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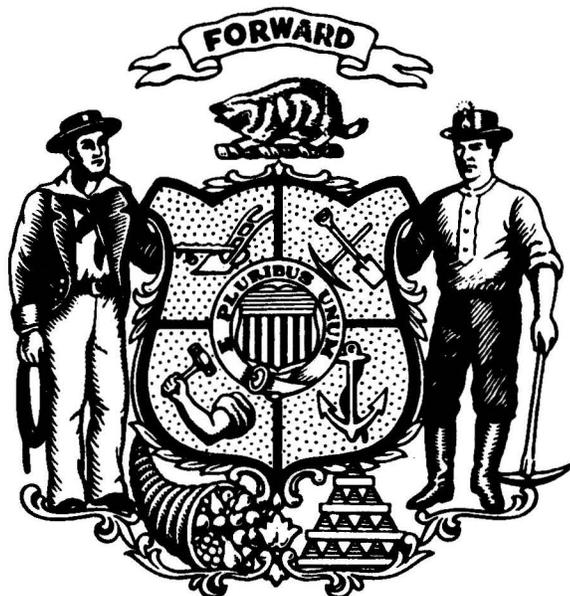
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COMPENSATION FOR VICTIMS OF CRIME:

A CURRENT STATUS REPORT

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COMPENSATION FOR VICTIMS OF CRIME: A CURRENT STATUS REPORT

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COMPENSATION FOR VICTIMS OF CRIME

I. 1975 WISCONSIN LEGISLATION

Compensation for Victims of Crime Law (Chapter 344, Laws of 1975)

A new law designed to encourage the cooperation of the public in law enforcement and to provide monetary awards to victims of crime has been enacted by the 1975 Wisconsin Legislature. Although several measures were introduced on this subject, they differed primarily in their methods of administering a compensation program.

The major provisions of Chapter 344 are categorized below:

1. Administration

The act authorizes the Department of Industry, Labor and Human Relations to make compensation awards to persons, other than on-duty peace officers and firemen, who are physically injured (or if killed, to their dependents) apprehending or attempting to apprehend a criminal or preventing or attempting to prevent the commission of a crime.

The department is also responsible for holding hearings on claims, making rules to implement the law, and preparing an annual report of its activities which would include the names of the applicants, the facts in each case, and the amount of any award.

The Joint Committee on Finance on March 30, 1976 approved a \$73,700 initiation allowance to hire 3 persons and a half-time aide to plan implementation of the program. Although future costs of a new program are difficult to measure, the Department of Administration has recently estimated the average cost of the program to be about \$611,000 annually. This includes administrative costs of about \$65,000 and claim or benefit costs of \$546,000. The above fiscal data estimates were primarily based on the experiences of New York and Washington state crime victims' compensation programs.

As a result of Governor Lucey's partial veto of Senate Bill 139, the act will not become effective until January 1, 1977.

2. Eligibility

Persons eligible for compensation under this act include an injured victim, the person responsible for his maintenance, and — in the case of the death of the victim — a dependent or dependents.

3. Compensable Acts

The department may order payment of an award for personal injury or death which results from preventing or attempting to prevent the commission of a crime, apprehending or attempting to apprehend a suspected criminal, aiding or attempting to aid a police officer to apprehend a suspected criminal, and aiding or attempting to aid a victim of a specified crime.

4. Hearings

If the department orders a hearing, the following items may be considered:

- a. Any interested party may appear and be heard, produce evidence and cross-examine witnesses in person or by an attorney.
- b. The department may, by subpoena, compel the attendance of witnesses and the production of documents, records and any other materials.
- c. The rules of evidence for the conduct of judicial proceedings shall not apply to the hearings conducted by the department.
- d. The department shall authorize an examiner to make findings and orders on claims.
- e. All hearings shall be open to the public unless the examiner determines that the hearing or portions thereof shall be held in private because of the involvement of an alleged sexual offense.

5. Appeal

Any party in interest who is dissatisfied with the findings or order of an examiner may file a written petition with the department within 20 days from the date that a copy of the findings were mailed.

Upon receipt of the petition, the department shall review the record and affirm or modify the decision. This action of the department shall be final. A written report is required if the department decides to change the original decision of the examiner. If the department fails to take action within the 30-day period, the examiner's decision becomes final. The department shall notify any interested party of its final decision and furnish each with a copy of the decision.

