospital and other healthcare services or benefits;
- (3) “Licensed healthcare provider” means a:
 - (A) Person licensed in a healthcare field who conducts medical-legal examinations; or
 - (B) A medical facility that is currently licensed by the Department of Health and provides emergency services;
- (4) “Medical-legal examination” means health care delivered to a possible victim of a sexual assault, with an emphasis on the gathering and preserving of evidence for the purpose of serving criminal justice;
- (5) “Sexual assault” means an offense described in Arkansas Code § 5-14-101 et seq., or § 5-26-202; and
- (6) “Victim” means any person who has been a victim of any alleged sexual assault or incest as defined by Arkansas Code § 5-14-101 et seq., and § 5-26-202.

16 CAR § 60-302. Eligibility criteria for compensation

(a)(1) The victim received the medical-legal examination within ninety-six (96) hours of the attack or would have received the medical-legal examination within the required time except for good cause.

(2) Good cause includes, but is not limited to:

- (A) The physical incapacity of the victim;
- (B) The mental incompetence of the victim;
- (C) The age of the victim; or
- (D) The sexual assault was not reasonably discoverable.

(b)(1) The billing for the medical-legal examination is submitted to the Crime Victims Reparations Board within three (3) months of the medical-legal examination, unless the board finds good cause for failure to timely submit.

(2) Good cause includes, but is not limited to:

- (A) Restitution or other collateral source was terminated;
- (B) Verifiable postal service delays; and
- (C) Other good cause as determined by the board.

16 CAR § 60-303. Collateral sources

Medical-legal examination bills will be denied or diminished to the extent that the expenses can be recuperated from a collateral source.

16 CAR § 60-304. Maximum payment amounts

(a)(1) Acceptance of payment by the medical provider from the Crime Victims Reparations Board constitutes a full and final payment for the services.

(3) Any remaining balances shall not be submitted to the victim.

(b)(1) The board may reimburse the following expenses.

(2) The amount listed constitutes the maximum allowable reimbursement by the board.

Facility Fee	\$350
SANE Nurse Fee	\$350
Labs	\$200
Colposcope	\$160.88

A.C.A. § 16-21-106

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16-21-106. Assistance to **victims** and witnesses of **crimes** — **Victim of crimes case coordinator.** [Effective until January 1, 2024.]

(a)

(1) The prosecuting attorneys shall, upon request, provide to a victim and the immediate family members of all homicide victims, whether or not they are witnesses in criminal proceedings, notice of critical events in the criminal justice process, which shall include, but not be limited to:

(A) Notice of motions or hearings to establish or reduce bail or authorize other pretrial release from custody;

(B) Notice of proceedings in which any plea agreement may be submitted;

(C) Notice of trial;

(D) Notice of any motion that may substantially delay the prosecution;

(E) Notice that a court proceeding for which the victim has been subpoenaed will not transpire as scheduled;

(F) Notice of the date, time, and place of the defendant's appearance before a judicial officer;

(G) The function of a presentence report, the name, street address, and telephone number of the agency preparing the report, and the defendant's right of access to the report;

(H) Notice of the victim's right under this act to present a victim impact statement and the defendant's right to be present at the sentencing proceeding;

(I) Notice of the date, time, and place of any sentencing proceeding;

(J) Notice of the date, time, and place of any hearing for reconsideration of a sentence imposed;

(K) Notice of any sentence imposed and any modification of that sentence; and

(L) Notice of the right to receive information from the Department of Corrections, Arkansas State Hospital, and any other facility to which the defendant is committed by the court.

(2) After a prosecution is commenced, the prosecuting attorney shall promptly inform a victim of:

(A) Relevant criminal justice procedures;

(B) The crime with which the defendant has been charged, including an explanation of the elements of the crime, if necessary to an understanding of the nature of the crime; and

(C) The file number of the case and the prosecuting attorney's name, office address, and telephone number.

(3)

- (A)** The notice may be accomplished by providing the victim or immediate family member with a telephone number to a computer notification program.
- (B)** Prosecutors remain responsible for providing the notice in instances where no computer notification program exists.
- (4)** When an immediate family member has been charged with the homicide, that person shall not be notified in accordance with this section.

(b)

- (1)** Prosecuting attorneys shall confer with the victim before amending or dismissing a charge or agreeing to a negotiated plea or pretrial diversion.
- (2)** Failure of the prosecuting attorney to confer with the victim does not affect the validity of an agreement between the prosecuting attorney and the defendant or of an amendment, dismissal, plea, pretrial diversion, or other disposition.

