

No. 1995-27 (SS1)

AN ACT

HB 126

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," further providing for crime victims' compensation and for definitions; establishing the Bureau of Victims' Services; further providing for the existence and powers and duties of the Crime Victim's Compensation Board, for crime victims' compensation eligibility and claims, for crime victims' compensation awards and subrogation, for crime victims' compensation costs, for law enforcement responsibilities relating to crime victims' compensation, for proceeds from crimes, for responsibilities of service providers and insurers as to crime victims' compensation and for the Basic Bill of Rights for Victims; imposing duties on the Department of Corrections, the Pennsylvania Board of Probation and Parole and the Department of Public Welfare; and providing for a transfer of the functions of the Crime Victim's Compensation Board to the Bureau of Victims' Services.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 477 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, amended August 14, 1991 (P.L.331, No.35), is amended to read:

Section 477. Definitions.—So far as it relates to the crime victim's compensation provisions, the following terms shall be defined as:

["Board" means the Crime Victim's Compensation Board.]

"Bureau" means the Bureau of Victims' Services in the Pennsylvania Commission on Crime and Delinquency.

"Claimant" means the person filing a claim pursuant to this act.

"Commission" means the Pennsylvania Commission on Crime and Delinquency established under the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law.

"Crime" means an act, including an act resulting in injury intentionally inflicted through the use of a motor vehicle, which was committed:

(1) In Pennsylvania by a person without regard to legal exemption or defense and which would constitute a crime only as defined in, proscribed by or enumerated in:

(i) 18 Pa.C.S. (relating to crimes and offenses), 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance) or 5502.1 (relating to homicide by watercraft while operating under influence) and 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) or 3735 (relating to homicide by vehicle while driving under influence);

(ii) the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act”; or

(iii) the laws of the United States.

(2) Against a resident of Pennsylvania which would be a crime under clause (1) but for its occurrence in a state other than Pennsylvania.

“Diversionary program” means a program used to divert the defendant to an alternative form of disposition under the Pennsylvania Rules of Criminal Procedure or statutory authority and includes those dispositions authorized by Rules 160, 176 and 314 of the Pennsylvania Rules of Criminal Procedure and sections 17 and 18 of the act of April 14, 1972 (P.L.233, No.64), known as “The Controlled Substance, Drug, Device and Cosmetic Act.”

“Family,” when used in reference to a person, shall mean (i) anyone related to such person within the third degree of consanguinity or affinity, (ii) anyone maintaining a common-law relationship with such person, or (iii) anyone residing in the same household with such person.

“Injury” shall include physical or mental damages incurred as a direct result of the crime and aggravation of existing injuries if additional losses can be attributed to the direct result of the crime. Compensation for mental damages shall be limited to expenses incurred for psychological or psychiatric services which became necessary as a direct result of the crime.

“Intervenor” shall mean a person who goes to the aid of another and suffers physical or mental injury or death as a direct result of acting not recklessly to prevent the commission of a crime, or to lawfully apprehend a person reasonably suspected of having committed such crime, or to aid the victim of such crime.

“Local law enforcement agency” means a police department of a city, borough, incorporated town or township.

“Loss of earnings,” in addition to its ordinary meaning, shall mean the loss of the cash equivalent of [one month’s] social security, railroad retirement, pension plan, retirement plan, disability, *veteran’s retirement*, *court-ordered* child support or *court-ordered* spousal support [payment], where said payment is the primary source of the victim’s income and where the victim is deprived of the money as a direct result of a crime.

“Out-of-pocket loss” means the unreimbursed and unreimbursable expenses or indebtedness incurred for medical care, nonmedical remedial care and treatment rendered in accordance with a religious method of healing as

approved by the board, or other services, including psychological counseling, prosthetic devices, eyeglasses or other corrective lenses, or dental devices, reasonably necessary as a result of the injury upon which the claim is based and for which the claimant either has paid or is liable, to include expenses for physical examinations and materials used to obtain evidence. In no case shall property damages or compensation for pain and suffering be included.

