

**CRIME VICTIMS COMPENSATION BOARD**  
**Act 223 of 1976**

AN ACT to create an agency concerned with crime victim services; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

*The People of the State of Michigan enact:*

**18.351 Definitions.**

Sec. 1. As used in this act:

(a) "Claimant" means a victim or intervenor who is injured, or any other person eligible for an award under section 4(1) or 5(1), who files a claim under this act.

(b) "Commission" means the crime victim services commission.

(c) "Crime" means an act that is 1 of the following:

(i) A crime under the laws of this state or the United States that causes an injury within this state.

(ii) An act committed in another state that if committed in this state would constitute a crime under the laws of this state or the United States, that causes an injury within this state or that causes an injury to a resident of this state within a state that does not have a victim compensation program eligible for funding from the victims of crime act of 1984, chapter XIV of title II of the comprehensive crime control act of 1984, Public Law 98-473, 98 Stat. 2170.

(iii) An act of international terrorism as defined in section 2331 of title 18 of the United States code, 18 U.S.C. 2331, committed outside the territorial jurisdiction of the United States that causes an injury to a resident of this state.

(d) "Intervenor" means a person who goes to the aid of one who has become a victim of a crime and who suffers personal physical injury.

(e) "Out-of-pocket loss" means the unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care, psychological counseling, replacement services, any nonmedical remedial treatment rendered in accordance with a recognized religious method of healing, or other services necessary as a result of the injury upon which a claim is based.

(f) "Personal physical injury" means actual bodily harm and includes pregnancy.

(g) "Replacement services" means homemaking tasks, child care, transportation, and other services previously performed by the victim that, because of the victim's injury, must temporarily or permanently be performed by a person other than the victim.

(h) "Support" means actual monetary payments made by a victim or intervenor to or for a person principally dependent on the victim or intervenor.

(i) "Victim" means a person who suffers a personal physical injury as a direct result of a crime.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 348, Imd. Eff. Jan. 10, 1994;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

**18.352 Crime victims compensation board; creation; renaming as crime victim services commission; duties of department; appointment, qualifications, and terms of members; vacancy; chairperson; compensation.**

Sec. 2. (1) The crime victims compensation board formerly created within the department of management and budget under this section is renamed the crime victim services commission, which shall continue as the successor agency of the board in all respects and for all purposes. Office budget development, procurement, and related management functions shall be performed by the department of community health.

(2) Members of the crime victims compensation board shall continue in office as commission members for their unexpired terms. The commission shall consist of 5 members as follows, of whom not more than 3 shall belong to the same political party and who shall be appointed by the governor with the advice and consent of the senate:

(a) One member admitted to the practice of law in this state for not less than 5 years immediately preceding his or her appointment.

(b) One member who is a county prosecuting attorney.

(c) One member who is a peace officer.

(d) One member who is a member of the medical profession.

(e) One member who is a community-based victim advocate.

(3) A member's term of office shall be 3 years, except that of the 2 members appointed to satisfy the expanded membership requirement created by 1996 PA 519, 1 shall be appointed to serve an initial term of 2 years and the other shall be appointed to serve an initial term of 3 years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(4) The governor shall designate 1 commission member to serve as chairperson at the governor's pleasure.

(5) The commission members shall be paid on a per diem basis as determined by the legislature.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008.

### **18.353 Crime victims services commission; powers and duties generally.**

Sec. 3. (1) The commission shall do all of the following:

(a) Promulgate rules under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, including rules for the approval of attorneys' fees for representation before the commission or before the court of appeals upon judicial review as provided for in section 8.

(b) Obtain from a state or local governmental unit assistance and data to enable the commission to carry out its functions and duties.

(c) Investigate and determine claims for awards and reinvestigate or reopen cases as the commission considers necessary.

(d) Direct medical examination of victims.

(e) Review all appeals, hold hearings, administer oaths or affirmations, examine any person under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses and the production of books, papers, documentary or other evidence. For the purposes of this section, a certified copy of an investigative report relating to the hearing meets the requirements of this section.

(f) Take or cause to be taken affidavits or depositions within or without the state.

