

Rhode Island Statutes
Title 12. Criminal Procedure

Chapter 12-25. Criminal Injuries Compensation
Current through Public Law 320 of 2013 Legislative Session

12-25-1. Repealed

12-25-1.1. Transition to the Criminal Injuries Compensation Act of 1996

New cases shall be filed through the Criminal Injuries Compensation Act of 1996, established pursuant to 12-25-16 - 12-25-30.

12-25-2 - - 12-25-8. Repealed

12-25-9. Repealed

12-25-10. Repealed

12-25-11 , 12-25-12. Repealed

12-25-12.1. Repealed

12-25-12.2 - 12-25-14. Repealed

12-25-15. Repealed

12-25-16. Short title

This chapter may be cited as the "Criminal Injuries Compensation Act."

12-25-17. Definitions

As used in this chapter:

- (1) "Administrator" means the program administrator of this chapter.
- (2) "Child" means an unmarried person who is under eighteen (18) years of age and includes a stepchild or an adopted child.
- (3) "Court" means the superior court.
- (4) "Dependent" means a person wholly or partially dependent upon the income of the victim

at the time of his or her death or would have been so dependent but for the incapacity due to the injury from which the death resulted. The term includes a child of the victim born after the death of the victim.

(5) "Office" means the office of the general treasurer.

(6) "Pecuniary loss" includes:

(i) For personal injury:

(A) Medical expenses (including psychiatric care) for which the victim is not compensated by any other source;

(B) Hospital expenses for which the victim is not compensated by any other source;

(C) Loss of past earnings for which the victim is not compensated by any other source;

(D) Loss of future earnings because of a disability resulting from the personal injury for which the victim is not compensated by any other source.

(ii) For death:

(A) Funeral and burial expenses for which the victim's estate is not compensated by any other source; and

(B) Loss of support to the dependents of the victim for which the dependents are not compensated by any other source.

(iii) Any other expenses actually and necessarily incurred as a result of the personal injury or death for which the victim or his or her estate is not compensated by any other source, but it does not include property damage.

(7) "Personal injury" means actual bodily harm, mental or nervous shock, and a pregnancy resulting from sexual attack.

(8) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, and a spouse's parents.

(9) "Resident" means any person who has his or her residence within the state of Rhode Island.

(10) "State" includes the District of Columbia, the fifty (50) states, and the United States' territories and possessions.

(11) "Treasurer" means the general treasurer of the state of Rhode Island or his or her designee.

(12) "Victim" means a person who is injured or killed by any act of a person or persons which is within the description of any of the offenses specified in 12-25-20 and which act occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode Island who is a victim of an act of terrorism as defined in 18 U.S.C. 2331 occurring outside the United States.

(13) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established pursuant to former 12-25-1 - 12-25-12.1.

(14) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established pursuant to 12-25-16 - 12-25-30.

12-25-18. Program established

(a) This chapter shall be administered by the office of the general treasurer.

(b) The office shall administer this chapter in accordance with the provisions of 12-25-16 - 12-25-30. The treasurer shall designate a program administrator.

(c) The administrator shall promulgate all rules and regulations necessary to effectuate the provisions and overall purpose of this chapter. The rules and regulations shall be promulgated in accordance with the Administrative Procedures Act, chapter 42 of title 35.

(d) The rules and regulations shall include, but not be limited to, an application process for victims that is easy to understand. The process shall include, but not be limited to, the filing of claim forms, reference to bills and other documentation supporting the claim, and proof of dependency, if relevant. All claims must contain a release of information necessary to investigate the claim.

(e) All state and municipal departments and agencies, including law enforcement agencies, as well as hospitals, physicians, and other service providers, shall cooperate with the office in the investigation of claims filed pursuant to this chapter.

(f) The administrator shall investigate each application for compensation, verify the information contained on the application and in all supporting documentation and award or deny compensation under this chapter. The administrator shall mail notice by certified mail, return receipt requested, and first class mail, stating the amount of compensation to be awarded or denied, and the reasons for the award or denial.