“Victim” shall mean a person against whom a crime has been committed, other than the alleged offender, who, as a direct result of the crime, suffers physical or mental injury, death or the loss of earnings as herein defined and shall include a resident of Pennsylvania against whom an act has been committed which otherwise would constitute a crime as defined in this act but for its occurrence in a state other than Pennsylvania and for which the person would otherwise be compensated by the crime victim compensation program of the state where the act occurred but for the ineligibility of such program under the provisions of the Victims of Crime Act of 1984 (42 U.S.C. § 10601, et seq.), as amended.

Section 2. Section 477.1 of the act, added July 9, 1976 (P.L.574, No.139), is amended to read:

Section 477.1. [Crime Victim’s Compensation Board.—(a) There is hereby created a departmental administrative board for the administration of this act, which shall be known as the Crime Victim’s Compensation Board. Such board shall consist of three members no more than two of whom shall belong to the same political party, who shall be appointed by the Governor by and with the consent of a majority of the Senate.

(b) The term of office of each member shall be six years, except that the members first appointed shall serve for terms of six years, four years and two years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(c) Each member of the board shall be eligible for reappointment and any member of the board may be removed by the Governor for inefficiency, neglect of duty, or malfeasance in office.

(d) The Governor shall designate one member of the board as chairman thereof, to serve as such at the pleasure of the Governor.

(e) The members of the board shall devote their full time and capacity to their duties. The members of the board shall receive an annual starting salary of twenty-five thousand dollars (\$25,000). Thereafter they shall receive an annual salary to be fixed by the Executive Board of the Commonwealth within the amount made available by appropriation. The chairman shall receive five hundred dollars (\$500) additional compensation per annum.] *Bureau of Victims’ Services.—(a) There is hereby created within the Pennsylvania Commission on Crime and Delinquency the Bureau of Victims’ Services. The bureau shall be responsible for administering sections 477 through*

477.22 as well as sections 479.4 and 479.5 of this act. The Bureau of Victims' Services shall also be responsible for the disposition of all claims for victim compensation filed pursuant to this act.

(b) A director of the bureau shall be appointed by the chairman of the commission. The director shall be paid such compensation as the executive board may determine.

(c) The director of the bureau may employ such personnel and contract for such services as may be necessary and authorized to carry out the purposes of the bureau.

Section 3. Section 477.1a of the act is repealed.

Section 4. Section 477.2 of the act, amended or added July 9, 1976 (P.L.574, No.139) and June 30, 1984 (P.L.458, No.96), is amended to read:

Section 477.2. Powers and Duties of **[Board.—The board] Bureau.—The bureau, subject to approval of the commission**, shall have the following powers and duties:

(a) To establish and maintain a principal office in or near Harrisburg and such other offices within the Commonwealth as it may deem necessary.

(b) To appoint **[a secretary,]** counsel, clerks, *claims verifiers, hearing officers* and such other employes and agents as it may deem necessary, fix their compensation within the limits provided by law, and prescribe their duties.

(c) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of this act, including rules for the approval of attorney's fees for representation before **[the board] the bureau, a hearing examiner** or before the Commonwealth Court upon judicial review as provided for in section 477.7 of this act. Awards of the attorney's fees shall be in addition to awards made to victims. Awards of attorney's fees shall in no case exceed fifteen per centum of the award to the victim or victims. It shall be unlawful for an attorney to contract for or receive any sum larger than the amount allowed. *Regulations under this subsection shall include policies, procedures and standards of review regarding claims for compensation; approval or denial of claims, including contributory conduct by victims; verification of information and documents; prioritization of review; and all other matters related to the processing.*

(d) To request from the Pennsylvania State Police, from any county, municipal or township police departments and agencies and from any other State, municipal or township department or agency, or public authority, and the same **[are hereby authorized to] shall** provide such assistance and data as will enable the **[board] bureau** to carry out its function and duties.

(e) To **[hear and]** determine all claims for awards filed with the **[board] bureau** pursuant to this act, and to reinvestigate or reopen cases as the **[board] bureau** deems necessary.

(f) To direct medical examinations of victims.