(c)

- (1)** The prosecuting attorney of the county from which the inmate was committed shall notify the Parole Board at the time of commitment of the desire of the victim or member of the victim's family to be notified of any future parole or clemency hearings, and to forward to the board the last known address and telephone number of the victim or member of the victim's family.
- (2)** It shall be the responsibility of the victim or the victim's next of kin to notify the board after the date of commitment of any change in regard to the desire to be notified of any future parole or clemency hearings.
- (d)** The prosecuting attorneys and deputy prosecuting attorneys shall provide the following services to victims of crimes and witnesses of crimes and the family members of all homicide victims, whether or not they are witnesses in criminal proceedings:
 - (1)** Assisting the persons in obtaining protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;
 - (2)** Assisting the persons in applying for financial assistance and other social services available as a result of being a witness or victim of a crime;
 - (3)** Assisting the persons in applying for any witness fees to which they are entitled;
 - (4)** Providing, when possible, a secure waiting area during court proceedings that does not require the persons to be in close proximity to the defendants and families and friends of the defendants and otherwise make a reasonable effort to minimize unwanted contact between the victim, members of the victim's family, or prosecution witnesses and the defendant, members of the defendant's family, or defense witnesses before, during, and immediately after a judicial proceeding; and
 - (5)** Interceding with the persons' employers to assure that the employers cooperate with the criminal justice process in order to minimize loss of pay and other benefits resulting from court appearances.

- (e) In order to enable the prosecuting attorney to perform the additional duties provided in this section:
- (1) The prosecutor may request the county judge of the county to designate or provide an appropriate room or area in the county courthouse, reasonably close to the courtroom, to serve as a waiting area during court proceedings to accommodate the families and friends of the defendants, as provided in subsection (d) of this section; and
 - (2) The prosecutor may request the quorum court of the county to provide additional employees for his or her office to be known as victim of crimes case coordinators at such salary as may be determined by the quorum court, to be in addition to any other position available to the prosecutor's office.

History

Acts 1983, No. 526, §§ 1, 2; 1985, No. 450, §§ 1, 2; A.S.A. 1947, §§ 24-141, 24-142; Acts 1991, No. 904, §§ 14, 20; 1991, No. 1124, § 1; 1995, No. 1256, § 20; 1995 (1st Ex. Sess.), No. 13, § 4; 1997, No. 736, § 1; 1997, No. 1262, § 16; 1999, No. 1508, § 7; 2005, No. 1975, § 2; 2019, No. 910, § 853.

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A.C.A. § 16-21-107

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16-21-107. Victim/Witness Coordinator.

- (a)** This section shall be known as the “Victim/Witness Coordinator Act.”
- (b)** There is created a Victim/Witness Coordinator to provide technical assistance and support to all victims of crimes and their families and to witnesses to crimes who are involved in the criminal justice system, to establish programs intended to result in such support, and to provide a communication network for victim/witness programs.
- (c)** The Victim/Witness Coordinator shall be located in the Office of the Prosecutor Coordinator.

History

Acts 1985, No. 408, §§ 1-3; A.S.A. 1947, §§ 24-143 — 24-145.

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- [Chapter 90 Judgment and Sentence Generally](#)
- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-701. Title.

This subchapter shall be known and may be cited as the “Arkansas Crime Victims Reparations Act”.

History

Acts 1987, No. 817, § 2.

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- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-702. Legislative intent.

It is the intent of the General Assembly to provide a method of compensating and assisting those persons within the state who are victims of criminal acts and who suffer personal injury or death. To this end, it is the further intent of the General Assembly to provide reparations, in the amount of expenses actually incurred as a direct result of the criminal acts of other persons up to a maximum amount of ten thousand dollars (\$10,000). However, for those victims whose injuries are catastrophic and result in a total and permanent disability, the maximum amount shall not exceed twenty-five thousand dollars (\$25,000).

History

Acts 1987, No. 817, § 1; 1999, No. 1178, § 1.

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- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-703. Definitions.

As used in this subchapter:

(1)

(A) “Allowable expense” means charges incurred for needed products, services, and accommodations, including, but not limited to:

- (i)** Medical care;
- (ii)** Rehabilitation;
- (iii)** Rehabilitative occupational training;
- (iv)** Crime scene cleanup; and
- (v)** Other remedial treatment and care.

(B) “Allowable expense” also includes a reasonable and necessary amount for expenses related to funeral, cremation, or burial;

(2) “Board” means the Crime Victims Reparations Board created by § 16-90-705;

(3)

(A) “Claimant” means any of the following persons applying for reparations under this subchapter:

- (i)** A victim;
- (ii)** A dependent of a victim who has died because of criminally injurious conduct; or
- (iii)** A person authorized to act on behalf of any of the persons enumerated in this subdivision (3)(A).

