

1 AN ACT concerning crime victims.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Court of Claims Act is amended by
5 changing Section 16 as follows:

6 (705 ILCS 505/16) (from Ch. 37, par. 439.16)

7 Sec. 16. Concurrence of judges. Concurrence of 4 judges
8 is necessary to the decision of any case; provided, however,
9 the court in its discretion may assign any case to a
10 commissioner for hearing and final decision, subject to
11 whatever right of review the court by rule may choose to
12 exercise. In matters involving the award of emergency funds
13 under the Crime Victims Compensation Act, the decision of one
14 judge is necessary to award emergency funds.

15 (Source: P.A. 84-1240.)

16 Section 10. The Violent Crime Victims Assistance Act is
17 amended by changing Sections 4 and 5 as follows:

18 (725 ILCS 240/4) (from Ch. 70, par. 504)

19 Sec. 4. Advisory Commission created. There is created a
20 Violent Crimes Advisory Commission, hereinafter called the
21 Advisory Commission, consisting of 18 ~~16~~ members: the
22 Attorney General, or his or her designee who shall serve as
23 Chairperson; the Illinois Secretary of State or his or her
24 designee; the Chief Justice of the Court of Claims or his or
25 her designee; the Director of Children and Family Services; 2
26 members of the House of Representatives, 1 to be appointed by
27 the Speaker of the House and 1 to be appointed by the
28 Minority Leader of the House; 2 members of the Senate, 1 to
29 be appointed by the President of the Senate and 1 to be

1 appointed by the Minority Leader of the Senate; and the
2 following to be appointed by the Attorney General: 1 police
3 officer; 1 State's Attorney from a county in Illinois; 1
4 health services professional possessing experience and
5 expertise in dealing with the victims of violent crime; one
6 person who is employed as an administrator at a public or
7 private institution of higher education; one person who is
8 enrolled as a student at a public or private institution of
9 higher education; and 5 members of the public, one of whom
10 shall be a senior citizen age 60 or over, possessing
11 experience and expertise in dealing with victims of violent
12 crime, including experience with victims of domestic and
13 sexual violence. The members of the Advisory Commission
14 shall be appointed biennially for terms expiring on July 1 of
15 each succeeding odd-numbered year and shall serve until their
16 respective successors are appointed or until termination of
17 their legislative service, whichever first occurs. The
18 members of the Commission shall receive no compensation for
19 their services but shall be reimbursed for necessary expenses
20 incurred in the performance of their duties. Vacancies
21 occurring because of death or resignation shall be filled by
22 the appointing authority for the group in which the vacancy
23 occurs.

24 Nine ~~Eight~~ members of the Advisory Commission shall
25 constitute a quorum for the transaction of business, and the
26 concurrence of at least 9 ~~8~~ members shall be necessary to
27 render a determination, decision or recommendation by the
28 Advisory Committee. In addition to the Attorney General, who
29 shall serve as Chairperson, the Advisory Commission may
30 select such other officers as it deems necessary.

31 (Source: P.A. 90-762, eff. 8-14-98.)

32 (725 ILCS 240/5) (from Ch. 70, par. 505)

33 Sec. 5. Advisory Commission - General responsibilities.

1 (a) The Advisory Commission shall have the following
2 responsibilities:

3 (1) To study the operation of all Illinois laws,
4 practices, agencies and organizations which affect victims of
5 crime including but not limited to the Crime Victims
6 Compensation Act;

7 (2) To promote and conduct studies, research, analysis
8 and investigation of matters affecting the interests of crime
9 victims;

10 (3) To recommend legislation to develop and improve
11 policies which promote the recognition of the legitimate
12 rights, needs and interests of crime victims;

13 (4) To serve as a clearinghouse for public information
14 relating to crime victims' problems and programs;

15 (5) To coordinate, monitor and evaluate the activities
16 of programs operating under this Act;

17 (6) To make any necessary outreach efforts to encourage
18 the development and maintenance of services throughout the
19 State, with special attention to the regions and
20 neighborhoods with the greatest need for victim assistance
21 services;

22 (7) To perform other activities, in cooperation with the
23 Attorney General, which the Advisory Commission considers
24 useful to the furtherance of the stated legislative intent;

25 (8) To make an annual report to the General Assembly.

26 (b) The Advisory Committee may also perform any of the
27 functions enumerated in subparagraph (a) of this section
28 relative to witnesses to crime.

