

2021 Kansas Statutes

74-7305. Claims for compensation; application; conditions; limitations; amount. (a) An application for compensation shall be made in the manner and form prescribed by the crime victims compensation division created by K.S.A. 75-773, and amendments thereto.

(b) (1) Except as otherwise provided in this subsection, compensation may not be awarded unless an application has been filed with the division within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes:

- (A) Enticement of a child as defined in K.S.A. 21-3509, prior to its repeal;
- (B) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2021 Supp. 21-5426(a), and amendments thereto;
- (C) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2021 Supp. 21-5426(b), and amendments thereto; or
- (D) a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto.

(2) Compensation for mental health counseling may be awarded to a:

(A) Victim, as defined in K.S.A. 74-7301(m)(4), and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and the claim is filed before the victim turns 19 years of age; or

(B) victim of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and:

(i) The claim is filed with the division within 10 years of the date such crime was committed; or

(ii) if the victim was less than 18 years of age at the time such crime was committed, the claim is filed within 10 years of the date the victim turns 18 years of age.

(3) For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the division within two years after the injury or death upon which the claim is based.

(c) Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(d) Compensation otherwise payable to a claimant shall be reduced or denied, to the extent, if any that the:

(1) Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;

(2) board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or

(3) board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based. This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.

(e) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:

(1) The number of the claimant's dependents;

- (2) the usual living expenses of the claimant and the claimant's family;
- (3) the special needs of the claimant and the claimant's dependents;
- (4) the claimant's income and potential earning capacity; and
- (5) the claimant's resources.
- (f) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.
- (g) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.
- (h) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2021 Supp. 21-5604, and amendments thereto, or cases of sex offenses established in article 35 of chapter 21, of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2021 Supp. 21-6419 through 21-6422, and amendments thereto, or human trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2021 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.
- (i) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.
- (j) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.
- (k) Nothing in subsections (d)(2), (d)(3), (f) and (g) shall be construed to reduce or deny compensation to a victim of human trafficking or aggravated human trafficking, as defined in K.S.A. 2021 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined in K.S.A. 2021 Supp. 21-6422, and amendments thereto, who was 18 years of age or younger at the time the crime was committed and is otherwise qualified for compensation.

History: L. 1978, ch. 130, § 5; L. 1982, ch. 329, § 1; L. 1989, ch. 239, § 13; L. 1990, ch. 321, § 1; L. 1991, ch. 90, § 5; L. 1993, ch. 166, § 1; L. 1995, ch. 243, § 3; L. 1998, ch. 51, § 2; L. 2004, ch. 98, § 2; L. 2006, ch. 92, § 1; L. 2011, ch. 30, § 256; L. 2015, ch. 94, § 24; L. 2017, ch. 66, § 14; L. 2017, ch. 100, § 12; L. 2019, ch. 62, § 11; L. 2021, ch. 104, § 4; May 27.