(g) To **[hold hearings,]** *appoint hearing officers who shall be authorized to administer oaths or affirmations, examine any person under oath or*

affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. [The powers provided in this section may be delegated by the board to any member thereof.] *Except where a claim is determined to be frivolous, the bureau shall reimburse claimants for attending hearings, regardless of the disposition of the claim, at the rate of twenty cents (20¢) per mile and at the rate of twenty dollars (\$20) for each day of hearing.*

(h) To take or cause to be taken affidavits or depositions within or without the State.

(i) To render each year to the Governor and to the General Assembly a written report of its activities. In its third annual report and in every third annual report thereafter, the [board] *bureau*, upon investigation and study, shall include its findings and recommendations with respect to the limits on compensation[. *The investigation and study*], *whether or not an increase is being requested. The annual report* shall include, but not be limited to, *a summary of an audit by the Auditor General or an independent accounting firm of a statistically valid sample of the amounts paid to [each person compensated] crime victims* so as to avoid duplications, other possible errors, or fraud. *The bureau shall formalize agreements with the Auditor General for the provision of the annual audit.*

(j) To arrange with the heads of other State agencies for the performance of any of its functions under this act with or without reimbursement and, with the approval of the Governor, delegate and authorize the redelegation of any of its powers under this act.

(k) To establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this act, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

(l) To administer the Crime Victim's Compensation Fund, created under section 477.15, for the payment of claims filed under this act and for all reasonable and necessary administrative expenses.

Section 5. Section 477.3 of the act, amended June 30, 1984 (P.L.458, No.96), December 11, 1986 (P.L.1485, No.153), December 11, 1986 (P.L.1490, No.155) and August 14, 1991 (P.L.331, No.35), is amended to read:

Section 477.3. Persons Eligible for Compensation.—(a) Except as provided in subsection (b) of this section, the following persons shall be eligible for compensation:

- (1) A victim.
- (2) An intervenor.
- (3) A surviving spouse, parent or child of a deceased victim or intervenor.
- (4) Any other person dependent for his principal support upon a deceased victim or intervenor.

(5) Any person related to the victim [**within the third degree of consanguinity or affinity**] who assumes the obligation or who pays the funeral or burial expense incurred as a direct result of the crime[.] *or, if no relative assumes the obligation, to the person who makes the payment.*

(b) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive compensation with respect to such claim. A member of the family of the person who committed the crime shall not be eligible if the offender is living in the same household as the victim and will substantially benefit from the award. The Attorney General may sue the offender or the victim or both to recover the award if the offender at any time benefits from the award.

[(c) A person who is a resident of the United States, including the District of Columbia, the Commonwealth of Puerto Rico and all territories and possessions of the United States, shall be eligible for compensation.]

(d) Where a crime results in death, the spouse, children, parents or siblings of the victim, who reside within the same household as the victim, shall be eligible for compensation for the cost of psychological counseling and other reasonable out-of-pocket losses which are deemed necessary as a direct result of the criminal incident.

Section 6. Section 477.4 of the act, amended or added July 9, 1976 (P.L.574, No.139) and December 11, 1986 (P.L.1490, No.155), is amended to read:

Section 477.4. Filing of Claims for Compensation.—(a) A claim for compensation may be filed by a person eligible for compensation, as provided in section 477.3 of this act, or, if such person is a minor, by his parent or guardian, or if the person entitled to make a claim is mentally incompetent, by his guardian or such other individual authorized to administer his estate.

(b) A claim must be filed not later than one year after the occurrence of the crime upon which the claim is based, or not later than one year after the death of the victim or intervenor: Provided, however, That for good cause the [board] *bureau* may extend the time for filing for a period not exceeding two years after such occurrence. Where a victim is under the age of eighteen at the time of the occurrence of the crime and the alleged offender is the victim's parent or a person responsible for the victim's welfare, or any individual residing in the same home as the victim, or a paramour of the victim's parent, the [board] *bureau* may, for good cause, extend the time for filing for a period not exceeding five years after such occurrence. *If a claim has been filed but subsequently returned to the claimant for correction or for additional verification or information, the date the claim was first received by the bureau shall be the permanent filing date for purposes of this subsection: Provided, however, That the correction or additional verification or information must be filed within six months of the date of return.*

(c) Claims shall be filed in the office of the [secretary of the board] *bureau* or by mail.

