

House Bill 3213

Sponsored by Representative HICKS; Representatives BARTON, DAVIS, REARDON, WEIDNER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adds financial loss from recovering stolen vehicle to list of injuries compensable under crime victims' compensation program. Authorizes compensation up to \$500 for towing, impoundment and related fees.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime victims' compensation; creating new provisions; amending ORS 147.005 and
3 147.035; and declaring an emergency.

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

5 **SECTION 1.** ORS 147.005 is amended to read:

6 147.005. As used in ORS 147.005 to 147.367 unless the context requires otherwise:

7 (1) "Applicant" means:

8 (a) Any victim of a compensable crime who applies to the Department of Justice for compen-
9 sation under ORS 147.005 to 147.367;

10 (b) Any person who was a dependent of a deceased victim at the time of the death of that victim;

11 (c) Any person who is a survivor of a deceased victim; or

12 (d) Any person eligible for compensation under ORS 147.025.

13 (2) "Board" means the Workers' Compensation Board.

14 (3) "Child" means an unmarried person who is under 18 years of age and includes a posthumous
15 child, stepchild or an adopted child.

16 (4) "Compensable crime" means abuse of corpse in any degree, **theft or unauthorized use of**
17 **a vehicle** or an intentional, knowing, reckless or criminally negligent act that results in serious
18 bodily injury or death of another person and that, if committed by a person of full legal capacity,
19 would be punishable as a crime in this state.

20 (5) "Counseling" has the meaning given that term by the department by rule.

21 (6) "Dependent" means such relatives of a deceased victim who wholly or partially were de-
22 pendent upon the victim's income at the time of death or would have been so dependent but for the
23 victim's incapacity due to the injury from which the death resulted.

24 (7) "Department" means the Department of Justice.

25 (8) "Funeral expenses" means expenses of the funeral, burial, cremation or other chosen method
26 of interment, including plot or tomb and other necessary incidents to the disposition of the remains
27 and also including, in the case of abuse of corpse in any degree, reinterment.

28 (9) "Injury" means abuse of a corpse, **financial loss resulting from theft or unauthorized**
29 **use of a vehicle** or actual bodily harm and, with respect to a victim, includes pregnancy and mental
30 or nervous shock.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (10) "International terrorism" means activities that:

2 (a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws
3 of the United States or any state or that would be a criminal violation if committed within the ju-
4 risdiction of the United States or of any state;

5 (b) Appear to be intended to:

6 (A) Intimidate or coerce a civilian population;

7 (B) Influence the policy of a government by intimidation or coercion; or

8 (C) Affect the conduct of a government by assassination or kidnapping; and

9 (c) Occur primarily outside the territorial jurisdiction of the United States or transcend national
10 boundaries in terms of the means by which they are accomplished, the persons they appear intended
11 to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

12 (11) "Involved in the hearing" and "involved in the oral argument" have the meaning given
13 those terms by the department by rule.

14 (12) "Law enforcement official" means a sheriff, constable, marshal, municipal police officer or
15 member of the Oregon State Police and such other persons as may be designated by law as a peace
16 officer.

17 (13) "Relative" means a person related to the victim within the third degree as determined by
18 the common law, a spouse, or an individual related to the spouse within the third degree as so de-
19 termined and includes an individual in an adoptive relationship.

20 (14) "Survivor" means any spouse, parent, grandparent, guardian, sibling, child or other imme-
21 diate family member or household member of a deceased victim.

22 (15) "Victim" means:

23 (a) A person:

24 (A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted
25 against that person;

26 (B) Killed or injured in this state while attempting to assist a person against whom a
27 compensable crime is being perpetrated or attempted, if that attempt of assistance would be ex-
28 pected of a reasonable person under the circumstances;

29 (C) Killed or injured in this state while assisting a law enforcement official to apprehend a
30 person who has perpetrated a crime or to prevent the perpetration of any such crime, if that as-
31 sistance was in response to the express request of the law enforcement official;

32 (D) Killed or injured in another state as a result of a criminal episode that began in this state;

33 (E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated
34 or attempted against the person in a state, within the United States, without a reciprocal crime
35 victims' compensation program; or

36 (F) Who is an Oregon resident killed or injured by an act of international terrorism committed
37 outside the United States; or

38 (b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse.

39 **SECTION 2.** ORS 147.035 is amended to read:

40 147.035. (1)(a) Except as otherwise provided in ORS 147.025 and 147.390, compensation may be
41 awarded under ORS 147.005 to 147.367 only for losses described in this section.

42 (b) The maximum amount of compensation that may be awarded, in aggregate, to the victim and
43 the survivors and dependents of a deceased victim is \$47,000.

44 (c) When a compensable crime results in:

45 (A) Injury to a victim, the losses described in subsections (2), (4), (7) and (8) of this section are

1 compensable.

2 (B) Death to a victim, the losses described in subsections (3), (4), (6), (7) and (8) of this section
3 are compensable.

4 (2) When a claim for compensation is filed in a case of injury, compensation may be awarded for:

5 (a) The victim's reasonable medical and hospital expenses, including counseling expenses, up to
6 a maximum amount of \$20,000;

7 (b) Loss of the victim's earnings, at a maximum rate of \$400 per week, up to a maximum amount
8 of \$20,000;

9 (c) The victim's rehabilitation expenses, up to a maximum amount of \$4,000; [and]

10 **(d) Expenses related to recovery of a stolen vehicle, including towing and impoundment**
11 **fees, up to a maximum amount of \$500; and**

12 [(d)] (e) Expenses related to transportation for the victim's medical care or counseling, at a rate
13 determined by the Department of Justice, up to a maximum amount of \$3,000, when:

14 (A) The medical care or counseling is compensable under this section;

15 (B) The medical care or counseling is provided more than 30 miles away from the victim's resi-
16 dence; and

17 (C) Adequate medical care or counseling is not available in closer proximity to the victim's
18 residence.