(B) “Claimant” shall not include a service provider;

(4) “Collateral source” means a source of benefits or advantages for economic loss which the claimant has received or which is readily available to the claimant from anyone (1) or more of the following:

- (A)** The offender;
- (B)** The United States Government or any agency thereof in the form of benefits, such as Social Security, Medicare, and Medicaid;
- (C)** A state or any of its political subdivisions;
- (D)** State-required temporary nonoccupational disability insurance;
- (E)** Workers' compensation;
- (F)** Wage continuation programs of any employer;

- (G)** Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
- (H)** A contract providing prepaid hospital and other healthcare services or benefits for disability;

(5)

(A)

- (i)** “Criminally injurious conduct” means an act which occurs or is attempted in this state that results in personal injury or death to a victim, which act is punishable by fine, imprisonment, or death.
- (ii)** “Criminally injurious conduct” shall include acts of terrorism committed outside of the United States as defined in 18 U.S.C. § 2331 against any Arkansas resident.
- (iii)** “Criminally injurious conduct” does not include acts arising out of the operation of motor vehicles, boats, or aircraft unless the acts were committed with the intent to inflict injury or death or unless the acts involve any of the following:
 - (a)** Injury or death intentionally inflicted through the use of a motor vehicle, boat, or aircraft;
 - (b)** A violation of the Omnibus DWI or BWI Act, § 5-65-101 et seq.; or
 - (c)** A violation of § 27-53-101.

- (B)** For the purposes of this subchapter, a person shall be deemed to have committed criminally injurious conduct, notwithstanding that by reason of age, insanity, drunkenness, or other reason he or she was legally incapable of committing a crime;

- (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” means monetary detriment consisting of allowable expense and work loss, but shall not include noneconomic detriment;

- (8)** “Immediate family” means a person's spouse, children, parents or guardian, siblings, and grandparents, whether related by blood, adoption, or marriage;

- (9)** “Noneconomic detriment” means:

- (A)** Pain;
- (B)** Suffering;
- (C)** Inconvenience;
- (D)** Physical impairment; and
- (E)** Nonpecuniary damage;

- (10)** “Personal injury” means actual bodily harm, including pregnancy or mental anguish which is the direct result of a violent criminal act;

(11)

- (A)** “Victim” means a person who suffers personal injury or death as a result of criminally injurious conduct committed either within the State of Arkansas or against any Arkansas resident who suffers personal injury as the result of criminally injurious conduct which occurs in states presently not having crime victims reparations programs for which the victim is eligible, and further includes any Arkansas resident who is injured or killed by an act of terrorism committed outside of the United States, as defined in 18 U.S.C. § 2331.

- (B)** “Victim” shall also include a person who:

- (i)** Is the child, whether by blood, adoption, or marriage, of a victim as defined in subdivision (11)(A) of this section;
- (ii)** Is an immediate family member of a deceased victim, a victim of sexual assault, or a child victim;

(iii) Is not an immediate family member, but who resided at the time of the crime in the same permanent household as a deceased victim; or

(iv) Discovered the body of a victim who died as the result of criminally injurious conduct; and

(12) “Work loss” means loss of income from work the victim or claimant would have performed if the victim had not been injured or died, reduced by any income from substitute work actually performed by the victim or claimant or by income the victim or claimant would have earned in available appropriate substitute work that he or she was capable of performing but unreasonably failed to undertake.

History

Acts 1987, No. 817, § 3; 1991, No. 396, §§ 2, 3; 1997, No. 818, §§ 1, 2; 1997, No. 887, § 1; 1999, No. 1502, §§ 1, 2; 1999, No. 1508, §§ 5, 6, 7; 2001, No. 548, § 1; 2015, No. 299, § 24.

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- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-704. Penalty.

The filing of a false claim for reparations pursuant to this subchapter shall constitute a Class D felony.

History

Acts 1987, No. 817, § 19.

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16-90-705. Crime Victims Reparations Board.

(a)

(1) There is created a Crime Victims Reparations Board consisting of five (5) members appointed by the Governor with the advice and consent of the Senate to serve four-year staggered terms and until a successor is appointed and qualified.

(2) At least two (2) members of the board shall be persons admitted to practice law in this state.

(3) At least one (1) member of the board shall be:

(A) A victim of criminally injurious conduct;

(B) The next of kin of a homicide victim; or

(C) An individual experienced in providing victim assistance services.

(4) A vacancy shall be filled in the same manner as a regular appointment.