(g) Within fifteen (15) days of the date of receipt of the notice of award or denial, the applicant may appeal the administrator's decision, in writing, to the treasurer or the treasurer's designee. The treasurer or treasurer's designee shall reconsider any award of compensation for which an appeal is received. After reconsideration of the award, the treasurer or treasurer's designee shall affirm the award or issue an amended award or denial.

(h) The administrator shall notify the applicant by certified mail, return receipt requested, and first class mail, of the decision upon appeal within thirty (30) days of receipt of the appeal. The notice shall include information regarding the applicants right to judicial review of the decision.

(i) Appeals of the treasurer's or treasurer designee's decision may be brought to superior court pursuant to the Administrative Procedures Act, chapter 35 of title 42.

12-25-19. Awarding compensation

(a) In any case in which a person is injured or killed by any act of a person or persons which is within the description of the offenses listed in 12-25-20, the victim, his or her guardian, the child advocate as provided in 42-73-9.1, or in the case of his or her death, a legal representative, may apply to the office for compensation. The office shall provide notice of the application to the attorney general. The office may award compensation in accordance with the provisions of this chapter if the act occurs:

(1) Within the physical confines of the state of Rhode Island;

(2) Within the maritime jurisdiction of the state of Rhode Island;

(3) Outside the state of Rhode Island to any victim who has his or her residence in the state of Rhode Island and had the residence in the state at the time that the offense occurred, and is not entitled to compensation of any kind from the state, possession, or territory or district of the United States in which the offense occurred; or

(4) Outside the state of Rhode Island to any victim who had his or her residence in the state of Rhode Island at the time the offense occurred who is injured or killed by an act of terrorism occurring either outside of the United States, as defined in 18 U.S.C. 2331, or within the United States as referred to in 42 U.S.C. 10603b.

(b) The office may award compensation as described in this section:

(1) To or on behalf of the injured person, or his or her guardian;

(2) In the case of the personal injury of the victim where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) In the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of the dependents or to the legal representative of the victim.

(c) For the purposes of this chapter, a person shall be deemed to have intended an act notwithstanding that, by reason of age, insanity, drunkenness, or otherwise, he or she was legally incapable of forming a criminal intent.

(d) (1) In determining whether to award compensation as described in this section and the amount of compensation, the office shall consider any circumstances it determines to be relevant, including, but not limited to:

(i) compliance by the victim with the reasonable requests of law enforcement agencies and personnel;

(ii) violent felonious criminal conduct of the victim committed within the past five (5) years or subsequent to his or her injury;

(iii) any conviction of a crime of violence by the victim; and

(iv) the behavior of the victim which directly or indirectly contributed to his or her injury or death, unless the injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender. The office may reduce or deny an award based on these circumstances.

(2) Any individual who is incarcerated at any criminal institutional facility at the time of his or her injury shall be deemed ineligible to receive an award of compensation as described in this section.

(e) No compensation may be awarded unless the office so directs upon a finding that:

(1) The act did occur; and

(2) The injury or death resulted from the act.

(f) An award may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of the act, or if the act is the subject of any other legal action. Upon application from the attorney general, the office shall suspend proceedings under this chapter until the application is withdrawn or until a prosecution for an offense arising out of the act is no longer pending or imminent. The office may suspend proceedings in the interest of justice if a criminal or civil action arising from the act is pending or imminent.

(g) The office shall pay to the person named in the award of compensation, and the payments shall be made from the violent crimes indemnity account and from any federal moneys available as coordinated by the office.

(h) Where compensable medical services have been rendered, any award made payable to a medical provider shall be based on the current final adjustment to charge ratio approved by the department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency room charges, and ambulatory surgery charges. Amounts awarded for all other medical services shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the

provider employs a sliding scale fee structure for any category of patient or service, the award shall not exceed the amount the applicant would be charged if he or she qualified under the provider's sliding scale fee structure.

Medical service providers shall be required to accept these awards as full payment for services rendered and shall be prohibited from assessing any additional charges against the victim.