(d) Upon filing of a claim pursuant to this act, the [board] *bureau* shall promptly notify the district attorney of the county wherein the crime is alleged to have occurred. If, within ten days after such notification, such district attorney advises the [board] *bureau* that a criminal prosecution is pending upon the same alleged crime and requests that action by the [board] *bureau* be deferred, the [board] *bureau* shall defer all proceedings under this act until such time as a trial verdict has been rendered, and shall so notify such district attorney and claimant. When a trial verdict has been rendered, such district attorney shall promptly so notify the [board] *bureau*. Nothing in this section shall limit the authority of the [board] *bureau* to grant emergency awards pursuant to section 477.8 of this act.

Section 7. Sections 477.6, 477.7 and 477.8 of the act, added July 9, 1976 (P.L.574, No.139), are amended to read:

Section 477.6. Determination of Claims.—(a) [A claim, when accepted for filing, shall be assigned by the chairman to himself or to another member of the board. All claims arising from the death of an individual as a direct result of a single crime, shall be considered together by a single board member.] *The bureau shall establish functional procedures for the intake, verification and processing of claims.*

(b) The [board member to whom such claim is assigned shall examine the papers filed in support of the claim and shall thereupon cause an investigation to be conducted into the validity of the claim.] *bureau shall review the claim and all supporting documents and investigate the validity thereof.* The investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based. *The bureau may not request or review counseling notes of mental health service providers. The bureau shall request an assessment from the mental health service provider as to the extent the service provided is needed as a direct result of the crime.*

(c) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal responsibility or other legal exemption or defense.

(d) [The board member to whom a claim is assigned may make his recommendation regarding the claim on the basis of the papers filed in support thereof and the report of the investigation of the claim. If the board member is unable to decide his recommendation upon the basis of the said papers and report, he shall order a hearing. At the hearing any relevant evidence, not legally privileged, shall be admissible.] *The bureau shall determine whether to grant an award, increase or decrease an award or deny the claim based on the supporting documents, the report of the*

investigation and staff recommendations. If the bureau is unable to determine if a claim is justified based upon the supporting documents, it may direct a hearing before a hearing examiner designated by the commission. At the hearing any relevant evidence not legally privileged shall be admissible.

(e) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the board member to whom the claim was assigned shall make a recommendation to the entire board either granting an award or denying the claim.

(f) The entire board shall act upon the recommendation of the board member. The board, by majority vote, may affirm, increase, decrease or deny the award. No decision shall be valid unless at least two members are in agreement on the decision.]

(g) The [secretary of the board] *bureau* shall promptly notify the claimant[, the Attorney General] and the State Treasurer of the final decision of the [board and furnish each with a copy of the report setting forth the decision] *bureau*.

(h) *The bureau shall maintain complete records and histories on all claims filed, supplemental awards paid to claimants, claims status and third-party entitlements and recoveries.*

Section 477.7. Judicial Review.—Within thirty days after receipt of a copy of such report containing a final decision of the [board] *bureau*, the claimant or the Attorney General may appeal the final decision of the [board] *bureau* in the manner provided for appeals from administrative agencies as provided in [the act of June 4, 1945 (P.L.1388, No.442), known as the “Administrative Agency Law.”] 2 *Pa.C.S. (relating to administrative law and procedure)*.

Section 477.8. Emergency Awards.—(a) Notwithstanding the provisions of sections 477.6 and 477.9 of this act, if it appears to the [board member to whom a claim is assigned,] *bureau* that such claim is one with respect to which an award probably will be made, and undue hardship will result to the claimant or claimants if immediate payment is not made, [such board member] *the bureau* may make an emergency award to the claimant or claimants pending a final decision in the case: Provided, however, That the total amount of such emergency award shall not exceed one thousand dollars (\$1,000) per claim, the amount of such emergency award shall be deducted from any final award made to the claimant or claimants, and the excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant or claimants to the [board] *bureau*.