(b) Each year the board shall elect the chair from its membership.

(c)

(1) Members of the board shall receive no pay for their services, but each member may receive expense reimbursement in accordance with § 25-16-901 et seq.

(2) All reasonable and necessary expenses of the board shall be paid from the Crime Victims Reparations Revolving Fund.

History

Acts 1987, No. 817, § 4; 1995, No. 773, § 1; 1997, No. 250, § 118.

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16-90-706. Powers of board — Logistical support.

(a)

(1) The Crime Victims Reparations Board shall have:

- (A)** Power to award reparations for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for reparations have been met; and
- (B)** Authority to award the reparations to the claimant or directly to the provider of services.

(2) The board shall:

- (A)** Hear and determine all matters relating to claims for reparations, including having the power to reinvestigate or reopen claims without regard to statutes of limitation; and
- (B)**
 - (i)** Have discretion to act in a panel of three (3) or more members.
 - (ii)** This panel may exercise the powers granted to the board.

(3) The board shall have the power to subpoena witnesses and compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings, and receive relevant evidence.

(4)

- (A)** The board shall be provided such office, support staff, and secretarial services as necessary by the Department of Public Safety.
- (B)** The support staff and secretarial services described in subdivision (a)(4)(A) of this section may also be assigned by the Secretary of the Department of Public Safety to engage in additional work in other areas that do not involve crime victims reparations.

(b) In addition to any other powers and duties specified elsewhere in this subchapter, the board may:

- (1)** Regulate its own procedure, except as otherwise provided in this subchapter;
- (2)** Adopt rules to implement the provisions of this subchapter;
- (3)** Define any term not defined in this subchapter;

- (4) Prescribe forms necessary to carry out the purposes of this subchapter;
- (5) Request access to any reports of investigations or other data necessary to assist the board in making a determination of eligibility for reparations under the provisions of this subchapter;
- (6) Take judicial notice of general, technical, and scientific facts within its specialized knowledge; and
- (7) Publicize the availability of reparations and information regarding the filing of claims for reparations.

History

Acts 1987, No. 817, §§ 5, 6; 2011, No. 11, § 1; 2019, No. 315, § 1303; 2019, No. 910, § 5926.

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16-90-707. Annual report by board.

- (a)** The Crime Victims Reparations Board shall prepare and transmit annually a report of its activities to the Secretary of the Department of Public Safety.
- (b)** This report shall include the amount of reparations awarded and a statistical summary of claims and awards made and denied.

History

Acts 1987, No. 817, § 18; 2019, No. 910, § 5927.

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16-90-708. Application forms — Cooperation by applicant.

- (a) Each law enforcement agency in the state shall keep application forms prepared and provided by the Crime Victims Reparations Board and make them available to any person upon request.
- (b) The board may contact any law enforcement agency to determine if an applicant has cooperated with that law enforcement agency in the identification, apprehension, and conviction of the perpetrator of the crime.

History

Acts 1987, No. 817, § 7.

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A.C.A. § 16-90-709

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- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-709. Proceedings and record — Settlement of claims.

(a)

- (1) Every party to the claim shall be afforded an opportunity to appear and be heard, to offer evidence and argument on any issues relevant to the claim, and to examine witnesses and offer evidence to reply to any matter of an evidentiary nature in the record relevant to the claim.
- (2) A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the Crime Victims Reparations Board.

- (b) Without a hearing, the board may settle a claim by stipulation, agreed settlement, consent order, or default.

History

Acts 1987, No. 817, § 9.

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16-90-710. Waiver of physician-patient privilege — Examinations and reports.

- (a) Any person filing a claim under the provisions of this subchapter shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant.
- (b)
- (1) If the mental, physical, or emotional condition of a claimant is material to a claim, upon good cause shown, the Crime Victims Reparations Board may order the claimant to submit to a mental or physical examination and may order an autopsy of a deceased victim.
- (2) The order shall:
- (A) Specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made; and
- (B)
- (i) Require the person to file a detailed written report of the examination or autopsy with the board.
- (ii) The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses, and other conclusions and reports of earlier examinations of the same conditions.
- (c) The board shall furnish to the victim a copy of any reports examined. If the victim is deceased, the board, on request, shall furnish a copy of the report to the claimant.
- (d) The board may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which reparations are claimed.

History

Acts 1987, No. 817, § 10.

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16-90-711. Confidential information.

When submitted to the Crime Victims Reparations Board as part of an application, the following information shall be confidential:

- (1) Documents submitted by a claimant which relate to medical treatment; and
- (2) Law enforcement investigative reports, if confidential under any other law.