(g) Give an annual written report of its activities to the governor and the legislature.

(h) Conduct a program to insure continued public awareness of the provisions of this act in cooperation with state and local agencies.

(i) Monitor, evaluate, and coordinate state and local victim assistance programs.

(j) Administer and provide advice for the disbursement of federal funds available from the victims of crime act of 1984, chapter XIV of the comprehensive crime control act of 1984, title II of Public Law 98-473, 98 Stat. 2170, for the purposes of compensating and assisting crime victims.

(k) Perform the duties required under Act No. 196 of the Public Acts of 1989, being sections 780.901 to 780.911 of the Michigan Compiled Laws.

(2) With the exception of subsection (1)(e), the powers provided in subsection (1) may be delegated by the commission to a member of the commission or its staff.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

**Administrative rules:** R 18.351 et seq. of the Michigan Administrative Code.

### **18.353a Repealed. 1996, Act 519, Imd. Eff. Jan. 13, 1997.**

**Compiler's note:** The repealed section pertained to informational pamphlet for victims of domestic violence.

### **18.354 Eligibility for awards; limitations; waiver.**

Sec. 4. (1) Except as provided in subsection (2), the following persons are eligible for awards:

(a) A victim or an intervenor of a crime.

(b) A surviving spouse, parent, grandparent, child, sibling, or grandchild of a victim of a crime who died as a direct result of the crime.

(c) A surviving person related to the victim by blood or affinity, a guardian, personal representative, or member of the same household as the victim.

(d) A health care provider seeking payment under section 5a.

(2) A person is not eligible to receive an award if the person is either of the following:

(a) Criminally responsible for the crime.

(b) An accomplice to the crime.

(3) An award shall not be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of \$200.00 or has lost at least 2 continuous weeks' earnings or support, but the commission may waive the limitations of this subsection in the case of a claimant retired by reason of age or disability. If the claimant is a victim of criminal sexual conduct in the first, second, or third degree, the commission may waive the

limitations of this subsection. The commission shall waive this limitation for health care providers seeking payment under section 5a.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008.

### **18.355 Claim; filing; notice; pending criminal prosecution; emergency award or certain payment to health care provider not prohibited.**

Sec. 5. (1) A claim may be filed by the person eligible to receive an award or, if a person is a minor, by his or her parent or guardian.

(2) Except as provided in subsection (3), a claim shall be filed by the claimant not later than 1 year after the occurrence of the crime upon which the claim is based, except as follows:

(a) If police records show that a victim of criminal sexual conduct in the first, second, or third degree was less than 18 years of age at the time of the occurrence and that the victim reported the crime before attaining 19 years of age, a claim based on that crime may be filed by a person listed in section 4(1)(a), (b), or (c) not later than 1 year after the crime was reported.

(b) A claim may be filed within 1 year after the discovery by a law enforcement agency that injuries previously determined to be accidental, of unknown origin, or resulting from natural causes, were incurred as the result of a crime.

(3) Upon petition by the claimant and for good cause shown, the commission may extend the period in which a claim may be filed under subsection (2).

(4) A claim shall be filed in the commission's office in person or by mail. The commission shall accept for filing a claim that is submitted by a person who is eligible and which alleges the jurisdictional requirements set forth in this act and meets the requirements as to form as approved by the commission.

(5) Upon filing of a claim by a person listed in section 4(1)(a), (b), or (c), the commission shall promptly notify the prosecuting attorney of the county in which the crime is alleged to have occurred. If, within 20 days after the notification, the prosecuting attorney advises the commission that a criminal prosecution is pending upon the same alleged crime and requests that action by the commission be deferred, the commission shall defer the proceedings until the criminal prosecution is concluded. When the criminal prosecution is concluded, the prosecuting attorney shall promptly notify the commission. This section does not prohibit the commission from granting emergency awards pursuant to section 9 or from paying a health care provider under section 5a.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1988, Act 367, Eff. Mar. 30, 1989;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 348, Imd. Eff. Jan. 10, 1994;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008.