(b) The [board member to whom a claim was originally assigned] *bureau* may reconsider an emergency award at any time prior to the final decision in the case and increase previous orders for emergency compensation up to the overall limit of one thousand dollars (\$1,000) per claim.

(c) The bureau shall compute the total number and amount of emergency awards given in each fiscal year for inclusion in the annual report.

Section 8. Section 477.9 of the act, amended June 30, 1984 (P.L.458, No.96), December 11, 1986 (P.L.1490, No.155) and August 14, 1991 (P.L.331, No.35), is amended to read:

Section 477.9. Awards.—(a) No award shall be made unless **[the board or board member, as the case may be, finds] it is determined** by a preponderance of the evidence that:

(1) A crime was committed.

(2) The person injured or killed was a victim or intervenor as defined in section 477.

(3) Such crime was promptly reported to the proper authorities; and in no case may an award be made where the record shows that such report was made more than seventy-two hours after the occurrence of such crime unless the **[board, for good cause shown,] bureau** finds the delay to have been justified ***consistent with bureau regulation***. The **[board] bureau**, upon finding that any claimant, victim or intervenor has not fully cooperated with all law enforcement agencies, may deny or withdraw any award, as the case may be.

(b) Any award made pursuant to the provisions of this act shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed thirty-five thousand dollars (\$35,000).

(c) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this act, be in an amount equal to the actual loss sustained: Provided, however, That no such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law," in Pennsylvania as determined annually by the Department of Labor and Industry for each week of lost earnings or support: And, provided further, That the aggregate award for such loss shall not exceed fifteen thousand dollars (\$15,000) except that in the case of death of a victim or intervenor, the aggregate award shall not exceed twenty thousand dollars (\$20,000).

(c.1) Where an order of restitution has been entered on behalf of the victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f) of this section.

(c.2) Provisions of awards made pursuant to this or any other act compensating or benefiting a victim or claimant as defined by this act shall in no way affect the claimant or victim's eligibility under public assistance or any other State or federally created social benefit or assistance program.

(d) If there are two or more persons entitled to an award as a result of the death of a victim or intervenor, the award shall be apportioned among the claimants.

(e) Except for any payments or proceeds that are specifically denominated as compensation for dismemberment or loss of an eye, any award made pursuant to this act shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (i) from or on behalf of the person who committed the crime[,]; (ii) under any insurance *or health and welfare* programs including those mandated by law[,]; (iii) under any contract of insurance wherein the claimant is the beneficiary[,]; (iv) from public funds[, or]; (v) as an emergency award pursuant to section 477.8 of this act[,]; or (vi) under any pension program, including those providing for disability or survivor's benefits.

(f) In determining the amount of an award, the [board or board member, as the case may be,] *bureau* shall determine whether, because of his *or her* conduct, the victim or intervenor contributed to the infliction of his injury.[, except where the crime was rape in which case the conduct of the victim shall not be considered, and the board or board member shall reduce the amount of the award or deny the claim altogether in accordance with such determination: Provided, however, That the board or board member, as the case may be, may disregard for this purpose the contribution of the intervenor to his own injury where the record shows that such contribution was attributed to efforts by an intervenor as set forth in section 477.] *The bureau shall reduce the amount or deny the claim altogether in accordance with such determination.*

(g) Where the crime involved is rape or sexual assault, the conduct of the victim shall not be considered. Where the crime involved is related to domestic violence, the conduct of the victim shall not be considered unless the victim was the primary aggressor.

(h) In determining the amount of an award to an intervenor, the bureau may consider whether because of his or her conduct the intervenor contributed to the infliction of his or her injury. The bureau shall reduce the amount or deny the claim altogether in accordance with such determination.

(i) A hospital or other licensed health care provider may submit a claim for reimbursement for the cost of a forensic rape examination, if the cost is not covered by insurance, upon approval by the district attorney with jurisdiction of the rape or sexual assault investigation and prosecution. In no event shall the bureau pay an amount to exceed five hundred dollars (\$500) for a forensic rape examination and one hundred dollars (\$100) for medications directly related to the sexual assault or rape. A sexual assault or rape victim need not be an applicant for any other compensation pursuant to this act.