19 (3) When a claim for compensation is filed in a case of death, compensation may be awarded for:

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

21 (b) The victim's reasonable medical and hospital expenses, up to a maximum amount of \$20,000;

22 (c) Loss of support to the dependents of the victim, at a maximum rate of \$400 per week, up to
23 a maximum amount of \$20,000, less any amounts awarded for loss of earnings under subsection (2)(b)
24 of this section;

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

27 (e) Expenses related to transportation for a survivor's or a dependent's counseling, at a rate
28 determined by the department, up to a maximum amount of \$3,000, when:

29 (A) The counseling is compensable under this section;

30 (B) The counseling is provided more than 30 miles away from the survivor's or dependent's
31 residence; and

32 (C) Adequate counseling is not available in closer proximity to the survivor's or dependent's
33 residence.

34 (4) When a claim for compensation is filed in a case of:

35 (a) Rape of a child, child sexual abuse or sexual exploitation, as those terms are described in
36 ORS 419B.005 (1)(a)(C), (D) and (E), counseling expenses of the victim's family are compensable up
37 to a maximum amount of \$20,000, less any amounts awarded for the victim's medical or hospital
38 expenses under subsection (2)(a) of this section.

39 (b) Domestic violence as defined in ORS 135.230, the counseling expenses of children who wit-
40 nessed the domestic violence are compensable up to a maximum amount of \$10,000.

41 (c) International terrorism, the counseling expenses of a relative of the victim are compensable
42 up to a maximum amount of \$1,000.

43 (5) Compensation may not be awarded under ORS 147.005 to 147.367 for pain and suffering or
44 property damage **except as provided in subsection (2)(d) of this section.**

45 (6) Notwithstanding subsections (2) to (5) of this section, when a claim for compensation is filed

1 in a case of abuse of corpse in the first degree as defined in ORS 166.087 or abuse of corpse in the
 2 second degree as defined in ORS 166.085, compensation may be awarded for one or both of the fol-
 3 lowing:

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

5 (b) Reasonable counseling expenses for emotional distress, up to a maximum amount of \$5,000
 6 for each incident.

7 (7) If the case against the assailant of the victim is under direct or collateral review and the
 8 victim, survivor or dependent is involved in the hearing or oral argument, compensation may be
 9 awarded for:

10 (a) The victim's, survivor's or dependent's counseling expenses up to a maximum amount of
 11 \$5,000; and

12 (b) Other expenses related to the review, including transportation and lodging necessary for the
 13 victim, survivor or dependent to be involved in hearings and oral arguments, up to a maximum
 14 amount of \$3,000.

15 (8) If the assailant of the victim has a hearing scheduled before the State Board of Parole and
 16 Post-Prison Supervision or the Psychiatric Security Review Board and the victim, survivor or de-
 17 pendent is involved in the hearing, compensation may be awarded for:

18 (a) The victim's, survivor's or dependent's counseling expenses up to a maximum amount of
 19 \$5,000; and

20 (b) Other expenses related to the hearing, including transportation and lodging necessary for the
 21 victim, survivor or dependent to be involved in the hearing, up to a maximum amount of \$3,000.

22 (9) A claim for compensation expires and no further payments may be made with regard to the
 23 claim:

24 (a) When three years have elapsed from the entry of a determination order under ORS 147.135;
 25 or

26 (b) If the victim, survivor or dependent attains 21 years of age after the date described in par-
 27 agraph (a) of this subsection, when the victim, survivor or dependent attains 21 years of age.

28 (10) Notwithstanding subsection (9) of this section:

29 (a) In cases of homicide, a claim for reasonable counseling expenses for survivors may continue
 30 until five years have elapsed from the date of the determination order.

31 (b) Claims described in subsection (7) of this section may be filed each time an assailant's case
 32 is under direct or collateral review and expire:

33 (A) If the assailant is released as a result of the direct or collateral review, when six months
 34 have elapsed from the date the assailant is released; or

35 (B) If the assailant is not released as a result of the direct or collateral review, when six months
 36 have elapsed from the completion of the review.

37 (c) Claims described in subsection (8) of this section may be filed each time an assailant has a
 38 hearing before the State Board of Parole and Post-Prison Supervision or the Psychiatric Security
 39 Review Board and expire:

40 (A) If the assailant is denied parole, conditional release or discharge, when six months have
 41 elapsed from the date of the hearing.

42 (B) If the assailant is paroled, conditionally released or discharged, when six months have
 43 elapsed from the date the assailant is paroled, conditionally released or discharged.

44 (11) Notwithstanding subsections (2) and (9) of this section, if a victim suffers catastrophic in-
 45 juries:

1 (a) A claim for compensation and payments may continue beyond the period described in sub-
2 section (9) of this section; and

3 (b) The department may award compensation for losses in excess of the individual limitations
4 described in subsection (2) of this section, provided that the aggregate award does not exceed the
5 amount described in subsection (1)(b) of this section.

6 (12) The department shall adopt rules:

7 (a) Defining catastrophic injuries and establishing the length of time that a claim for compen-
8 sation and payments may continue under subsection (11)(a) of this section.

9 (b) For medical fee schedules. The schedules shall represent at least the 75th percentile of the
10 usual and customary fees charged to the public as determined by the department. An applicant or
11 victim may not be charged for the percentile amount reduced by the department.

12 **SECTION 3. The amendments to ORS 147.005 and 147.035 by sections 1 and 2 of this 2013**
13 **Act apply only to compensation claims for injuries occurring on or after the effective date**
14 **of this 2013 Act.**

15 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
17 **on its passage.**

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