\*\*\*\*\* 18.355a THIS SECTION IS AMENDED EFFECTIVE MARCH 28, 2019: See 18.355a.amended \*\*\*\*\*

### **18.355a Sexual assault medical forensic examination; payment to health care provider; conditions; definitions.**

Sec. 5a. (1) A health care provider is eligible to be paid for a sexual assault medical forensic examination under this section only if that examination includes all of the following:

(a) The collection of a medical history.

(b) A general medical examination, including, but not limited to, the use of laboratory services and the dispensing of prescribed pharmaceutical items.

(c) One or more of the following:

(i) A detailed oral examination.

(ii) A detailed anal examination.

(iii) A detailed genital examination.

(d) Administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527, and related medical procedures and laboratory and pharmacological services.

(2) A health care provider shall not submit a bill for any portion of the costs of a sexual assault medical forensic examination to the victim of the sexual assault, including any insurance deductible or co-pay, denial of claim by an insurer, or any other out-of-pocket expense.

(3) A health care provider seeking payment under this section for a sexual assault medical forensic examination shall do all of the following:

(a) Advise the victim, orally and in writing, that a claim shall not be submitted to his or her insurance carrier without his or her express written consent, and that he or she may decline to consent if he or she

believes that submitting a claim to the insurance carrier would substantially interfere with his or her personal privacy or safety.

(b) If the victim gives his or her consent as provided under subdivision (a), submit a claim for the cost of a sexual assault medical forensic examination to the victim's insurance carrier, including, but not limited to, medicaid and medicare.

(4) A health care provider may seek payment from 1 or both of the following if reimbursement cannot be obtained from the victim's insurance or insurance is unavailable:

(a) The commission under this section.

(b) From another entity other than the victim.

(5) A health care provider that is reimbursed for a sexual assault medical forensic examination by a victim's insurance carrier shall not submit to the commission any portion of the claim reimbursable by the insurance carrier.

(6) A health care provider that is reimbursed for a sexual assault medical forensic examination by another entity shall not submit to the commission any portion of the claim reimbursable by the other entity.

(7) The commission shall pay a health care provider not more than \$600.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$400.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

(b) Not more than \$125.00 for laboratory services.

(c) Not more than \$75.00 for dispensing pharmaceutical items related to the sexual assault.

(8) A claim for compensation under subsection (7) shall be submitted to the commission in a form and in the manner prescribed by the commission.

(9) Except with the victim's consent or as otherwise provided in this subsection, information collected by the commission under this section that identifies a victim of sexual assault is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by subpoena or in discovery, and is inadmissible as evidence in any civil, criminal, or administrative proceeding. Information collected by the commission under this section that identifies a victim of sexual assault is confidential and shall only be used for the purposes expressly provided in this act, including, but not limited to, investigating and prosecuting a civil or criminal action for fraud related to reimbursement provided by the commission under this section.

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section, the victim's request for a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10.

(11) As used in this section:

(a) "Health care provider" means any of the following:

(i) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(iii) A local health department as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Sexual assault" means a criminal violation of sections 520a to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520l.

(c) "Sexual assault medical forensic examination" means that term as described in subsection (1)(a) to (d).

**History:** Add. 2008, Act 391, Imd. Eff. Dec. 29, 2008.

\*\*\*\*\* 18.355a.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 28, 2019 \*\*\*\*\*

### **18.355a.amended Sexual assault medical forensic examination; payment to health care provider; conditions; definitions.**

Sec. 5a. (1) A health care provider is eligible to be paid for a sexual assault medical forensic examination under this section only if that examination includes all of the following:

(a) The collection of a medical history.

(b) A general medical examination, including, but not limited to, the use of laboratory services and the

dispensing of prescribed pharmaceutical items.

(c) One or more of the following:

(i) A detailed oral examination.

(ii) A detailed anal examination.

(iii) A detailed genital examination.

(d) Administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527, and related medical procedures and laboratory and pharmacological services.

(2) A health care provider shall not submit a bill for any portion of the costs of a sexual assault medical forensic examination to the victim of the sexual assault, including any insurance deductible or co-pay, denial of claim by an insurer, or any other out-of-pocket expense.