Section 9. Sections 477.10, 477.11, 477.12 and 477.13 of the act, added July 9, 1976 (P.L.574, No.139), are amended to read:

Section 477.10. Manner of Payment.—The award shall be paid in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments. No award made pursuant to this act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim. All awards shall be paid by the State Treasurer. An award shall not be considered as compensation taxable as income under Article III, Personal Income Tax, of the act of March 4, 1971 (P.L.6, No.2), known as the “Tax Reform Code of 1971,” added August 31, 1971 (P.L.362, No.93). The [board] *bureau* shall reconsider, at least annually, every award being paid in installments. The [board may] *bureau may* reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a victim or one or more of his surviving dependents.

Section 477.11. Confidentiality of Records.—The record of a proceeding before the [board or board member] *bureau or a hearing examiner* shall be a public record: Provided, however, That any record or report obtained by the [board or board member] *bureau or a hearing examiner*, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

Section 477.12. Subrogation.—Payment of an award made pursuant to this act shall subrogate the Commonwealth, to the extent of such payment, to any right of action *against any person* accruing to the claimant [or], the victim or the intervenor to recover losses resulting from the crime with respect to which the award is made. In such case, the Commonwealth shall be entitled to bring an action against the person or persons causing or otherwise liable for the personal injuries or death for which said payment was made. *Money recovered under this section shall be deposited in the Crime Victim’s Compensation Fund.*

If an amount greater than that paid pursuant to these provisions is recovered and collected in such action, the Commonwealth shall pay the balance to the claimant. The Attorney General shall enforce any subrogation. *A claimant who fails to notify the bureau of the receipt of funds from any other claim or award arising out of the crime shall forfeit and pay to the Commonwealth an amount equal to all awards paid by the bureau to the claimant or on the claimant’s behalf.*

Section 477.13. Restitution.—To the extent that restitution is ordered pursuant to any other existing law, either prior to or subsequent to the making of an award by [this board] *the bureau*, such restitution shall be paid to the Commonwealth to the extent of the award by the [board] *bureau*.

Section 10. Section 477.15 of the act, amended August 14, 1991 (P.L.331, No.35), is amended to read:

Section 477.15. Costs.—(a) Any person who pleads guilty or nolo contendere or who is convicted of any crime, as defined in section 477 shall, in addition to costs imposed pursuant to 42 Pa.C.S. § 3571(c) (relating to Commonwealth portion of fines, etc.), [be sentenced to] pay costs of at least

thirty dollars (\$30), and may be sentenced to pay additional costs in an amount up to the statutory maximum monetary penalty for the offense committed.

(a.1) Any person placed in a diversionary program, as defined in section 477, shall be required to pay costs of at least thirty dollars (\$30), in addition to costs imposed pursuant to 42 Pa.C.S. § 3571(c).

(b) Fifteen dollars (\$15) of the costs imposed under subsections (a) and (a.1) plus thirty per centum of the costs imposed under subsection (a) which exceed thirty dollars (\$30) shall be paid into a special nonlapsing fund, which is hereby established, for use by the **[Crime Victim's Compensation Board] bureau** for payment to victims and technical assistance.

(c) Fifteen dollars (\$15) of the costs imposed under subsections (a) and (a.1) plus seventy per centum of the costs imposed under subsection (a) which exceed thirty dollars (\$30) shall be paid into a special nonlapsing fund, which is hereby established, for use by the Commission on Crime and Delinquency for victim-witness services grants and technical assistance in nonvictim compensation related areas in accordance with this section.

(d) This cost shall be imposed notwithstanding any other provision in this act or other act to the contrary.

(e) The district attorney, the **[Crime Victim's Compensation Board] bureau**, the Commission on Crime and Delinquency or any victim of a crime (as defined in section 477) shall have standing to seek a mandamus order requiring the county to collect the costs imposed by this section.

(f) No court order shall be necessary in order for the defendant to incur liability for costs under this section. Costs under this section must be paid in order for the defendant to be eligible for probation, parole or accelerated rehabilitative disposition.