History

Acts 1987, No. 817, § 11.

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A.C.A. § 16-90-712

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- [Subchapter 7 — Arkansas Crime Victims Reparations Act](#)

16-90-712. Conditions for reparations — Changes in awards.

(a) Reparations shall not be awarded:

- (1)** Unless the claim has been filed with the Crime Victims Reparations Board within one (1) year after the injury or death upon which the claim is based, unless the board finds good cause for the failure to file a timely claim;
- (2)** To a claimant who was the offender or an accomplice of the offender;
- (3)** To another person if the award would unjustly benefit the offender or accomplice;
- (4)** To a victim who is injured or killed while confined in state, county, or municipal jail, prison, or other correctional facility as a result of conviction of any crime;
- (5)** To any claimant who has been convicted of a felony involving criminally injurious conduct;
- (6)** Unless the criminally injurious conduct resulting in injury or death was reported to the proper authorities within seventy-two (72) hours after its occurrence, or the board finds there was good cause for the failure to report within that time; or

(7)

(A)

- (i)** If there are insufficient funds in the Crime Victims Reparations Revolving Fund.
 - (ii)** However, when sufficient funds become available, the awards which have not been paid shall be paid in chronological order with the oldest paid first, unless the board finds that compelling circumstances support a payment out of chronological order.
- (B)** Any award under this subchapter is specifically not a claim against the state if it cannot be paid due to a lack of funds in the fund.

(b) Reparations otherwise payable to a claimant shall be diminished to the extent:

- (1)** That the economic loss is recouped from collateral sources; or
- (2)** Of the degree of responsibility for the cause of the injury or death attributable to the victim, as determined by the board.

(c)

- (1)** Except as provided in subdivision (c)(2) of this section, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, the board may deny, withdraw, or reduce an award of reparations.
- (2)** This subsection does not apply if the claimant or victim is a victim of human trafficking or a minor victim of a sex offense, as defined in § 12-12-903.

(d)

- (1)** On its own motion or on request of the claimant, the board may reconsider a decision granting or denying an award or determining its amount.
- (2)** An order on reconsideration of an award shall not require a refund of amounts previously paid unless the award was obtained by fraud.
- (3)** Reconsideration does not affect the finality of a board decision for the purpose of judicial review.

History

Acts 1987, No. 817, § 12; 1999, No. 1102, § 1; 2023, No. 330, § 1.

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16-90-713. Awards apart from prosecution.

- (a) An award may be made whether or not any person is prosecuted or convicted.
- (b) The Crime Victims Reparations Board may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent but may make a tentative award under § 16-90-716.

History

Acts 1987, No. 817, § 13.

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16-90-714. Subrogation of state to claimant's rights.

- (a)** If reparations are awarded, the state shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that reparations were awarded.
- (b)**
- (1)** In the event the claimant recovers reparations, other than under the provisions of this subchapter for injuries or death resulting from criminally injurious conduct, the claimant shall retain as trustee so much of the recovered funds as necessary to reimburse the Crime Victims Reparations Revolving Fund to the extent that reparations were awarded to the claimant from that fund.
- (2)** The funds retained in trust shall be promptly deposited into the fund.
- (c)**
- (1)** If a claimant brings an action to recover damages related to the criminally injurious conduct upon which reparations are claimed or awarded, the claimant shall give the Crime Victims Reparations Board written notice of the action.
- (2)** After receiving the notice, the board may join in the action as a party plaintiff to recover the reparations awarded.
- (d)** The board shall not require any claimant to seek or accept any collateral source contribution unless the claimant was receiving those benefits prior to the occurrence giving rise to the claim under the provisions of this subchapter.

History

Acts 1987, No. 817, §§ 8, 14.

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16-90-715. Action by state against convicted person for recovery of reparations.

(a)

- (1) Whenever any person is convicted of a crime and an order for the payment of reparations is or has been made under this subchapter for a personal injury or death resulting from the act or omission constituting the crime for which conviction was had, the Secretary of the Department of Public Safety may institute a civil action against the convicted person for the recovery of all or any part of the reparations paid.

(2)

- (A) The suit shall be instituted in the circuit court having jurisdiction in the county in which the person resides or is found or in Pulaski County.

- (B) The circuit court shall have jurisdiction to hear, determine, and render judgment in the action.

(3)

- (A) Any amount recovered under this subsection shall be credited to the Crime Victims Reparations Revolving Fund.

- (B) If an amount greater than that paid pursuant to the order for payment of reparations is recovered and collected in the action, the Crime Victims Reparations Board shall pay the balance to the claimant.

