

HOUSE AMENDMENTS TO HOUSE BILL 2676

By COMMITTEE ON JUDICIARY

February 13

1 On page 1 of the printed bill, delete lines 5 through 24 and delete pages 2 through 7.

2 On page 8, delete lines 1 through 42 and insert:

3 “**SECTION 1.** ORS 147.005 is amended to read:

4 “147.005. As used in ORS 147.005 to 147.367 unless the context requires otherwise:

5 “(1) ‘Applicant’ means:

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

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

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

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

12 “(2) ‘Board’ means the Workers’ Compensation Board.

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

15 “(4) ‘**Cleaning expenses**’ means **expenses reasonably related to the cleaning of, and the**
16 **removal of any organic or inorganic matter from, a private residence or place of business**
17 **due to physical injury to or the death of a person, or conduct that caused physical injury to**
18 **or the death of a person.**

19 “[~~4~~] (5) ‘Compensable crime’ means abuse of corpse in any degree or an intentional, knowing,
20 reckless or criminally negligent act that results in injury or death of another person and that, if
21 committed by a person of full legal capacity, would be punishable as a crime in this state.

22 “[~~5~~] (6) ‘Counseling’ has the meaning given that term by the department by rule.

23 “[~~6~~] (7) ‘Dependent’ means such relatives of a deceased victim who wholly or partially were
24 dependent upon the victim’s income at the time of death or would have been so dependent but for
25 the victim’s incapacity due to the injury from which the death resulted.

26 “[~~7~~] (8) ‘Department’ means the Department of Justice.

27 “[~~8~~] (9) ‘Funeral expenses’ means expenses of the funeral, burial, cremation, reduction or other
28 chosen method of interment, including plot or tomb and other necessary incidents to the disposition
29 of the remains and also including, in the case of abuse of corpse in any degree, reinterment.

30 “[~~9~~] (10) ‘Injury’ means abuse of a corpse, [~~or~~] actual bodily harm, **mental or emotional harm**
31 and, with respect to a victim, includes pregnancy and mental or nervous shock.

32 “[~~10~~] (11) ‘International terrorism’ means activities that:

33 “(a) Involve violent acts or acts dangerous to human life that are a violation of the criminal
34 laws of the United States or any state or that would be a criminal violation if committed within the
35 jurisdiction of the United States or of any state;

1 “(b) Appear to be intended to:
2 “(A) Intimidate or coerce a civilian population;
3 “(B) Influence the policy of a government by intimidation or coercion; or
4 “(C) Affect the conduct of a government by assassination or kidnapping; and
5 “(c) Occur primarily outside the territorial jurisdiction of the United States or transcend na-
6 tional boundaries in terms of the means by which they are accomplished, the persons they appear
7 intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.
8 “[~~(11)~~] (12) ‘Involved in the hearing’ and ‘involved in the oral argument’ have the meaning given
9 those terms by the department by rule.
10 “[~~(12)~~] (13) ‘Law enforcement official’ means a sheriff, constable, marshal, municipal police offi-
11 cer or member of the Oregon State Police and such other persons as may be designated by law as
12 a peace officer.
13 “[~~(13)~~] (14) ‘Reduction’ has the meaning given that term in ORS 97.010.
14 “[~~(14)~~] (15) ‘Relative’ means a person related to the victim within the third degree as determined
15 by the common law, a spouse, or an individual related to the spouse within the third degree as so
16 determined and includes an individual in an adoptive relationship.
17 “[~~(15)~~] (16) ‘Survivor’ means any spouse, parent, grandparent, guardian, sibling, child or other
18 immediate family member or household member of a deceased victim, **or a person to whom a de-**
19 **ceased victim was engaged to be married when the compensable crime occurred.**
20 “[~~(16)~~] (17) ‘Victim’ means:
21 “(a) A person:
22 “(A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted
23 against that person;
24 “(B) Killed or injured in this state while attempting to assist a person against whom a
25 compensable crime is being perpetrated or attempted, if that attempt of assistance would be ex-
26 pected of a reasonable person under the circumstances;
27 “(C) Killed or injured in this state while assisting a law enforcement official to apprehend a
28 person who has perpetrated a crime or to prevent the perpetration of any such crime, if that as-
29 sistance was in response to the express request of the law enforcement official;
30 “(D) Killed or injured in another state as a result of a criminal episode that began in this state;
31 “(E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated
32 or attempted against the person in a state, within the United States, without a reciprocal crime
33 victims’ compensation program; or
34 “(F) Who is an Oregon resident killed or injured by an act of international terrorism committed
35 outside the United States; or
36 “(b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse.
37 “**SECTION 2.** ORS 147.015 is amended to read:
38 “147.015. (1) A person is eligible for an award of compensation under ORS 147.005 to 147.367 if:
39 “(a) The person is a victim, or is a survivor or dependent of a deceased victim, of a compensable
40 crime that has resulted in or may result in a compensable loss;
41 “(b) The appropriate law enforcement officials were notified of the perpetration of the crime
42 allegedly causing the death or injury to the victim, unless the Department of Justice finds [*good*
43 *cause exists for the failure of notification*] **that, notwithstanding the failure of notification, the**
44 **applicant acted reasonably under the circumstances;**
45 “[*(c) The notification described in paragraph (b) of this subsection occurred within 72 hours after*