Section 11. Section 477.17 of the act, amended June 30, 1984 (P.L.458, No.96), is amended to read:

Section 477.17. Responsibilities of State and Local Law Enforcement Agencies.—(a) All **State and** local law enforcement agencies shall insure that all of its officers and employes are familiar with crime victim's compensation as provided for in sections 477 through **[477.17] 477.19** of this act. Instruction concerning crime victim's compensation shall be made a part of the training curriculum for all trainee officers.

(b) **[Local] All State and local** law enforcement agencies shall **[advise the victims of crimes reported to it] within forty-eight hours of reporting give notice to the victim or, where appropriate, a member of the victim's family** of the availability of crime victim's compensation **[as provided by this act]**. The term "victim" as used in this subsection shall be a victim as defined by this act. The notice required under this subsection shall be in writing and shall include the following paragraph:

"If you have sustained **[physical] injury** as a direct result of a crime **[of violence]**, **including drunk driving**, or are legally dependent for support upon a person who has sustained physical injury or death as a direct result

of a crime [**of violence**], or, in the event of a death caused by a crime [**of violence**], you have legally assumed or voluntarily paid the medical or burial expenses incurred as a direct result thereof, *or if you have sustained a loss of a primary source of income*, you may qualify for indemnification by the [State] *Commonwealth* of Pennsylvania for the out-of-pocket wages, *other out-of-pocket losses*, and medical or burial expenses which you have incurred as a result of the crime. Claims must be filed with the [Crime Victim's Compensation Board] *Bureau of Victims' Services* for the [State] *Commonwealth* of Pennsylvania. For further information regarding this program, please contact:

(Name, business address and telephone number of the local law enforcement agency)

or

[Crime Victim's Compensation Board
Office of General Counsel]
Bureau of Victims' Services
(at the address of the bureau as published from time to time in the *Pennsylvania Bulletin*)
Harrisburg, Pennsylvania

Important: The statute provides that, absent certain extenuating circumstances, a claimant has one year from the date of the crime to file [his] a claim with the [Crime Victim's Compensation Board] *Bureau of Victims' Services*."

(c) The written notification provided for in subsection (b) shall be accompanied by one copy of the application form for crime victim's compensation. [These] *Application* forms shall be supplied by the [Crime Victim's Compensation Board to all] *bureau to all State and* local law enforcement agencies. [The] A record of the date [and address of all letters] of notification shall be maintained by every *State and* local law enforcement agency. *The bureau shall maintain a mailing list of all police departments and provide departments and the Pennsylvania State Police with forms by which they can order additional claim forms. The bureau shall also provide updates to police on changes which affect their responsibilities under this act.*

[(d) Any officer of a local law enforcement agency whose duties include the investigation of crimes may notify victims or their families of the availability of compensation under this act by giving them a card or sheet bearing the paragraph as quoted in subsection (b) above. A record of such personal notice shall be maintained by the local law enforcement agency.

(e) In municipalities which do not have a local law enforcement agency, the board shall by rule establish procedures whereby it, together

with the State Police, shall give the notice to victims of crimes as provided in this section.]

Section 12. Section 477.18 of the act is repealed.

Section 13. Section 477.19 of the act, added December 11, 1986 (P.L.1490, No.155), is amended to read:

Section 477.19. Responsibilities of Service Providers and Insurance Companies.—(a) Providers of services to victims, including, but not limited to, doctors, hospitals, counselors and insurance companies providing *or liable for* reimbursement to victims or *any other* claimants, shall respond, in writing, to the [board's] *bureau's* request for confirmation *or other information* under this act within thirty (30) days of receipt of the [board's] *bureau's* request.

(b) Any provider *of services or insurance company* who fails to respond within thirty (30) days of receipt of the request shall be subject to *a* civil penalty of not more than [ten dollars (\$10)] *fifty dollars (\$50)* per day, up to and including the date of compliance.

(c) The office of district attorney of the county in which the [provider is located or] *crime occurred and* the Attorney General shall be charged with enforcement of this section.