- (b) The board shall provide the secretary with such information, data, and reports as he or she may require to institute actions in accordance with this section.

- (c) The secretary may request the assistance of the Attorney General in instituting a civil action against the convicted person for the recovery of all or any part of the reparations paid.

History

Acts 1987, No. 817, § 15; 2019, No. 910, § 5928.
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16-90-716. Limitation on reparations — Manner of payment.

(a)

- (1)** Reparations payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed ten thousand dollars (\$10,000).
- (2)** However, for those victims whose injuries are catastrophic and result in a total and permanent disability, the maximum reparations amount shall not exceed twenty-five thousand dollars (\$25,000).

(b)

- (1)** The Crime Victims Reparations Board may provide for the payment to a claimant in a lump sum or in installments.
 - (2)** At the request of the claimant, the board may convert future economic loss other than allowable expense to a lump sum, but only upon a finding by the board of either of the following:
 - (A)** That the award in a lump sum will promote the interests of the claimant; or
 - (B)** That the present value of all future economic loss other than allowable expense does not exceed one thousand dollars (\$1,000).
- (c)** If the board determines that the claimant will suffer financial hardship unless an advance award is made, an amount may be paid to the claimant and shall be deducted from the final award or shall be repaid and recoverable from the claimant to the extent that it exceeds the final award.

(d)

- (1)** An award payable in installments for future economic loss may be made only for a period as to which the board can reasonably determine future economic loss.
- (2)** An award payable in installments for future economic loss may be modified by the board upon its finding that a material and substantial change of circumstances has occurred.

- (e) An award shall not be subject to execution, attachment, garnishment, or other process, except that an award for allowable expense shall not be exempt from a claim of a creditor to the extent that the creditor has provided products, services, or accommodations, the costs of which are included in the award.
- (f) An assignment by the claimant to any future award under the provisions of this subchapter is unenforceable, except:
 - (1) An assignment of any award for work loss to assure payment of court-ordered alimony, maintenance, or child support; or
 - (2) An assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or are to be provided by the assignee.

History

Acts 1987, No. 817, §§ 16, 17; 1999, No. 1178, § 2.

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16-90-717. Crime Victims Reparations Revolving Fund.

There is created in the State Treasury a revolving fund for the Crime Victims Reparations Board to be designated the “Crime Victims Reparations Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all moneys received by the board from any source including moneys applied for and received from any state, federal, or private source. All interest earned as a result of investing moneys in the Crime Victims Reparations Revolving Fund shall be paid into the fund and not into the general revenues of this state. All moneys accruing to the credit of the fund are appropriated and may be budgeted and expended by the board for the purpose of implementing the provisions of this subchapter and the provisions of the sexual assault statutes, §§ 12-12-401 — 12-12-404.

History

Acts 1987, No. 817, § 20; 1991, No. 396, § 4.

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A.C.A. § 16-90-718

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16-90-718. [Repealed.]

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16-90-719. Property damage — Reparations — Intent.

(a)

- (1) Persons who have suffered damage to their primary residence and surrounding real property in an amount in excess of five hundred dollars (\$500) as a result of a criminal act or who have had personal property stolen from their primary residence valued in excess of five hundred dollars (\$500), and who do not have adequate available resources or any collateral source of reimbursement, such as insurance, to cover the costs of repairs to their property may file a claim with the Crime Victims Reparations Board in the manner and form as is presently required by the Crime Victims Reparations Board for crime victims.
 - (2) The Crime Victims Reparations Board shall have the power to provide labor for repairs and cleanup supplied by eligible offenders serving community correction and probationers in accordance with rules promulgated by the Board of Corrections.
 - (3) By this section, the Division of Community Correction is authorized and directed to promulgate necessary rules permitting the use of eligible inmates transferred to or sentenced directly to community correction and probationers to perform the repair and cleanup work contemplated by this section and consistent with guidelines established by the Crime Victims Reparations Board.
- (b) Inmates who have been convicted of violent crimes or residential burglary, even if transferred to or sentenced directly to community correction, and probationers who have been convicted of violent crimes, residential burglary, or theft of property shall be ineligible to participate in this program, and the rules governing this program shall reflect this prohibition.

(c)

- (1) The Crime Victims Reparations Board and the Board of Corrections with the cooperation and assistance of the Division of Community Correction, working in conjunction with each other, shall promulgate the necessary rules to establish a program whereby eligible inmates released to or sentenced directly to community correction and probationers may perform labor on the primary residence and surrounding real property of victims whose primary residence has suffered damage as a result of a criminal act or whose personal property has been stolen

from their primary residence, and whose owner does not have adequate available resources or any collateral source of reimbursement such as insurance to cover the costs of repairs or replacement.