1 *the perpetration of the crime, unless the Department of Justice finds good cause exists for the failure*
2 *of notification within 72 hours;]*

3 “[*d*] *The applicant cooperated with law enforcement officials in the apprehension and prosecution*
4 *of the assailant or the department has found that the applicant’s failure to cooperate was for good*
5 *cause;]*

6 “[*e*] **(c)** The application for compensation is not the result of collusion between the applicant
7 and the assailant of the victim;

8 “[*f*] **(d)** **The department determines that the victim acted reasonably with respect to the**
9 **incident causing** the death or injury to the victim, [*was not substantially attributable to the wrongful*
10 *act of the victim]* **taking into account the specific situation of the victim and what a reasonable**
11 **action would be for a person in the victim’s circumstances; and**

12 “[*g*] **(e)** The application for an award of compensation under ORS 147.005 to 147.367 is filed
13 with the department:

14 “(A) Within one year of the date of the injury to the victim; or

15 “(B) Within such further extension of time as the department, for good cause shown, allows.

16 “[*2*]*(a)* *The fact that a victim was subjected to sexual exploitation as defined in ORS 419B.005,*
17 *domestic violence as defined in ORS 135.230, sexual abuse as defined in ORS 163.760 or stalking as*
18 *defined in ORS 163.732 is prima facie evidence of good cause for the victim’s failure to notify law*
19 *enforcement in a timely manner under subsection (1)(c) of this section, or for failure to cooperate with*
20 *law enforcement under subsection (1)(d) of this section.]*

21 “[*b*] **(2)** The requirement under subsection (1)(b) of this section to notify the appropriate law
22 enforcement officials of the perpetration of the crime is satisfied if[,]:

23 “**(a)** As a result of the compensable crime for which the victim or applicant is applying for
24 compensation, the victim or applicant obtained:

25 “(A) A temporary or permanent stalking protective order under ORS 30.866 or 163.730 to
26 163.750;

27 “(B) A sexual abuse restraining order under ORS 163.760 to 163.777;

28 “(C) An abuse prevention order under ORS 107.700 to 107.735 or 124.005 to 124.040; [or]

29 “**(D) Any other abuse prevention order or no contact order issued by a state, local, tribal**
30 **or federal court; or**

31 “[*D*] **(E)** A medical assessment, as defined in ORS 147.395, for sexual assault[,], **or any other**
32 **forensic exam or medical assessment;**

33 “**(b) A tribal health provider, student health provider or community mental health pro-**
34 **vider certifies that the victim reported the crime to the provider; or**

35 “**(c) The victim provides to the department documentation that qualifies as law enforce-**
36 **ment notification under the rules of the department.**

37 “(3) The department shall adopt rules establishing:

38 “(a) A limited [*domestic violence*] counseling award for victims [*of domestic violence*] who apply
39 for an award of compensation but who do not otherwise qualify under the eligibility requirements
40 of this section.

41 “[*b*] *A limited sexual assault counseling award for victims of sexual assault who apply for an*
42 *award of compensation but who do not otherwise qualify under the eligibility requirements of this*
43 *section.]*

44 “**(b) The types of documentation that qualify as notification to the appropriate law**
45 **enforcement officials of the perpetration of the crime as described in subsection (2)(c) of this**

1 **section.**

2 “**SECTION 3.** ORS 147.025 is amended to read:

3 “147.025. (1) Notwithstanding that a person is not a victim or a dependent of a deceased victim
4 under ORS 147.015 (1)(a), the person is eligible for compensation for reasonable medical expenses for
5 the victim and for reasonable funeral expenses of the deceased victim if the person:

6 “(a) Paid or incurred such expenses; and

7 “(b) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015
8 (1)(b) to [(g)] (e) are met.