12-25-20. Offenses to which chapter applies

The office may award compensation in accordance with the provisions of this chapter for personal injury or death which resulted from offenses in the following categories:

- (1) Assault with intent to commit murder, robbery, or rape;
- (2) Assault with a dangerous weapon;
- (3) Assault and battery;
- (4) Mayhem;
- (5) Indecent assault and battery on a child under thirteen (13) years of age;
- (6) Arson or statutory burning;
- (7) Kidnapping;
- (8) Robbery or larceny from that person;
- (9) Murder;
- (10) Manslaughter;
- (11) First or second degree sexual assault;
- (12) Child molestation, first or second degree;
- (13) The abominable and detestable crime against nature or assault with intent to commit the abominable and detestable crime against nature;
- (14) Driving under the influence of alcohol or drugs;
- (15) Refusal by a driver to submit to a chemical test for alcohol or drugs in the immediate aftermath of a collision;
- (16) Driving so as to endanger, resulting in death, pursuant to 31-27-1;
- (17) Driving so as to endanger, resulting in personal injury, pursuant to 31-27-1.1;

(18) Any other crime excluding motor vehicle offenses other than those enumerated in this section which results in personal injury or death; and

(19) Failure to stop by a driver in circumstances which result in the death of any person, pursuant to 31-26-1.

12-25-21. Nature of compensation

(a) The office may award compensation under this chapter for:

(1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(2) Pecuniary loss to the dependents of the deceased victim;

(3) Any other pecuniary loss resulting from the personal injury or death of the victim, the amount of which the office finds upon the evidence to be reasonable and necessary;

(4) The administrator may issue a supplemental award for compensation for additional medical expenses, including psychiatric care and mental health counseling, provided that the victim provides proper documentation that the additional medical expenses have been actually and reasonably incurred as a direct result of the personal injury. The administrator shall issue a supplemental award as long as the total award does not exceed the maximum award allowable under this chapter; and

(5) The administrator may issue an award for expenses related to psychiatric care and mental health counseling for a parent, spouse, sibling or child of a victim who dies as a direct result of a violent crime as defined in this chapter, provided that the parent, spouse, sibling or child provide proper documentation that the psychiatric care and mental health counseling have been actually and reasonably incurred as a direct result of the death of the victim.

(b) In determining the amount of the judgment or order approving a settlement, the office shall take into consideration the rates and amounts payable for injuries and death under other statutes of this state and of the United States, and the amount of revenue in the violent crimes indemnity account and the number and nature of claims pending against it. The office shall make every effort to ensure that compensation awards are paid within six (6) months of the date of application.

12-25-21.1. Emergency fund for victims

(a) The office may award emergency compensation under this chapter for the:

(1) Burial expenses of a victim who dies as a direct result of a violent crime as defined in this chapter;

(2) Cost of the crime scene clean up; and

(3) Relocation expenses.

(b) The award for emergency compensation shall be awarded at the sole discretion of the program administrator. The administrator may promulgate rules and regulations to administer the provisions of this section.

(c) An award for emergency compensation for burial expenses shall not exceed the sum of eight thousand dollars (\$8,000).

(d) An award for emergency compensation for crime scene clean up shall not exceed two thousand dollars (\$2,000).

(e) An award for emergency compensation for relocation costs shall not exceed two thousand five hundred dollars (\$2,500).

(f) The award for emergency compensation for burial expenses , crime scene clean up, and relocation costs shall be deducted from the final award. In the event the victim is not eligible for an award, the victim shall repay the amount of the emergency award to the fund.

(g) Any payments made for the emergency compensation shall be deducted from the final award. In no event shall the final award exceed the maximum award of twenty-five thousand dollars (\$25,000).

12-25-22. Limitations upon awarding compensation

(a) Actions for compensation under this chapter shall be commenced within three (3) years after the date of the personal injury or death, and no compensation shall be awarded for an injury or death resulting from a crime which was not reported to the appropriate law enforcement authority within ten (10) days of its occurrence; provided, that the office shall have the authority to allow a claim which was not reported pursuant to this section when the victim was below the age of eighteen (18) years of age or of unsound mind, or for good cause shown.

(b) No compensation shall be awarded under this chapter to the victim, or in the case of death to dependent relatives or to the legal representative, in a total amount in excess of twenty five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to the superior court pursuant to 12-25-25.