(2) The safety of the victim, the probationer, and the inmate is to be given first priority in promulgating the rules.

(d)

(1) Whenever a dollar amount of property damage or loss is referred to in subsections (a)-(c) of this section, the dollar amount shall refer to the fair market repair or replacement value.

(2) Further, no award shall be made under the provisions of this section for a loss based on the dollar amount of an insurance deductible which is five hundred dollars (\$500) or less.

(e) It is the intent of this section to provide a method of reparations whereby victims whose primary residence is damaged or whose personal property is stolen from their primary residence as a result of criminal acts and who do not have adequate available resources or a collateral source of reimbursement such as insurance to cover the cost of repairs to their primary residence or replacement of the personal property may receive assistance in the form of inmate or probationer labor to make repairs to and clean up their primary residence and the surrounding real property.

History

Acts 1995, No. 1269, §§ 1-3; 2019, No. 315, §§ 1304, 1305.

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16-90-720. Payment for healthcare service — Schedule established — Third-party vendor authorized.

- (a) The Crime Victims Reparations Board shall award payment for a healthcare service under this subchapter in the same manner as the medical fee schedule established for workers' compensation claims under § 11-9-517.
- (b)
- (1) The board, a claimant, or a victim is not liable for healthcare service charges in excess of the medical fee schedule under subsection (a) of this section.
- (2) A healthcare provider shall accept payment from the board as payment in full for healthcare service charges unless an investigation of the healthcare service charges by the board determines that there is a reasonable healthcare justification for a deviation from the medical fee schedule.
- (c) The board may contract with a third-party vendor to process payment for healthcare services under this subchapter.

History

Acts 2017, No. 918, § 1.

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- [Subtitle 2. Law Enforcement Agencies and Programs](#)
- [Chapter 12 Crime Reporting and Investigations](#)
- [Subchapter 4 — Sexual Assault — Medical-Legal Examinations](#)

12-12-401. Definitions.

As used in this subchapter:

- (1) “Anonymous kit” means a sexual assault collection kit that is collected from a possible victim of a sexual assault who has not decided whether to report the sexual assault to a law enforcement agency;
- (2)
 - (A) “Appropriate emergency medical-legal examinations” means health care delivered with emphasis on the collection of evidence for the purpose of prosecution.
 - (B) It shall include, but not be limited to, the appropriate components contained in an evidence collection kit for sexual assault examination distributed by the Forensic DNA Section of the State Crime Laboratory;
- (3) “Law enforcement agency” means a police force or organization whose primary responsibility as established by statute or ordinance is the enforcement of the criminal laws, traffic laws, or highway laws of this state;
- (4) “Licensed healthcare provider” means a person licensed in a healthcare field who conducts medical-legal examinations or a medical facility that is currently licensed by the Department of Health and providing emergency services;
- (5) “Medical-legal examination” means health care delivered to a possible victim of a sexual assault, with an emphasis on the gathering and preserving of evidence for the purpose of serving criminal justice;
- (6) “Sexual assault” means an offense described in § 5-14-101 et seq. or § 5-26-202;
- (7) “Sexual assault collection kit” means a human biological specimen or specimens collected during a medical-legal examination from the alleged victim of a sexual assault; and
- (8) “Victim” means any person who has been a victim of any alleged sexual assault or incest as defined by § 5-14-101 et seq., except for a misdemeanor violation of sexual indecency with a child, § 5-14-110, and § 5-26-202.

History

Acts 1983, No. 403, §§ 1-3; A.S.A. 1947, §§ 41-1820 — 41-1822; Acts 1991, No. 612, § 1; 2001, No. 993, § 1; 2003, No. 1390, § 3; 2021, No. 472, § 1; 2023, No. 619, § 13.

A.C.A. § 12-12-402

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- [Chapter 12 Crime Reporting and Investigations](#)
- [Subchapter 4 — Sexual Assault — Medical-Legal Examinations](#)

12-12-402. Procedures governing medical treatment.

(a) All licensed healthcare providers conducting medical-legal examinations in Arkansas shall adhere to the procedures set forth in this section in the event that a person presents himself or herself or is presented for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest.

(b)

(1)

(A) Any adult victim presented for medical treatment shall make the decision of whether or not the incident will be reported to a law enforcement agency.

(B) No licensed healthcare provider may require an adult victim to report the incident in order to receive medical treatment.

(C)

(i) Evidence will be collected only with the permission of the victim.

(ii) However, permission shall not be required when the victim is unconscious, mentally incapable of consent, or intoxicated.