(3) A health care provider seeking payment under this section for a sexual assault medical forensic examination shall do all of the following:

(a) Advise the victim, orally and in writing, that a claim shall not be submitted to his or her insurance carrier without his or her express written consent, and that he or she may decline to consent if he or she believes that submitting a claim to the insurance carrier would substantially interfere with his or her personal privacy or safety.

(b) If the victim gives his or her consent as provided under subdivision (a), submit a claim for the cost of a sexual assault medical forensic examination to the victim's insurance carrier, including, but not limited to, Medicaid and Medicare.

(4) A health care provider may seek payment from 1 or both of the following if reimbursement cannot be obtained from the victim's insurance or insurance is unavailable:

(a) The commission under this section.

(b) From another entity other than the victim.

(5) A health care provider that is reimbursed for a sexual assault medical forensic examination by a victim's insurance carrier shall not submit to the commission any portion of the claim reimbursable by the insurance carrier.

(6) A health care provider that is reimbursed for a sexual assault medical forensic examination by another entity shall not submit to the commission any portion of the claim reimbursable by the other entity.

(7) The commission shall pay a health care provider not more than \$1,200.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$700.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

(b) Laboratory services related to the sexual assault.

(c) Dispensing pharmaceutical items related to the sexual assault.

(8) A claim for compensation under subsection (7) shall be submitted to the commission in a form and in the manner prescribed by the commission.

(9) Except with the victim's consent or as otherwise provided in this subsection, information collected by the commission under this section that identifies a victim of sexual assault is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by subpoena or in discovery, and is inadmissible as evidence in any civil, criminal, or administrative proceeding. Information collected by the commission under this section that identifies a victim of sexual assault is confidential and shall only be used for the purposes expressly provided in this act, including, but not limited to, investigating and prosecuting a civil or criminal action for fraud related to reimbursement provided by the commission under this section.

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section or for payments made to victims under section 6, administration to the victim of a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10.

(11) As used in this section:

(a) "Health care provider" means any of the following:

(i) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(iii) A local health department as that term is defined in section 1105 of the public health code, 1978 PA



368, MCL 333.1105.

(b) "Sexual assault" means a criminal violation of sections 520a to 520n of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520n.

(c) "Sexual assault medical forensic examination" means that term as described in subsection (1)(a) to (d).

**History:** Add. 2008, Act 391, Imd. Eff. Dec. 29, 2008;—Am. 2018, Act 525, Eff. Mar. 28, 2019.

### **18.356 Validity of claim; investigation and examination; claims arising from death of individual; total compensation; willful noncooperation; hearing; decision; report.**

Sec. 6. (1) When a claim is accepted for filing, an investigation and examination shall be conducted to determine the validity of the claim. The investigation shall include an examination of papers filed in support of the claim, 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. All claims which arise from the death of an individual as a direct result of a crime shall be considered together, and the total compensation awarded for all claims which arise from the death of an individual shall not exceed the maximum aggregate award.

(2) A claim shall be investigated and determined regardless of whether the alleged criminal was apprehended, prosecuted, convicted, acquitted, or found not guilty of the crime in question, unless the disposition is a direct result of willful noncooperation by the victim or other claimant with the law enforcement agency or the prosecuting attorney. In the event of determination of willful noncooperation by the victim or other claimant, the commission shall reject the claim.

(3) A claim may be decided on the basis of the papers filed in support of the claim and the report of the investigation of the claim. If the person authorized to decide a claim under section 3(2) is convinced that a decision should not be made without a hearing, that person may request the commission to conduct a hearing under section 7. At the hearing any relevant evidence, not legally privileged, is admissible.

(4) After an examination of the papers filed in support of a claim and the report of investigation, and if no hearing is requested under subsection (3), a decision granting or denying the award shall be made.

(5) A written report setting forth the decision and reasons for the decision shall be sent to the claimant.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

### **18.357 Application for consideration of decision by full commission; hearing; review; report; notice; copy of decision.**

Sec. 7. (1) Within 30 days after receipt of the report of the decision, a claimant may apply in writing to the commission for consideration of the decision by the full commission. If a request for a hearing is made by a claimant or pursuant to section 6(3), a hearing shall be ordered.