(c) No compensation shall be awarded when the office, in its discretion, determines that unjust enrichment to or on behalf of the offender would result. Compensation under this chapter shall not be awarded to any victim or dependent relative or legal representative if the award would directly or indirectly inure to the benefit of the offender.

(d) No interest shall be included in or added to an award of compensation under this chapter.

(e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her estate is not compensated by any other source and for the loss of support to the dependents of the victim.

12-25-23. Terms of the award

(a) Except as otherwise provided in this section, any award of compensation under this chapter may be made on terms that the office deems appropriate.

(b) The Criminal Injuries Compensation Act shall be regarded as a fund of last resort. Accordingly, the office shall deduct from any payments awarded under this chapter any payments received by the victim or by any of his or her dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this chapter), the state of Rhode Island or any state or any of its subdivisions, or from any insurance carrier, for personal injury or death compensable under this chapter, including lost wages, but only to the extent that the sum of the payments and any award under this chapter are in excess of the total compensable injuries suffered by the victim as determined by the office.

(c) Any person who: (1) submits a false or fraudulent application; (2) intentionally makes or causes to be made any false statement or representation of a material fact in relation to any claim pending before the office; or (3) intentionally conceals or fails to disclose information affecting the amount or the initial or continued right to any award; shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six (6) months, or both.

12-25-24. Subrogation - Prohibited

No third party which has provided any compensation to the injured victim shall have any claim against the funds awarded pursuant to this chapter to the victim or in the case of death to the victim's estate.

12-25-25. Attorneys' fees

(a) The treasurer may award attorneys' fees pursuant to this section from the violent crimes indemnity account for successful appeals of the administrator's awards of compensation brought pursuant to 12-25-18(g).

(b) The superior court may award attorneys' fees pursuant to this section from the violent crimes indemnity account for successful appeals of treasurer's office awards of compensation brought pursuant to 12-25-18(i).

(c)

(1) At the conclusion of the appeal proceedings, the attorney representing the plaintiff shall file a statement with the treasurer or court setting forth the amount of fee proposed

to be charged in connection with his or her efforts and services rendered in the proceedings.

(2) In determining the amount of compensation to be awarded an attorney, the treasurer or the court shall consider the time expended by the plaintiff's attorney in preparation, in settlement negotiations, and in court or hearing attendance, the total amount awarded to the plaintiff for injuries incurred, and the amount of revenue in the violent crimes indemnity account, together with the number and the nature of claims pending against it.

(3) The amount of compensation awarded to plaintiff's attorney shall not exceed fifteen percent (15%) of the total amount awarded to the plaintiff, or fifteen hundred dollars (\$1,500), whichever is less; provided, that in unusual circumstances, the treasurer or court may award a larger attorney's fee if it finds that a departure from the limits set forth in this subsection is warranted, stating specific reasons upon which the finding and award is based.

(4) Attorneys' fees shall not be awarded in those cases brought by the office of the child advocate.

(d) After the fee information is filed by an attorney under subsection (a) of this section, the treasurer or court shall determine whether the proposed fee conforms with the standards set forth in subsection (a) of this section. If the treasurer or court initially determines that the proposed fee does not so conform, the treasurer or court shall, upon notice to the attorney, determine the amount of a reasonable fee to be awarded in accordance with those standards.

(e) Any attorney who charges, demands, receives or collects for services rendered in connection with any proceedings under this chapter any amount in excess of that allowed under this section, if any compensation is paid, shall be subject to disciplinary action and other appropriate action to be taken by the bar association of the state of Rhode Island.

(f) Upon certification by the treasurer or court to the effect that the fee has been established, the administrator shall pay to the attorney named in the certification the amount of the counsel fee which shall be paid from the violent crimes indemnity account.

12-25-26. Recovery from offender

(a) Whenever any person is convicted of an offense and compensation is awarded under this chapter or under the 1972 Act for a personal injury or death resulting from the act constituting the offense, the state of Rhode Island shall institute an action against that person for the recovery of the whole or any specified part of the compensation in the superior court of the state of Rhode Island in any county, or in the state or federal court of any other state or district in which that person resides or is found, or make a finding in writing, of the reasons why it is impractical or impossible to institute that action. The office shall pursue the recovery whenever possible in order to provide additional funds for the violent crimes indemnity account. The administrator shall develop rules and regulations pursuant to the Administrative Procedures Act, chapter 35 of

title 42, to identify those so convicted, determine their ability to compensate the fund, and file whatever action is appropriate to recoup those funds.

