

14104953D

## HOUSE BILL NO. 1

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on February 7, 2014)

(Patron Prior to Substitute—Delegate Comstock)

A BILL to amend and reenact §§ 19.2-368.9 and 19.2-368.11:1 of the Code of Virginia, relating to the Criminal Injuries Compensation Fund.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-368.9 and 19.2-368.11:1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-368.9. Emergency awards.

Notwithstanding any other provisions of this chapter, if it appears to the Commission, that (1) such claim is one with respect to which an award probably will be made, and (2) undue hardship will result to the claimant if immediate payment is not made, the Commission may make an emergency award to the claimant, pending a final decision in the case, provided that (i) the amount of such emergency award shall not exceed ~~\$2,000~~ \$3,000, (ii) the amount of such emergency award shall be deducted from any final award made to the claimant, and (iii) the excess of the amount of such emergency award over the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the Commission.

§ 19.2-368.11:1. Amount of award.

A. Compensation for Total Loss of Earnings: An award made pursuant to this chapter for total loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during total incapacity to the victim or to such other eligible person, at a weekly compensation rate equal to 66 2/3 percent of the victim's average weekly wages. The total amount of weekly compensation shall not exceed \$600. The victim's average weekly wages shall be determined as provided in § 65.2-101.

B. Compensation for Partial Loss of Earnings: An award made pursuant to this chapter for partial loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during incapacity at a weekly rate equal to 66 2/3 percent of the difference between the victim's average weekly wages before the injury and the weekly wages which the victim is able to earn thereafter. The combined total of actual weekly earnings and compensation for partial loss of earnings shall not exceed \$600 per week.

C. Compensation for Loss of Earnings of Parent of Minor Victim: The parent or guardian of a minor crime victim may receive compensation for loss of earnings, calculated as specified in subsections A and B, for time spent obtaining medical treatment for the child and for accompanying the child to, attending or participating in investigative, prosecutorial, judicial, adjudicatory and post-conviction proceedings.

D. Compensation for Dependents of a Victim Who Is Killed: If death results to a victim of crime entitled to benefits, dependents of the victim shall be entitled to compensation in accordance with the provisions of §§ 65.2-512 and 65.2-515 in an amount not to exceed the maximum aggregate payment or the maximum weekly compensation which would have been payable to the deceased victim under this section.

E. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been a victim of crime; (iii) expenses directly related to funeral or burial, not to exceed \$5,000; (iv) expenses attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed \$2,500 per claim; (vi) reasonable and necessary moving expenses, not to exceed \$1,000, incurred by a victim or survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise specifically provided for. Notwithstanding any other provision of law, a person who is not eligible for an award under subsection A of § 19.2-368.4 who pays expenses directly related to funeral or burial is eligible for reimbursement subject to the limitations of this section.

F. Notwithstanding the provisions of subdivision 3 of § 19.2-368.10, §§ 19.2-368.5, 19.2-368.5:1, 19.2-368.6, 19.2-368.7, 19.2-368.8, subsection G of this section, and § 19.2-368.16, the Criminal Injuries Compensation Fund shall pay for physical evidence recovery kit examinations conducted on victims of sexual assault. Any individual that submits to and completes a physical evidence recovery kit

60 examination shall be considered to have met the reporting and cooperation requirements of this chapter.  
61 Funds paid for physical evidence recovery kit collection shall not be offset against the Fund's maximum  
62 allowable award as provided in subsection H. Payments may be subject to negotiated agreements with  
63 the provider. Healthcare providers that complete physical evidence recovery kit examinations may bill  
64 the Fund directly subject to the provisions of § 19.2-368.5:2. The Commission shall develop policies for  
65 a distinct payment process for physical evidence recovery kit examination expenses as required under  
66 subdivision 1 of § 19.2-368.3.

67 In order for the Fund to consider additional crime-related expenses, victims shall file with the Fund  
68 following the provisions of this chapter and Criminal Injuries Compensation Fund policy.

69 G. Any claim made pursuant to this chapter shall be reduced by the amount of any payments  
70 received or to be received as a result of the injury from or on behalf of the person who committed the  
71 crime or from any other public or private source, including an emergency award by the Commission  
72 pursuant to § 19.2-368.9.

73 H. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and  
74 payments for injury or death to a victim of crime, to the victim's dependents or to others entitled to  
75 payment for covered expenses, after being reduced as provided in subsection G, shall not exceed  
76 ~~\$25,000~~ \$30,000 in the aggregate.

77 **2. That the Chairmen of House Appropriations and Senate Finance Committees shall appoint a**  
78 **joint subcommittee of the membership of such committees to consider the administration,**  
79 **provision and funding of sexual and domestic violence services in the Commonwealth.**

80 **3. That representatives from the Criminal Injuries Compensation Fund, the Department of Social**  
81 **Services, the Department of Criminal Justice Services, the Department of Health, and state and**  
82 **local representatives from the sexual and domestic violence coalition, shall report to the joint**  
83 **subcommittee on the prevalence of sexual and domestic violence in the Commonwealth, number of**  
84 **sexual and domestic violence programs operating in the Commonwealth, the location of such**  
85 **programs across the Commonwealth, the number of persons served by such programs, the services**  
86 **provided by such programs, emerging needs and gaps in sexual and domestic violence services,**  
87 **and the outcome measurements and best practices used in the provision of such services.**

88 **4. That the joint subcommittee shall examine current grant funding structures at state agencies for**  
89 **federal and state funds, including general fund, nongeneral fund, and special fund monies used to**  
90 **support sexual and domestic violence service agencies. The joint subcommittee shall review the**  
91 **grant applications, administration, and reporting processes required of local sexual and domestic**  
92 **violence agencies. The joint subcommittee may recommend a comprehensive and streamlined grant**  
93 **funding process for a more efficient funding structure to best serve the victims of sexual and**  
94 **domestic violence in the Commonwealth while ensuring compliance with federal rules, regulations**  
95 **and reporting requirements, including the possible administration of such structure at the**  
96 **Criminal Injuries Compensation Fund.**

97 **5. That the joint subcommittee shall complete its work no later than December 1, 2014.**