6. Compensation

The amount of compensation awarded is computed as follows:

a. Compensation shall be computed on the basis of the victim's salary at the time of his injury or death by using the compensation formulas for workmen's compensation benefits described in Chapter 102 of the statutes. Compensation also includes payment of various medical services and supplies. A rape victim shall be compensated for all medical, surgical and hospital expenses incurred for any purposes related to a criminal prosecution.

b. If the victim was unemployed at the time of the crime, the department is to make the award on the basis of which of the two following criteria result in the higher award:

1. The highest salary earned by the victim within the preceding 5 years.

2. The lowest payment under the workmen's compensation which could have been awarded if the victim had been employed.

c. The compensation that may be granted per injury may range from a minimum of \$200 to a maximum of \$10,000.

d. In cases of death of the victim, a reasonable award may be made for funeral and burial expenses.

e. If the examiner finds that the claimant will not suffer financial hardship from the loss of earnings or support and out-of-pocket expenses incurred, the examiner shall deny an award under (c) and (d) above.

f. An award may be granted whether or not a person is prosecuted or convicted of any offense arising out of such act or omission.

7. Restrictions and Limitations

Any compensation award granted under this measure is reduced by the amount of any payments received or to be received from the following sources as a result of the injury or death:

a. From or on behalf of the person who committed the crime.

b. Insurance payments or workmen's and unemployment compensation.

c. Public funds.

d. Any emergency award under statute Section 949.10.

No compensation is to be granted unless claim is made within 2 years after the date of the personal injury or death.

No compensation is granted if the victim (a) is a member of the immediate family of the offender and resides in the same household; (b) was at the time of the crime maintaining a sexual relationship with such person or with any member of the family of such person; or (c) committed a crime which caused or contributed to his injuries or death.

Orders for payment of awards may be made only for injuries or death arising from offenses occurring after 1976.

8. Penalty

Any person filing a fraudulent claim under provisions of this act may be fined not more than \$500 or imprisoned not to exceed 6 months or both.

Other 1975 Legislation

1975 Senate Bill 253, introduced by Senator Murphy *et al.*, would establish a required program of restitution to the victim of any crime by the person committing such crime as a condition of parole or probation. This bill, unlike Senate Bill 139, does not appropriate any state funds to compensate victims of crime but makes restitution by the convicted party the sole basis for compensation.

1975 Assembly Bill 275, introduced by Representative Mittness, *et al.*, would create a separate 3-member Crime Victims Compensation Commission in the Department of Administration rather than empowering the Department of Industry, Labor and Human Relations to administer the program as provided in Senate Bill 139. Awards granted under this measure, as under Senate Bill 139, are determined by rule of the commission to approximate benefits on the basis of the workmen's compensation and the victim's out-of-pocket expenses and loss of earnings. Payments will not be

made for claims under \$100, and total payments may not exceed \$25,000 for loss of earnings or support.

1975 Assembly Bill 476, introduced by Representative Sensenbrenner and Opitz, would create a 3-member Crime Victims Compensation Commission in the Department of Administration to administer the compensation program. Benefits are determined on the basis of the victim's medical or other necessary expenses and the loss of earnings rather than on the basis of the workmen's compensation benefit schedule in Senate Bill 139. Payments will not be made on claims of less than \$100, and total payments may not exceed \$15,000 for loss of earnings plus actual out-of-pocket expenses for any one injury or death. Only persons who will suffer serious financial hardship as a result of the injury will receive compensation.

All three of the above bills were killed pursuant to 1975 Assembly Joint Resolution 14.

II. THE BACKGROUND

Earlier Legislative Attempts — During the four legislative sessions prior to 1975 (1967-1973), approximately 18 bills were introduced to provide compensation for victims of crime. However, none of the bills was passed by the Legislature.

Citizen's Study Committee on Offender Rehabilitation Final Report — In May of 1971, Governor Patrick Lucey established a citizen study committee to study the problems relating to offender rehabilitation in the State of Wisconsin. In July of 1972 the committee issued its final report.

One of the many issues that were discussed involved compensation for victims of crime. The committee recommended that the state should develop a plan for compensating victims of crime within the following guidelines (only selected ones are listed):

"1. Compensation will be based on the expense actually and reasonably incurred as a result of the victim's injury or death...

"2. No compensation will be made for property loss.

"3. A maximum of \$25,000, or a total of the actual expenses, incurred as a result of the victim's injury or death, whichever is lesser.

"4. Any other forms of payment for medical expenses, death benefits, or income loss, other than state or federal compensation should be DEDUCTED FROM the amount of the award.

"5. No claim should be denied because of familiar relationships.

"6. An independent board shall be established, and an appropriate mechanism shall be devised for hearing such claims.

"7. Compensation will be awarded to persons who are injured or killed as a result of an attempt to assist another.