29 (Source: P.A. 83-908.)

30 Section 15. The Criminal Code of 1961 is amended by
31 adding Section 17-5.5 as follows:

32 (720 ILCS 5/17-5.5 new)

1 Sec. 17-5.5. Unlawful attempt to collect compensated
2 debt against a crime victim.

3 (a) As used in this Section, "crime victim" means a
4 victim of a violent crime or applicant as defined in the
5 Crime Victims Compensation Act.

6 "Compensated debt" means a debt incurred by or on behalf
7 of a crime victim and approved for payment by the Court of
8 Claims under the Crime Victims Compensation Act.

9 (b) A person or a vendor commits the offense of unlawful
10 attempt to collect a compensated debt against a crime victim
11 when, with intent to collect funds for a debt incurred by or
12 on behalf of a crime victim, which debt has been approved for
13 payment by the Court of Claims under the Crime Victims
14 Compensation Act, but the funds are involuntarily withheld
15 from the person or vendor by the Comptroller by virtue of an
16 outstanding obligation owed by the person or vendor to the
17 State under the Uncollected State Claims Act, the person or
18 vendor:

19 (1) communicates with, harasses, or intimidates the
20 crime victim for payment;

21 (2) contacts or distributes information to affect
22 the compensated crime victim's credit rating as a result
23 of the compensated debt; or

24 (3) takes any other action adverse to the crime
25 victim or his or her family on account of the compensated
26 debt.

27 (c) Unlawful attempt to collect a compensated debt
28 against a crime victim is a Class A misdemeanor.

29 (d) Nothing in this Act prevents the attempt to collect
30 an uncompensated debt or an uncompensated portion of a
31 compensated debt incurred by or on behalf of a crime victim
32 and not covered under the Crime Victims Compensation Act.

33 Section 20. The Crime Victims Compensation Act is

1 amended by changing Sections 6.1, 17, and 18, and adding
2 Section 10.2 as follows:

3 (740 ILCS 45/6.1) (from Ch. 70, par. 76.1)

4 Sec. 6.1. Right to compensation. A person is entitled
5 to compensation under this Act if:

6 (a) Within 2 years ~~one-year~~ of the occurrence of the
7 crime upon which the claim is based, he files an application,
8 under oath, with the Court of Claims and on a form prescribed
9 in accordance with Section 7.1 furnished by the Attorney
10 General. If the person entitled to compensation is under 18
11 years of age or under other legal disability at the time of
12 the occurrence or becomes legally disabled as a result of the
13 occurrence, he may file the application required by this
14 subsection within 2 years ~~one-year~~ after he attains the age
15 of 18 years or the disability is removed, as the case may be.
16 ~~Upon good cause shown, the Court of Claims may extend the~~
17 ~~time for filing the application for a period not exceeding~~
18 ~~one year. The Court of Claims may by general orders provide~~
19 ~~for the extensions of time to file applications.~~

20 (b) The appropriate law enforcement officials were
21 notified within 72 hours of the perpetration of the crime
22 allegedly causing the death or injury to the victim or, in
23 the event such notification was made more than 72 hours after
24 the perpetration of the crime, the applicant establishes that
25 such notice was timely under the circumstances.

26 (c) The applicant has cooperated fully with law
27 enforcement officials in the apprehension and prosecution of
28 the assailant.

29 (d) The applicant is not the offender or an accomplice
30 of the offender and the award would not unjustly benefit the
31 offender or his accomplice.

32 (e) The injury to or death of the victim was not
33 substantially attributable to his own wrongful act and was

1 not substantially provoked by the victim.

2 (Source: P.A. 86-1009; 86-1221.)

3 (740 ILCS 45/10.2 new)

4 Sec. 10.2. Emergency awards.

5 (a) If it appears, prior to taking action on an
6 application, that the claim is one for which compensation is
7 probable, and undue hardship will result to the applicant if
8 immediate payment is not made, the Attorney General may
9 recommend and the Court may make an emergency award of
10 compensation to the applicant, pending a final decision in
11 the case, provided the amount of emergency compensation does
12 not exceed \$2,000. The amount of emergency compensation for
13 funeral and burial expenses may not exceed \$1,000. The amount
14 of emergency compensation shall be deducted from any final
15 award made as a result of the claim. The full amount of the
16 emergency award if no final award is made shall be repaid by
17 the applicant to the State of Illinois.