Section 14. The act is amended by adding sections to read:

Section 477.21. Victims' Services Advisory Committee.—(a) There is hereby established the Victims' Services Advisory Committee within the Pennsylvania Commission on Crime and Delinquency. The members of the committee shall be appointed by the Governor and shall include representation of victims, Statewide victims' coalitions, prosecution-based victim/witness programs and other victim service or victim advocacy organizations, the courts, members of local government and other victims' organizations or organizations involved in the coordination or delivery of services to victims. A district attorney shall also be a member of the committee. The Secretary of Public Welfare, the Secretary of Aging, the Secretary of Corrections or their designees shall also be members of the committee. The Commissioner of the Pennsylvania State Police shall also be a member of the committee. The Victim Advocate within the Board of Probation and Parole shall also be a member of the committee. Members other than the Victim Advocate and the Secretaries of the member State agencies shall serve for four-year terms and may be appointed for no more than one additional consecutive term.

(b) The committee shall consist of fifteen (15) members.

(c) The committee and its members are subject to the same limitations and conditions imposed upon the commission as prescribed in section 2 of the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law.

(d) A majority of the members shall constitute a quorum, and a vote of the majority of the members present shall be sufficient for all actions.

(e) The Governor shall appoint a chairman from among the members of the committee who shall serve at the pleasure of the Governor. A vice chairman shall be designated by the chairman and preside at meetings in the absence of the chairman. The committee shall meet at the call of the chairman but no fewer than four times a year.

Section 477.22. Powers and Duties of the Victims' Services Advisory Committee.—The Victims' Services Advisory Committee shall have the power, and its duty shall be:

(1) To serve in an advisory capacity to the commission, including the Bureau of Victims' Services¹ through the committee's participation in the development of that part of the commission's plan relating to victims' services and compensation.

(2) Those functions related to the direct approval and disbursement of financial assistance shall be in an advisory capacity only, but the advisory committee shall have the opportunity to review and comment on such applications other than applications for claims for compensation pursuant to sections 477.4 and 477.8 within thirty (30) days after receipt of the application from the commission.

(3) To advise the commission on the definition, development and correlation of programs and projects and the establishment of priorities for victims' services and compensation.

(4) To develop standards, methods and procedures for evaluating and monitoring victims' services.

(5) Upon request to provide whatever assistance and advice to the commission on any other matters relating to victims' services and compensation.

(6) Staff support shall be made available to the Victims' Services Advisory Committee by the executive director of the commission and the executive director of the Bureau of Victims' Services in order to adequately perform the duties provided for in this section.

Section 15. Section 479.1 of the act is amended by adding a definition to read:

Section 479.1. Definitions.—The following words and phrases when used in sections 479 through 479.11 shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Bureau" means the Bureau of Victims' Services within the Pennsylvania Commission on Crime and Delinquency.

* * *

Section 16. (a) All personnel, allocations, appropriations, equipment, supplies, records, contracts, obligations and other materials which are used in connection with the powers, duties or functions transferred by this act from

¹ "Compensation" in enrolled bill.

the Crime Victim's Compensation Board to the Bureau of Victims' Services are transferred with the same force and effect as if they had been the personnel, allocations, appropriations, equipment, supplies, records, contracts, obligations and materials of the Bureau of Victims' Services in the first instance.

(b) (1) All present employees of the Crime Victim's Compensation Board whose powers, duties or functions are transferred under subsection (a) shall be transferred to the Bureau of Victims' Services.

(2) All employees of the Crime Victim's Compensation Board are to continue in their employment with the Bureau of Victims' Services with the same pay scales, salaries, seniority benefits, pension rights and other incidents of employment, including civil service status, as if this act had not been effective.

Section 17. Each regulation of the Crime Victim's Compensation Board in effect on December 31, 1995, shall remain in effect until it is repealed or amended by the Bureau of Victims' Services or until it terminates in accordance with its own terms.

Section 18. The Pennsylvania Commission on Crime and Delinquency shall, in conjunction with the Crime Victim's Compensation Board, implement the transfer of functions under this act from the Crime Victim's Compensation Board to the Bureau of Victims' Services.

Section 19. This act shall take effect January 1, 1996.

APPROVED—The 17th day of November, A.D. 1995.

THOMAS J. RIDGE