(b) Process of the superior court for any county in any action under this section may be served by the sheriff of the county. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in the action, the court may cause those other parties to be summoned.

(c) An order for the payment of compensation under this chapter or under the 1972 Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

(d) An action instituted by the state of Rhode Island against any person for the recovery of the whole or any specified part of the compensation awarded under this chapter or under the 1972 Act shall be commenced within ten (10) years from the date compensation is awarded, and not thereafter.

12-25-27. Reports to the senate and the house of representatives

The office shall coordinate the violent crimes indemnity funds and any federal moneys available, and shall transmit to the governor and to the legislature an annual report setting forth:

- (1) The amount of money in the fund at the start of the year;
- (2) The amount of payments ordered to be contributed to the fund during the year;
- (3) The amount of funds collected during the year;
- (4) The number of claims filed during the year;
- (5) The number of claims adjudicated during the year;
- (6) The number of claims adjudicated in which the victim was awarded compensation;
- (7) The number of claims adjudicated in which the victim was denied compensation;
- (8) The total amount of money disbursed from the fund during the year;
- (9) The projected wait to receive compensation for cases filed that year; and
- (10) Any proposed legislative and other changes in the program.

12-25-28. Special indemnity account for criminal injuries compensation

(a) It is provided that the general treasurer establish a violent crimes indemnity account within the general fund for the purpose of paying awards granted pursuant to this chapter. The court shall assess as court costs in addition to those provided by law, against all defendants charged with a felony, misdemeanor, or petty misdemeanor, whether or not the crime was a crime of violence, and who plead nolo contendere, guilty or who are found guilty of the commission of those crimes as follows:

- (1) Where the offense charged is a felony and carries a maximum penalty of five (5) or more years imprisonment, one hundred and fifty dollars (\$150) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(2) Where the offense charged is a felony and carries a maximum penalty of less than five (5) years imprisonment, ninety dollars (\$90.00) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(3) Where the offense charged is a misdemeanor, thirty dollars (\$30.00) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(b) These costs shall be assessed whether or not the defendant is sentenced to prison and in no case shall they be waived by the court unless the court finds an inability to pay.

(c) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay on all counts or charges above two (2).

(d) Up to fifteen percent (15%) of the state funds raised under this section, as well as federal matching funds, shall be available to pay administrative expenses necessary to operate this program. Federal funds for this purpose shall not supplant currently available state funds, as required by federal law.

12-25-29. Use of funds to inform victims of their rights

There is appropriated to the annual budget of the administrative office of the state courts fifteen percent (15%) of the fund collected annually under 12-25-28, not to exceed one hundred fifty thousand dollars (\$150,000), to be used at the direction of the chief justice of the supreme court for the purpose of informing the victims of crime of their rights established by chapter 28 of this title and assisting victims in the exercise of these rights. In addition, the treasurer and administrator shall seek to inform victims of violent crime of this chapter using every available means at their disposal.

12-25-30. Deposit of funds

All moneys assessed pursuant to 12-25-28 as costs against defendants as provided in this chapter shall be paid by the clerks of the family, district and superior courts to the treasurer, who shall keep the funds in the violent crimes indemnity account. Funds received by the treasurer in excess of thirty thousand dollars (\$30,000) shall be made available and distributed within thirty (30) days of receipt in accordance with the provisions of this chapter.

12-25-30.1. Disclosure of records as to claims; confidentiality

All medical records, mental health counseling records, employment information, personal financial information and investigative records received, obtained or maintained by the administrator in connection with any application for compensation shall be maintained as confidential investigative material and shall not be released or disclosed to any person or entity whatsoever, except as authorized by the applicant or as otherwise provided by law. The application and the notice of award or denial shall be deemed public records.

12-25-31. Severability

If any provision to this chapter or its application to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are declared to be severable.