"8. The Board has the responsibility for the emotional well being of a victim as well as any financial losses incurred.

"9. Law enforcement personnel should be trained and knowledgeable in this compensation program and responsible for informing victims of the benefits available."

The section of the final report dealing with compensation for victims of crime concluded with the following statement:

"The primary basis for the government becoming involved in such programs of victim compensation is because of the inadequate means the victim now has for being compensated. One method is suing in the Civil process but the offender who commits the offense must be caught, identified and found capable of satisfying a judgment. Since these measure concentrate on the individual responsibility approach, they cannot account for the violent crimes in which the offender is not apprehended or for those in which the offender is acquitted. The second possible source of relief for the victim is suits against the state or city. Since 1960, court decisions have abolished governmental immunity which have made the way clear for suits, particularly in the State of Wisconsin. As now interpreted, this remedy is of little practical value to the victim of criminal attack. In every case the victim must prove that the crime occurred as a result of police negligence; no liability exists until negligence is established."

The committee also recommended that restitution be used as a pretrial diversion alternative. Job training and job placement were suggested to make the restitution alternative a viable one.

III. MAJOR FEATURES OF A CRIME COMPENSATION PROGRAM

Administration

Existing Agency — Various alternatives have been proposed for administering a compensation program. One such approach involves the use of an existing governmental agency. For example, two bills introduced in the 1975 Wisconsin Legislature placed the administration of the program in the existing Department of Health and Social Services and Department of Industry, Labor and Human Relations respectively. One or two states, in addition to Wisconsin, have adopted this method.

Courts System — Another approach suggested involved the use of the courts to administer the various compensation programs. Massachusetts and Rhode Island are two states which have opted for court administration of their respective programs.

According to the article, "Compensation for the Criminally Injured, Revisited: An Emphasis on the Victim", that appeared in the October 1971 issue of the *Notre Dame Lawyer*, allowing courts to administer the compensation programs is not highly recommended. A few of the disadvantages of such a system are:

1. A substantial additional workload is placed on the courts.
2. A potential delay in adjudication seems almost inherent in the judicial process.
3. There exists a more rigid setting accompanying judicial proceedings as compared to the more free-wheeling administrative proceedings.

The use of courts is apparently more appropriate in handling restitution programs as opposed to governmentally sponsored award programs.

Independent Agency — A third — and the most popular — method of administering a crime compensation program is to establish an independent commission or board appointed by the chief executive. A majority of the states with such laws have this type of administrative agency, and the Citizen's Study Committee on Offender Rehabilitation appointed by Governor Patrick Lucey also recommended adoption of this approach.

Coverage

Basic Coverage — In addition to compensating victims of crime, many programs also provide payment to dependents in case of death or to other persons responsible for the victim's maintenance. A few programs also include compensation to anyone who is injured or killed in an attempt to prevent a crime. Property losses are excluded from most programs.

Restrictions — Below are a few of the payment restrictions found in many compensation programs:

1. Property damages are usually excluded from coverage for various reasons (e.g., it is not a personal crime or property is covered by insurance).
2. Certain programs, such as those in New York and Maryland, contain a need requirement provision. Under this restriction, the administrative agency issuing the compensation award takes under consideration the financial hardship of the claimant.
3. If the victim's action or conduct contributed to the offender's action the amount granted or awarded may be reduced commensurate with the victim's responsibility — even to the extent of denying the award entirely.
4. Members of an offender's family or household are normally disqualified from receiving award payments under most compensation programs.
5. Automobile accidents are also excluded in most compensation programs since automobiles and owners are usually insured.

Compensation

Establishment of a reasonable compensation award schedule is not an easy task. On the one hand, the state or governmental unit does not want to make the payments so high that an unrealistic financial burden is placed on that government. On the other hand, the payment should be adequate to reimburse the victim so as to regain his financial status, which might have been jeopardized as a result of the crime.

The following criteria — or versions thereof — are normally considered when computing the amount of compensation to be awarded:

1. Expenses actually and reasonably incurred as a result of the victim's injury or death.
2. Pecuniary loss to the victim as a result of total or partial incapacity for work.
3. Pecuniary loss to the victim's dependents as a result of his death.
4. Other pecuniary loss resulting from the victim's injury.

5. Pain and suffering of the victim.

Of the five above-mentioned factors, pain and suffering of the victim has caused the most controversy and has been the least adopted. Hawaii and Rhode Island are two states which permit compensation for pain and suffering.