9 “(2) Notwithstanding that a person is not a survivor or dependent of a deceased victim under
10 ORS 147.015 (1)(a), the person is eligible for compensation for reasonable counseling expenses up to
11 a maximum amount of [\$500] **\$5,000** if the person:

12 “(a) Paid or incurred such expenses;

13 “[*(b) Was a friend or acquaintance of the victim;*]

14 “[*(c) Was the first person to discover the corpse of the victim; and*]

15 “**(b)(A) Was the first person to discover the corpse of the victim; or**

16 “**(B) Was a witness to the crime resulting in the death of a victim; and**

17 “[*(d)*] (c) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015
18 (1)(b) to [(g)] (e) are met.

19 “(3) Notwithstanding that a person is not a victim or a survivor or dependent of a deceased
20 victim under ORS 147.015 (1)(a), the person is eligible for the compensation described in ORS 147.035
21 (7) [*and (8)*] if:

22 “(a) The person is the personal representative, as defined by the Department of Justice by rule,
23 of a victim or of a survivor or dependent of a deceased victim;

24 “(b) The person is involved in the [*hearing or oral argument*] **proceeding** in lieu of the victim,
25 survivor or dependent; and

26 “(c) The person files a claim in the manner provided in ORS 147.105 and the conditions in ORS
27 147.015 (1)(b) to [(g)] (e) are met.

28 “(4) The Department of Justice may pay directly to the provider of the services compensation
29 for medical, funeral or counseling expenses incurred by the person.

30 “**SECTION 4.** ORS 147.035 is amended to read:

31 “147.035. (1)(a) Except as otherwise provided in ORS 147.025 and 147.390, compensation may be
32 awarded under ORS 147.005 to 147.367 only for losses described in this section.

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

35 “(c) When a compensable crime results in:

36 “(A) Injury to a victim, the losses described in subsections (2), (4)[,] **and** (7) [*and (8)*] of this
37 section are compensable.

38 “(B) Death to a victim, the losses described in subsections (3), (4), (6)[,] **and** (7) [*and (8)*] of this
39 section are compensable.

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

42 “(a) The victim’s reasonable medical and hospital expenses, including counseling expenses **and**
43 **the cost of any prescription medications**, up to a maximum amount of \$20,000;

44 “(b) Loss of the victim’s earnings, at a maximum rate of \$600 per week, up to a maximum
45 amount of \$20,000;

1 “(c) The victim’s rehabilitation expenses, up to a maximum amount of \$4,000; *and*

2 “(d) **Reasonable cleaning expenses, up to a maximum of \$2,500;**

3 “(e) **The costs of obtaining forensic evidence, using an evidence collection kit, during a**

4 **medical assessment related to strangulation;**

5 “(f) **For a parent or legal guardian of a minor victim, lost wages due to providing care**

6 **for the victim, within the terms and up to a maximum amount determined by the department**

7 **by rule; and**

8 “[d] (g) Expenses related to transportation for the victim’s medical care or counseling, at a

9 rate determined by the Department of Justice, up to a maximum amount of \$3,000, when:

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

11 “(B) The medical care or counseling is provided more than 30 miles away from the victim’s

12 residence; and

13 “(C) Adequate medical care or counseling is not available in closer proximity to the victim’s

14 residence.

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

16 for:

17 “(a) Reasonable funeral expenses, up to a maximum amount of \$5,000, **with an additional**

18 **amount awarded at the discretion of the department;**

19 “(b) **Reasonable cleaning expenses, up to a maximum of \$2,500;**

20 “[b] (c) The victim’s reasonable medical and hospital expenses, up to a maximum amount of

21 \$20,000;

22 “[c] (d) Loss of support to the dependents of the victim, at a maximum rate of [~~\$600~~] **\$800** per

23 week, up to a maximum amount of \$20,000, less any amounts awarded for loss of earnings under

24 subsection (2)(b) of this section;

25 “[d] (e) Reasonable counseling expenses for the survivors of a deceased victim **or witnesses**

26 **to the crime resulting in the death of the victim**, up to a maximum amount of \$20,000 for each

27 deceased victim and including [*up to \$1,500 for each survivor for*] **the cost of any** prescription

28 medications prescribed in conjunction with the counseling; and

29 “[e] (f) Expenses related to transportation for a survivor’s or a dependent’s counseling, at a

30 rate determined by the department, up to a maximum amount of \$3,000, when:

31 “(A) The counseling is compensable under this section;

32 “(B) The counseling is provided more than 30 miles away from the survivor’s or dependent’s

33 residence; and

34 “(C) Adequate counseling is not available in closer proximity to the survivor’s or dependent’s

35 residence.