(2) Within 30 days after the filing of the report, a commission member may apply in writing to the commission for consideration of the decision by the full commission. If a request for a hearing is made by a commission member under this subsection, a hearing shall be ordered.

(3) Upon receiving an application under subsection (1) or (2), the commission shall review the record, and affirm or modify the decision, or hold a hearing, if ordered. The commission's action under this section is final. The commission shall file a written report setting forth its decision and if the decision varies from the report of any original decision it shall set forth its reasons for the decision. If the commission does not receive an application pursuant to subsection (1) or (2), any original decision under section 6 shall become the commission's final decision.

(4) The commission shall within 15 days notify the claimant of the commission's final decision and furnish him or her with a copy of the decision.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

### **18.358 Appeal; service of notice.**

Sec. 8. (1) Within 30 days after receiving the copy of the report containing the commission's final decision, the claimant may by leave to appeal commence a proceeding in the court of appeals to review the commission's decision.

(2) A proceeding pursuant to this section shall be commenced by the service of notice upon the commission in person or by mail.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

### **18.359 Emergency award.**

Sec. 9. If it appears that the claim is one with respect to which an award probably will be made and undue

hardship will result to the claimant if immediate payment is not made, the commission may make an emergency award to the claimant pending a final decision in the case. The amount of the emergency award shall not exceed \$500.00. The amount of the emergency award shall be deducted from the final award made to the claimant. The excess of the amount of the emergency award over the amount of the final award, if any, shall be repaid by the claimant to the commission.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

#### **18.360 Verification of facts as condition to award.**

Sec. 10. An award shall not be made unless the investigation of the claim verifies the following facts:

- (a) A crime was committed.
- (b) The crime directly resulted in personal physical injury to, or death of, the victim.
- (c) Police records show that the crime was reported promptly to the proper authorities. An award shall not be made if the police records show that the report was made more than 48 hours after the occurrence of the crime unless any of the following circumstances apply:
  - (i) The crime was criminal sexual conduct committed against a victim who was less than 18 years of age at the time of the occurrence and the crime was reported before the victim attained 19 years of age.
  - (ii) The commission, for good cause shown, finds the delay was justified.
  - (iii) The commission is making a payment under section 5a.
  - (d) That the crime did not occur while the victim was confined in a federal, state, or local correctional facility.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1988, Act 367, Eff. Mar. 30, 1989;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008.

#### **18.361 Amount of award; reduction or denial of award; "misconduct" defined.**

Sec. 11. (1) Except for a claim under section 5a, an award made under this act shall be an amount not more than an out-of-pocket loss, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from the injury. The aggregate award under this act shall not exceed \$25,000.00 per claimant.

(2) Unless reduced under this act, an award made for loss of earnings or support shall be in an amount equal to the actual loss sustained. An award shall not exceed \$350.00 for each week of lost earnings or support.

(3) An award made for funeral expenses, including burial expenses, shall not exceed \$5,000.00 for each victim. An award under this subsection shall not exceed an additional \$500.00 for each of the following services:

- (a) Grief counseling for the victim's spouse, children, parents, siblings, grandparents, and grandchildren.
- (b) Crime scene cleanup services after crime scene cleanup is permitted by the investigating law enforcement agency, if the crime scene is located at the residence of the victim or of a person eligible for an award under section 4(1)(b).

(4) An award for psychological counseling shall not exceed 35 hourly sessions per victim or intervenor. The award may include not more than 8 family sessions that include any of the victim's or intervenor's spouse, children, parents, or siblings who are not criminally responsible for or an accomplice to the crime. The maximum hourly reimbursement rate shall not exceed \$80.00 per hourly session for a therapist or counselor licensed or registered to practice in this state, except that the maximum hourly reimbursement rate shall not exceed \$125.00 per hourly session for a psychologist or physician licensed to practice in this state.

