

Enrolled
Senate Bill 218

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CHAPTER

AN ACT

Relating to crime victims' compensation program benefits; creating new provisions; and amending ORS 147.035.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 147.035 is amended to read:

147.035. (1) Losses compensable under ORS 135.905 and 147.005 to 147.367 resulting from death or injury to a victim include:

(a) In the case of injury:

(A) Reasonable medical and hospital expenses, including psychiatric, psychological or counseling expenses and further including, in cases of:

(i) Child sexual abuse, rape of a child and exploitation described in ORS 419B.005 (1)(a)(C), (D) or (E), counseling expenses of the victim's family up to a maximum amount of \$20,000;

(ii) Domestic violence, as defined in ORS 135.230, counseling expenses of children who witnessed the domestic violence up to a maximum amount of \$10,000; or

(iii) International terrorism, counseling expenses of a relative of the victim up to a maximum amount of \$1,000;

(B) Loss of earnings, not exceeding \$400 per week up to a maximum amount of \$20,000;

(C) Rehabilitation up to a maximum amount of \$4,000; and

(D) Transportation for medical care and mental health counseling when the treatment is compensable under this section, the treatment is provided more than 30 miles away from the victim's residence and adequate treatment is not available closer to the victim's residence. Payment will be made at a rate set by the Department of Justice up to a maximum amount of \$3,000.

(b) In the case of death:

(A) Reasonable funeral expenses up to a maximum amount of \$5,000;

(B) Reasonable medical and hospital expenses up to a maximum amount of \$20,000;

(C) Loss of support to the dependents of the victim not exceeding \$400 per week up to a maximum amount of \$20,000, less any amounts paid for loss of earnings;

(D) Reasonable counseling expenses for the survivors of a deceased victim up to a maximum amount of \$20,000 for each deceased victim; and

(E) Transportation for mental health counseling when the treatment is compensable under this section, the treatment is provided more than 30 miles away from the survivor's or dependent's residence and adequate treatment is not available closer to the survivor's or dependent's residence. Payment will be made at a rate set by the Department of Justice up to a maximum amount of \$3,000.

(2) Compensable losses do not include:
(a) Pain and suffering or property damage; or
(b) Aggregate damages to the victim and to the dependents of a victim exceeding [~~\$44,000~~]
\$47,000.

(3) Notwithstanding subsections (1) and (2) of this section, in the case of abuse of corpse in any degree, losses compensable under ORS 135.905 and 147.005 to 147.367 resulting from the abuse of the corpse **may** include:

(a) Reasonable funeral expenses up to a maximum amount of \$5,000; **or** [~~and~~]
(b) Reasonable counseling expenses for emotional distress up to a maximum amount of \$5,000 for each incident.

(4) If the case against the assailant of the victim is under direct or collateral review, compensable losses may include:

(a) **Crime-related counseling expenses up to a maximum of \$5,000; or**
(b) **Other expenses related to the review, including transportation and lodging necessary for the victim to attend hearings and oral arguments, up to a maximum of \$3,000.**

(5) If the assailant of the victim has a parole hearing scheduled before the State Board of Parole and Post-Prison Supervision, compensable losses may include:

(a) **Crime-related counseling expenses up to a maximum of \$5,000; or**
(b) **Other expenses related to the hearing, including transportation and lodging necessary for the victim to attend the hearing, up to a maximum of \$3,000.**

[(4)] **(6)** Except as provided in [~~subsection (5)~~] **subsections (7) to (10)** of this section, a claim for benefits expires and no further payments may be made with regard to the claim when three years have elapsed since the entry of a determination order under ORS 147.135 or when the victim, survivor or dependent attains 21 years of age, whichever comes later. The extension of benefits and payments until the victim, survivor or dependent attains 21 years of age applies to claims filed on or after August 4, 1991.

[(5)] **(7)** If the victim has suffered catastrophic injuries, a claim for benefits and payments may continue beyond the period described in subsection [(4)] **(6)** of this section. The Department of Justice shall adopt rules defining catastrophic injuries and establishing the length of time that a claim for benefits and payments may continue.

(8) In cases of homicide, a claim for reasonable counseling expenses for surviving family members may continue until five years have elapsed from the date of the determination order.

(9) Claims described in subsection (4) of this section:

(a) **May be submitted each time an assailant's case is under direct or collateral review; and**

(b) **Do not expire until six months after the completion of the direct or collateral review.**

(10) Claims described in subsection (5) of this section do not expire until the earlier of six months after the parole hearing for which the application was submitted or the assailant's release.

[(6)] **(11)** The department shall adopt rules for medical fee schedules. The schedules shall represent at least the 75th percentile of the usual and customary fees charged to the public as determined by the department. An applicant or victim may not be charged for the percentile amount reduced by the department.

SECTION 2. A person is eligible for an award of compensation under ORS 135.905 and 147.005 to 147.367 if:

(1) The person meets the requirements of ORS 147.015; and

(2) The victim was related to or shared the same household as the assailant between January 1, 1978, and September 28, 1987.

SECTION 3. Section 2 of this 2009 Act and the amendments to ORS 147.035 by section 1 of this 2009 Act apply to applications for compensation filed on or after the effective date of this 2009 Act.

Passed by Senate March 10, 2009

Repassed by Senate May 26, 2009

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Secretary of Senate

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President of Senate

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Speaker of House

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Approved:

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Governor

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