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

37 “(a) Rape of a child, child sexual abuse or sexual exploitation, as those terms are described in

38 ORS 419B.005 (1)(a)(C), (D) and (E), counseling expenses of the victim’s family, **including the cost**

39 **of any prescription medications prescribed in conjunction with the counseling**, are

40 compensable up to a maximum amount of \$20,000, less any amounts awarded for the victim’s medical

41 or hospital expenses under subsection (2)(a) of this section.

42 “(b) Domestic violence as defined in ORS 135.230, the counseling expenses of children who wit-

43 nessed the domestic violence, **including the cost of any prescription medications prescribed in**

44 **conjunction with the counseling**, are compensable up to a maximum amount of \$10,000.

45 “(c) International terrorism, the counseling expenses of a relative of the victim, **including the**

1 **cost of any prescription medications prescribed in conjunction with the counseling,** are
2 compensable up to a maximum amount of \$1,000.

3 “(5) Compensation may not be awarded under ORS 147.005 to 147.367 for pain and suffering or
4 property damage.

5 “(6) Notwithstanding subsections (2) to (5) of this section, when a claim for compensation is filed
6 in a case of abuse of corpse in the first degree as defined in ORS 166.087 or abuse of corpse in the
7 second degree as defined in ORS 166.085, compensation may be awarded for one or both of the fol-
8 lowing:

9 “(a) Reasonable funeral expenses, up to a maximum amount of \$5,000, **with an additional**
10 **amount awarded at the discretion of the department.**

11 “(b) Reasonable counseling expenses for emotional distress, **including the cost of any pre-**
12 **scription medications prescribed in conjunction with the counseling,** up to a maximum amount
13 of \$5,000 for each incident.

14 “(7) If the case against the assailant of the victim is under direct or collateral review [*and the*
15 *victim, survivor or dependent is involved in the hearing or oral argument,*] **or the subject of any**
16 **other post-conviction proceeding, or the assailant of the victim has a hearing scheduled be-**
17 **fore the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-**
18 **view Board or has applied for or is being considered for clemency or any other relief,**
19 compensation may be awarded for:

20 “(a) The victim’s, survivor’s or dependent’s counseling expenses, **including the cost of any**
21 **prescription medications prescribed in conjunction with the counseling,** up to a maximum
22 amount of [*\$5,000*] **\$10,000;** and

23 “(b) Other expenses related to the [*review*] **proceeding,** including transportation, [*and*] lodging
24 **and any other expenses determined by the department by rule that are** necessary for the vic-
25 tim, survivor or dependent to be involved in [*hearings and oral arguments*] **the proceeding,** up to
26 a maximum amount [*of \$3,000*] **determined by the department by rule.**

27 “[*8*] *If the assailant of the victim has a hearing scheduled before the State Board of Parole and*
28 *Post-Prison Supervision or the Psychiatric Security Review Board and the victim, survivor or de-*
29 *pendent is involved in the hearing, compensation may be awarded for:]*

30 “[*a*] *The victim’s, survivor’s or dependent’s counseling expenses up to a maximum amount of*
31 *\$5,000; and]*

32 “[*b*] *Other expenses related to the hearing, including transportation and lodging necessary for the*
33 *victim, survivor or dependent to be involved in the hearing, up to a maximum amount of \$3,000.]*

34 “[*9*] **(8)** A claim for compensation expires and no further payments may be made with regard
35 to the claim:

36 “(a) When three years have elapsed from the entry of a determination order under ORS 147.135;
37 or

38 “(b) If the victim, survivor or dependent attains 21 years of age after the date described in
39 paragraph (a) of this subsection, when the victim, survivor or dependent attains 21 years of age.

40 “[*10*] **(9)** Notwithstanding subsection [*9*] **(8)** of this section:

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

43 “(b) Claims described in subsection (7) of this section may be filed [*each time an assailant’s case*
44 *is under direct or collateral review and expire:]* **at any time while an assailant’s case is involved**
45 **in the post-conviction proceeding or the assailant has a hearing scheduled or is being con-**

1 **sidered for release or clemency and do not expire.**

2 “[(A) If the assailant is released as a result of the direct or collateral review, when six months have
3 elapsed from the date the assailant is released; or]

4 “[(B) If the assailant is not released as a result of the direct or collateral review, when six months
5 have elapsed from the completion of the review.]

6 “[(c) Claims described in subsection (8) of this section may be filed each time an assailant has a
7 hearing before the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-
8 view Board and expire:]

9 “[(A) If the assailant is denied parole, conditional release or discharge, when six months have
10 elapsed from the date of the hearing.]