18 (b) Emergency award applicants must satisfy all
19 requirements under Section 6.1 of this Act.

20 (740 ILCS 45/17) (from Ch. 70, par. 87)

21 Sec. 17. (a) Subrogation. The Court of Claims may award
22 compensation on the condition that the applicant subrogate to
23 the State his rights to collect damages from the assailant or
24 any third party who may be liable in damages to the
25 applicant. In such a case the Attorney General may, on
26 behalf of the State, bring an action against an assailant or
27 third party for money damages, but must first notify the
28 applicant and give him an opportunity to participate in the
29 prosecution of the action. The excess of the amount
30 recovered in such action over the amount of the compensation
31 offered and accepted or awarded under this Act plus costs of
32 the action and attorneys' fees actually incurred shall be

1 paid to the applicant.

2 (b) Nothing in this Act affects the right of the
3 applicant to seek civil damages from the assailant and any
4 other party, but that applicant must give written notice to
5 the Attorney General of the making of a claim or the filing
6 of an action for such damages. Failure to notify the Attorney
7 General of such claims and actions at the time they are
8 instituted or at the time an application is filed is a
9 willful omission of fact and the applicant thereby becomes
10 subject to the provisions of Section 20 of this Act.

11 (c) The State has a charge for the amount of
12 compensation paid under this Act upon all claims or causes of
13 action against an assailant and any other party to recover
14 for the injuries or death of a victim which were the basis
15 for that payment of compensation. At the time compensation
16 is ordered to be paid under this Act, the Court of Claims
17 shall give written notice of this charge to the applicant.
18 The charge attaches to any verdict or judgment entered and to
19 any money or property which is recovered on account of the
20 claim or cause of action against the assailant or any other
21 party after the notice is given. On petition filed by the
22 Attorney General on behalf of the State or by the applicant,
23 the circuit court, on written notice to all interested
24 parties, shall adjudicate the right of the parties and
25 enforce the charge. This subsection does not affect the
26 priority of a lien under "AN ACT creating attorney's lien and
27 for enforcement of same", filed June 16, 1909, as amended.

28 (d) Where compensation is awarded under this Act and the
29 person receiving same also receives any sum required to be,
30 and that has not been deducted under Section 10.1, he shall
31 refund to the State the amount of compensation paid to him
32 which would have been deducted at the time the award was
33 made.

34 (e) An amount not to exceed 25% of all money recovered

1 under subsections (b) or (c) of this Section shall be placed
 2 in the Violent Crime Victims Assistance Fund to assist with
 3 costs related to recovery efforts. "Recovery efforts" means
 4 those activities that are directly attributable to obtaining
 5 restitution, civil suit recoveries, and other reimbursements.
 6 (Source: P.A. 84-545.)

7 (740 ILCS 45/18) (from Ch. 70, par. 88)

8 Sec. 18. Claims against awards.

9 (a) An award is not subject to enforcement, attachment,
 10 garnishment, or other process, except that an award is not
 11 exempt from a claim of a creditor to the extent that he or
 12 she provided products, services, or accommodations the costs
 13 of which are included in the award.

14 (b) An assignment or agreement to assign a right to
 15 compensation for loss accruing in the future is
 16 unenforceable, except:

17 (1) an assignment of a right to compensation for
 18 work loss to secure payment of maintenance or child
 19 support; or

20 (2) an assignment of a right to compensation to the
 21 extent of the cost of products, services, or
 22 accommodations necessitated by the injury or death on
 23 which the claim is based and are provided or to be
 24 provided by the assignee.

25 (c) The court may order that all or a portion of an
 26 award be paid jointly to the applicant and another person or
 27 solely and directly to another person to the extent that such
 28 other person has provided products, services or
 29 accommodations, the costs of which are included in the award.
 30 The provisions of this amendatory Act of 1994 apply to all
 31 pending claims in existence on the effective date of this
 32 amendatory Act of 1994.

33 (d) If an award under subsection (c) of this Section is

1 offset by the Comptroller, pursuant to the Uncollected State
2 Claims Act, the intended individual or entity must credit the
3 applicant's or victim's account for the amount ordered by the
4 Court of Claims, and the intended individual or entity is
5 prohibited from pursuing payment from the applicant or victim
6 for any portion that is offset. The Comptroller shall
7 provide notice as provided in Section 10.05 of the State
8 Comptroller Act.

9 (Source: P.A. 88-601, eff. 1-1-95.)