(2)

(A) Should an adult victim wish to report the incident to a law enforcement agency, the appropriate law enforcement agencies shall be contacted by the licensed healthcare provider or the victim's designee.

(B)

(i) The victim shall be given a medical screening examination by a qualified medical person as provided under the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd, as in effect on January 1, 2001, if the victim arrives at the emergency department of a hospital, and the person shall be examined and treated and any injuries requiring medical attention will be treated in the standard manner.

(ii) A medical-legal examination shall be conducted and specimens shall be collected for evidence.

(C) If a law enforcement agency has been contacted and with the permission of the victim, the evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(c)

(1) Any victim under eighteen (18) years of age shall be examined and treated, and any injuries requiring medical attention shall be treated in the standard manner.

(2) A medical-legal examination shall be performed, and specimens shall be collected for evidence.

(3) The reporting licensed healthcare provider shall follow the procedures set forth in Subchapter 4 of the Child Maltreatment Act, § 12-18-101 et seq., regarding the reporting of injuries to victims under eighteen (18) years of age.

(4) The evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(d) Reimbursement for the medical-legal examinations shall be available to the licensed healthcare provider pursuant to the procedures set forth in § 12-12-403.

(e) A licensed healthcare provider shall not transfer the victim to another licensed healthcare provider unless:

(1) The victim or a parent or guardian of a victim under eighteen (18) years of age requests the transfer, or a physician or other qualified medical personnel when a physician is not available has signed a certification that the benefits to the victim's health would outweigh the risks to the victim's health as a result of the transfer; and

(2) The transferring licensed healthcare provider provides all necessary medical records and ensures that appropriate transportation is available.

History

Acts 1985, No. 400, §§ 1, 2; 1985, No. 838, §§ 1, 2; A.S.A. 1947, §§ 41-1828, 41-1829; Acts 1991, No. 612, § 2; 2001, No. 993, § 2; 2009, No. 758, § 23; 2017, No. 250, § 4; 2017, No. 845, § 3; 2021, No. 472, § 1.

A.C.A. § 12-12-403

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- [Subtitle 2. Law Enforcement Agencies and Programs](#)
- [Chapter 12 Crime Reporting and Investigations](#)
- [Subchapter 4 — Sexual Assault — Medical-Legal Examinations](#)

12-12-403. Examinations and treatment — Payment.

(a) All licensed emergency departments shall provide prompt, appropriate emergency medical-legal examinations for sexual assault victims.

(b)

(1)

(A) All victims shall be exempted from the payment of expenses incurred as a result of receiving a medical-legal examination if the victim receives the medical-legal examination within ninety-six (96) hours of the attack.

(B) However, the time limitation of ninety-six (96) hours may be waived if the victim is a minor or if the Crime Victims Reparations Board finds that good cause exists for the failure to provide the medical-legal examination within the required time.

(2)

(A) This subsection does not require a victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided with a forensic medical exam or reimbursement for charges incurred on account of a forensic medical exam, or both.

(B) Subdivision (b)(2)(A) of this section does not preclude a report of suspected abuse or neglect as permitted or required by the Child Maltreatment Act, § 12-18-101 et seq.

(c)

(1) A licensed healthcare provider that performs a medical-legal examination shall submit a sexual assault reimbursement form, an itemized statement that meets the requirements of 45 C.F.R. § 164.512(d), as it existed on January 2, 2001, directly to the board for payment.

(2) The licensed healthcare provider shall not submit any remaining balance after reimbursement by the board to the victim.

- (3) Acceptance of payment of the expenses of the medical-legal examination by the board shall be considered payment in full and bars any legal action for collection.

History

Acts 1983, No. 403, §§ 4, 5; A.S.A. 1947, §§ 41-1823, 41-1824; Acts 1991, No. 396, § 8; 2001, No. 993, § 3; 2007, No. 676, § 4; 2009, No. 758, § 24; 2017, No. 920, § 1; 2021, No. 472, § 1.

A.C.A. § 12-12-404

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12-12-404. Reimbursement of medical facility — Rules.

- (a) The Crime Victims Reparations Board may reimburse any licensed healthcare provider that provides the services outlined in this subchapter for the reasonable cost for such services.
- (b) The board is empowered to prescribe minimum standards and rules necessary to implement this subchapter. These shall include, but not be limited to, a cost ceiling for each claim and the determination of reasonable cost.

History

Acts 1983, No. 403, § 6; A.S.A. 1947, § 41-1825; Acts 1991, No. 396, § 1; 2001, No. 993, § 4; 2019, No. 315, § 863; 2021, No. 472, § 1.

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