

SENATE BILL No. 498

By Committee on Judiciary

2-4

AN ACT concerning crime victims; relating to compensation benefits for certain residents; violent crimes committed outside of United States; amending K.S.A. 2001 Supp. 74-7301 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 74-7301 is hereby amended to read as follows: 74-7301. As used in this act:

(a) "Allowance expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care and for the replacement of items of clothing or bedding which were seized for evidence. Such term includes a total charge not in excess of \$5,000 for expenses in any way related to funeral, cremation or burial; but such term shall not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless other accommodations are medically required.

(b) "Board" means the crime victims compensation board established under K.S.A. 74-7303 and amendments thereto.

(c) "Claimant" means any of the following persons claiming compensation under this act: A victim; a dependent of a deceased victim; a third person other than a collateral source; or an authorized person acting on behalf of any of them.

(d) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under this act which the victim or claimant has received, or which is readily available to the victim or claimant, from:

(1) The offender;

(2) the government of the United States or any agency thereof, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this act;

(3) social security, medicare and medicaid;

- 1 (4) state-required temporary nonoccupational disability insurance;
2 (5) workers' compensation;
3 (6) wage continuation programs of any employer;
4 (7) proceeds of a contract of insurance payable to the victim for loss
5 which the victim sustained because of the criminally injurious conduct;
6 or
7 (8) a contract providing prepaid hospital and other health care serv-
8 ices or benefits for disability.

9 (e) "Criminally injurious conduct" means conduct that: (1) (A) Oc-
10 curs or is attempted in this state or occurs to a person whose domicile is
11 in Kansas who is the victim of a violent crime which occurs in another
12 state, possession, or territory of the United States of America may make
13 an application for compensation if:

14 (i) The crimes would be compensable had it occurred in the state of
15 Kansas; and

16 (ii) the places the crimes occurred are states, possessions or territories
17 of the United States of America not having eligible crime victim com-
18 pensation programs;

19 (B) poses a substantial threat or personal injury or death; and

20 (C) either is punishable by fine, imprisonment or death or would be
21 so punishable but for the fact that the person engaging in the conduct
22 lacked capacity to commit the crime under the laws of this state; or

23 (2) is an act of terrorism, as defined in 18 U.S.C. 2331 *or a violent*
24 *crime that posed a substantial threat, personal injury or death*, committed
25 outside of the United States against a person whose domicile is in Kansas.

26 Such term shall not include conduct arising out of the ownership, main-
27 tenance or use of a motor vehicle, except for violations of K.S.A. 8-1567
28 and amendments thereto, or violations of municipal ordinances prohib-
29 iting the acts prohibited by that statute, or violations of K.S.A. 8-1602,
30 21-3404, 21-3405 and 21-3414 and amendments thereto or when such
31 conduct was intended to cause personal injury or death.

32 (f) "Dependent" means a natural person wholly or partially depend-
33 ent upon the victim for care or support, and includes a child of the victim
34 born after the victim's death.

35 (g) "Dependent's economic loss" means loss after decedent's death
36 of contributions of things of economic value to the decedent's depend-
37 ents, not including services they would have received from the decedent
38 if the decedent had not suffered the fatal injury, less expenses of the
39 dependents avoided by reason of decedent's death.

40 (h) "Dependent's replacement services loss" means loss reasonably
41 incurred by dependents after decedent's death in obtaining ordinary and
42 necessary services in lieu of those the decedent would have performed
43 for their benefit if the decedent had not suffered the fatal injury, less

1 expenses of the dependents avoided by reason of decedent's death and
2 not subtracted in calculating dependent's economic loss.

3 (i) "Economic loss" means economic detriment consisting only of al-
4 lowable expense, work loss, replacement services loss and, if injury causes
5 death, dependent's economic loss and dependent's replacement service
6 loss. Noneconomic detriment is not loss, but economic detriment is loss
7 although caused by pain and suffering or physical impairment.

8 (j) "Noneconomic detriment" means pain, suffering, inconvenience,
9 physical impairment and nonpecuniary damage.

10 (k) "Replacement services loss" means expenses reasonably incurred
11 in obtaining ordinary and necessary services in lieu of those the injured
12 person would have performed, not for income, but for the benefit of self
13 or family, if such person had not been injured.

14 (l) "Work loss" means loss of income from work the injured person
15 would have performed if such person had not been injured, and expenses
16 reasonably incurred by such person in obtaining services in lieu of those
17 the person would have performed for income, reduced by any income
18 from substitute work actually performed by such person or by income
19 such person would have earned in available appropriate substitute work
20 that the person was capable of performing but unreasonably failed to
21 undertake.

22 (m) "Victim" means a person who suffers personal injury or death as
23 a result of: (1) Criminally injurious conduct; (2) the good faith effort of
24 any person to prevent criminally injurious conduct; (3) the good faith
25 effort of any person to apprehend a person suspected of engaging in
26 criminally injurious conduct; or (4) an act of terrorism, as defined in 18
27 U.S.C. 2331, committed outside of the United States.

28 Sec. 2. K.S.A. 2001 Supp. 74-7301 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.

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