(5) An award shall be reduced by the amount of 1 or more of the following payments received or to be received as a result of the injury:

- (a) From or on behalf of the person who committed the crime.
- (b) From insurance, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.
- (c) From public funds, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.
- (d) From an emergency award under section 9.

(6) In making a determination on a claim filed by a person listed in section 4(1)(a), (b), or (c), the commission shall determine whether the victim's misconduct contributed to his or her injury and shall reduce the amount of the award or reject the claim altogether, in accordance with the determination. The commission may disregard for this purpose the victim's responsibility for his or her own injury if the record shows that the injury was attributable to the victim's efforts to prevent a crime or an attempted crime from occurring in his or

her presence or to apprehend a person who had committed a crime in his or her presence. As used in this subsection, "misconduct" includes but is not limited to provocation of or participation in a crime contemporaneous with or immediately preceding the injury.

(7) Except for a claim under section 5a, if the commission finds that the claimant will not suffer serious financial hardship as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury if he or she is not granted financial assistance, the commission shall deny the award. In determining the serious financial hardship, the commission shall consider all of the financial resources of the claimant.

(8) If the commission determines that the payment of an award will cause substantial unjust enrichment and economic benefit to a person criminally responsible for the crime, the commission shall deny the payment.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1989, Act 247, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008;—Am. 2010, Act 282, Imd. Eff. Dec. 16, 2010.

#### **18.362 Payment of award; award not subject to execution or attachment; reimbursement.**

Sec. 12. The award shall be paid in a lump sum, except that in the case of death or protracted disability the commission may specify that the award shall provide for periodic payments to compensate for loss of earnings or support. An award made pursuant to this act shall not be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim. Any court of record, in establishing sentence for a felon convicted of a crime resulting in awards paid under this section, may impose a condition that the sentence include a method for reimbursement to the state, within the ability of the felon to comply, of the costs paid under this act to a victim of a crime for which the conviction was made. Such reimbursement will be paid into the general fund of the state. Such condition of reimbursement may include a provision relating suspension or probation to reimbursement or may be in lieu of other sentencing and shall be enforceable by the court to the degree that failure to meet the terms of reimbursement may be cause for reversion to an alternate sentence or to completion of an unfinished sentence.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

#### **18.363 Record of proceeding as public record; confidentiality.**

Sec. 13. The record of a proceeding before the commission is a public record, except that a claimant's file and his or her testimony before the commission is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A record or report obtained by the commission, the confidentiality of which is protected by any other law or rule, shall remain confidential.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

#### **18.364 Subrogation.**

Sec. 14. Acceptance of an award made pursuant to this act shall subrogate the state, to the extent of the award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made.

**History:** 1976, Act 223, Eff. Mar. 31, 1977.

#### **18.365 Information, emergency award, or final awards inadmissible in criminal proceeding.**

Sec. 15. For purposes of this act, information relating to the filing of a claim by a claimant before the commission or proceedings before the commission, an emergency award made by the commission pursuant to section 9, or final awards made by the commission pursuant to section 11(2) are inadmissible in a criminal proceeding.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

#### **18.366 False presentation of facts and circumstances of crime; making public or disclosing confidential information; penalties; aggregation of total awards; prior convictions.**

Sec. 16. (1) A person who, with intent to defraud or cheat by falsely presenting the facts and circumstances of a crime to the commission, causes an award of money to be made under this act to any person is guilty of a crime as follows:

(a) If the award is less than \$200.00, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for



not more than 1 year or a fine of not more than \$2,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for violating or attempting to violate subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for violating or attempting to violate subdivision (a) or (b)(ii).

(2) A person who makes public or discloses to an unauthorized person information that is confidential under this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) Awards in violation of this section in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total awards.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2001, Act 149, Eff. Jan. 1, 2002.

### **18.367 Repealed. 1996, Act 519, Imd. Eff. Jan. 13, 1997.**

**Compiler's note:** The repealed section pertained to legislative review.

### **18.368 Crimes to which act applicable.**

Sec. 18. This act shall apply to crimes committed on or after October 1, 1977.

**History:** 1976, Act 223, Eff. Mar. 31, 1977.