11 “[(B) If the assailant is paroled, conditionally released or discharged, when six months have
12 elapsed from the date the assailant is paroled, conditionally released or discharged.]

13 “[(11)] **(10)** Notwithstanding subsections (2) and [(9)] **(8)** of this section, if a victim suffers cat-
14 astrophic injuries:

15 “(a) A claim for compensation and payments may continue beyond the period described in sub-
16 section [(9)] **(8)** of this section; and

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

20 “[(12)] **(11)** The department shall adopt rules:

21 “**(a) Defining the terms and maximum amount of compensation available under sub-**
22 **section (2)(f) of this section.**

23 “**(b) Defining the types of compensable expenses and maximum amount of compensation**
24 **available under subsection (7)(b) of this section.**

25 “[(a)] **(c)** Defining catastrophic injuries and establishing the length of time that a claim for
26 compensation and payments may continue under subsection [(11)(a)] **(10)(a)** of this section.

27 “[(b)] **(d)** For medical fee schedules. The schedules shall represent at least the 75th percentile
28 of the usual and customary fees charged to the public as determined by the department. An appli-
29 cant or victim may not be charged for the percentile amount reduced by the department.

30 “**SECTION 5.** ORS 147.105 is amended to read:

31 “147.105. (1) An applicant for compensation under ORS 147.005 to 147.367 must file an applica-
32 tion under oath on a form furnished by the Department of Justice. The application shall include:

33 “(a) The name and address of the victim;

34 “(b) If the victim is deceased, the name and address of the applicant and relationship to the
35 victim, the names and addresses of the victim’s dependents and the extent to which each is so de-
36 pendent;

37 “(c) The date and nature of the crime or attempted crime on which the application for compen-
38 sation is based;

39 “(d) The date and place where, and the law enforcement officials to whom, notification of the
40 crime was given;

41 “(e) The nature and extent of the injuries sustained by the victim, the names and addresses of
42 those giving medical and hospital treatment to the victim and whether death resulted;

43 “(f) The loss to the applicant and to such other persons as are specified under paragraph (b) of
44 this subsection, resulting from the injury or death;

45 “(g) The amount of benefits, payments or awards, if any, payable from any source, which the

1 applicant or other person, listed under paragraph (b) of this subsection, has received or for which
2 the applicant or other person is eligible as a result of the injury or death;

3 “(h) Releases authorizing the surrender to the department of reports, documents and other in-
4 formation relating to the matters specified under this subsection; and

5 “(i) Such other information as the department determines is necessary.

6 “(2) The department may require that the applicants submit with the application materials sub-
7 stantiating the facts stated in the application.

8 “(3) If the department finds that an application does not contain the required information or that
9 the facts stated therein have not been substantiated, it shall notify the applicant in writing of the
10 specific additional items of information or materials required [*and that the applicant has 30 days from*
11 *the date of mailing in which to furnish those items to the department. Unless an applicant requests*
12 *and is granted an extension of time by the department, the department shall reject with prejudice the*
13 *claim of the applicant for failure to file the additional information or materials within the specified*
14 *time*].

15 “(4) An applicant may file an amended application or additional substantiating materials to
16 correct inadvertent errors or omissions at any time before the department has completed its con-
17 sideration of the original application.

18 “(5) The filing of additional information or the amendment of the application pursuant to sub-
19 section (3) or (4) of this section shall be considered for the purposes of ORS 147.005 to 147.367 to
20 have been filed at the same time as the original application.

21 “[*(6) Unless the department finds good cause exists for the applicant’s failure to satisfy a financial*
22 *obligation or unless the interest of justice requires otherwise, the department shall not process an ap-*
23 *plication filed by or on behalf of a victim who owes a financial obligation ordered or imposed as a*
24 *result of a previous criminal conviction until the department receives information or materials estab-*
25 *lishing to the satisfaction of the department that the financial obligation has been satisfied. If the de-*
26 *partment does not receive the information or materials within one year after the department notifies the*
27 *applicant of the need to fulfill this requirement, the application is void.*]

28 “[*(7)(a)*] **(6)** If at the time of application, the applicant is incarcerated as a result of a conviction
29 of a crime, the **department shall process the** application [*shall be refused and returned to the ap-*
30 *plicant. The applicant is eligible to refile the application within six months after the applicant is re-*
31 *leased from incarceration*] **in the normal course. The claim shall remain open but the applicant**
32 **is not eligible for compensation until the applicant is released from custody.**

33 “[*(b) At the time the application is refused and returned, the department shall notify the applicant*
34 *of the right to refile the claim within six months of release from incarceration.*]”.