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HOUSE BILL NO. 652

Offered January 19, 1996

A BILL to amend and reenact §§ 19.2-368.4 and 19.2-368.11:1 of the Code of Virginia, relating to crime victim compensation.

Patrons—McDonnell, Albo, Almand, Callahan, Cox, Hamilton, Katzen, O'Brien, Wagner and Weatherholtz; Senators: Earley and Schrock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-368.4 and 19.2-368.11:1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-368.4. Persons eligible for awards.

A. The following persons shall be eligible for awards pursuant to this chapter unless the award would directly and unjustly benefit the person who is criminally responsible:

1. A victim of a crime.

2. A surviving spouse, parent, *grandparent*, *sibling* or child, including posthumous children, of a victim of a crime who died as a direct result of such crime.

3. Any person, except a law-enforcement officer engaged in the performance of his duties, who is injured or killed while trying to prevent a crime or an attempted crime from occurring in his presence, or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

4. A surviving spouse, *parent*, *grandparent*, *sibling* or child, including posthumous children, of any person who dies as a direct result of trying to prevent a crime or attempted crime from occurring in his presence, or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

5. Any other person legally dependent for his principal support upon a victim of crime who dies as a result of such crime, or legally dependent for his principal support upon any person who dies as a direct result of trying to prevent a crime or an attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

B. A person who is criminally responsible for the crime upon which a claim is based, or an accomplice or accessory of such person, shall not be eligible to receive an award with respect to such claim.

C. A resident of Virginia who is the victim of a crime occurring outside Virginia and any other person as defined in subsection A who is injured as a result of a crime occurring outside Virginia shall be eligible for an award pursuant to this chapter if (i) the person would be eligible for benefits had the crime occurred in Virginia and (ii) the state in which the crime occurred does not have a crime victims' compensation program deemed eligible pursuant to the provisions of the federal Victims of Crime Act and does not compensate nonresidents.

§ 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 sixty-six and two-thirds percent of the victim's average weekly wages. The total amount of weekly compensation shall not exceed \$200. 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 sixty-six and two-thirds 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 \$200 per week.

C. 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.

D. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may

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60 also be made on claims or portions of claims based upon the claimant's actual expenses incurred as are
61 determined by the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness
62 reasonably incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and
63 necessary services in lieu of those the victim would have performed, for the benefit of himself and his
64 family, if he had not been a victim of crime; (iii) expenses in any way related to funeral or burial, not
65 to exceed \$2,000; (iv) expenses attributable to pregnancy resulting from forcible rape; (v) mental health
66 counseling for survivors as defined under ~~subdivision~~ *subdivisions A (2) and A 4* of § 19.2-368.4, not to
67 exceed \$1,000 per claim; and (vi) any other reasonable and necessary expenses and indebtedness
68 incurred as a direct result of the injury or death upon which such claim is based, not otherwise
69 specifically provided for.

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

74 F. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and
75 payments for injury or death to a victim of crime, to the victim's dependents or to others entitled to
76 payment for covered expenses, after being reduced as provided in subsection E, shall not exceed
77 \$15,000 in the aggregate.