The following comments concerning compensation awards were taken from an article relating to crime victims that appeared in the January-February 1976 issue of *State Legislatures*:

"Such awards are usually confined to physical injury or death resulting from violent crime. They usually compensate unreimbursed medical expenses, lost earnings, disability and burial costs. Some states include dependents of victims within their coverage, and some repay the 'good samaritan' who intervened to try to halt a crime in progress. Awards, in all cases, can be made even if the offender is not apprehended.

"Hawaii is one of the few states that, in addition to personal injury, compensates victims for their 'pain and suffering'. Proponents of this broader approach argue that it may be the only way a victim can prove damages for some offenses, particularly rape. California, New Jersey and Rhode Island will pay the costs of a pregnancy resulting from rape including medical care for delivery or abortion. Maryland considers injury to the non-paid housewife a pecuniary loss and will make awards for lost services."

Cost

One of the most important concerns facing legislators and taxpayers is the cost of financing a compensation program. The following two trends have merged relative to compensation programs currently in effect: 1) the programs have cost much less than they were originally estimated to cost; and 2) the number of claims rapidly rises from year to year as the programs becomes better publicized and potential claimants become more aware of them.

One reason why the compensation program costs have not been too high is the restrictive provisions contained in most programs. As noted earlier, such restrictions include an exclusion for property damage and for pain and suffering and a requirement that the victim show "financial stress". The January-February 1976 issue of *State Legislatures*, stated it in the following manner:

"With such little guidance from Washington, and with costs a major factor, most states have begun their programs cautiously. Only one state compensates for property damage. Most require minimum financial loss to qualify for awards. New York, Maryland and Illinois require that victims demonstrate financial need.

"As a result, costs in most states have been kept relatively low. Maryland, for example, spends \$800,000 annually, and Illinois \$400,000. To help defray expenses, Maryland assesses a \$5 fine on all offenders, above other penalties that may be imposed. In California, offenders may be ordered to pay a special fine 'commensurate in amount with the offense committed.'"

IV. SITUATION IN OTHER STATES

Although the concept of governmental compensation for victims of crime can be traced back thousands of years to ancient Babylonia, it was not until 1965 that the first state (California) implemented legislation to compensate victims of crime.

Since California initiated a crime victim compensation program, the following states, in addition to Wisconsin, have subsequently enacted some type of similar legislation:

Alaska	Maryland	New York
Delaware	Massachusetts	North Dakota
Georgia	Minnesota	Rhode Island
Hawaii	Nevada	Washington
Illinois	New Jersey	

The programs enacted in the several states vary considerably as to who should administer the program, who is eligible to receive award payments, how much compensation should be granted, what limitations or restrictions should be imposed and numerous other considerations.

A majority of the states apparently operate under separate compensation boards while the remaining states' programs are either administered by an existing agency or by the courts.

Most states require a minimum financial loss and a few states, including New York, Maryland and Illinois, require that the victim demonstrate financial need.

Table 1: Summary of Responses Received From LCER Questionnaire Sent to Other States With Programs to Compensate Victims of Violent Crimes

Question	Alaska	California	Delaware	Hawaii	Illinois	Maryland	Massachusetts	Minnesota	New Jersey	New York	Washington
When did the program begin?	1973	1965	1975	1967	1973	1968	1968	1974	1971	1967	1974
What is the program title?	Violent Crimes Compensation Board	State Board of Control, Victims of Crime Program	Violent Crimes Compensation Board	Criminal Injuries Compensation Commission	Court of Claims--Crime Victims Compensation Act	Criminal Injuries Compensation Board	Compensation of Victims of Violent Crimes	Crime Victims Reparation Board	Violent Crimes Compensation Board	Crime Victims Compensation Board	Department of Labor and Industries, Crime Victims Compensation Division
Does the program cover only violent crimes resulting in personal injury or death?	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Is the administering AGENCY or the CLAIMANT responsible for obtaining the information to support a claim?	Claimant	Agency	Agency	Claimant	Claimant	Agency	Claimant	Agency	Agency	Claimant	Agency
How soon after the crime must a claim be filed?	2 years	1 year; may be extended	1 year; may be extended	18 months	Intent to file--6 months; actual filing: 2 years	2 years	1 year; may be extended	1 year	1 year	1 year	Death--120 days Injury--180 days
Must the crime be reported to the police?	yes	yes	no	yes	yes	yes	yes	yes	yes	yes	no
Are the following losses eligible for reimbursement:											
(a) medical expenses	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes
(b) loss of support or earnings	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes
(c) property losses	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no	(c) no
(d) pain and suffering	(d) no	(d) no	(d) yes	(d) yes	(d) no	(d) no	(d) no	(d) no	(d) no	(d) no	(d) no
(e) other--specify	(e) permanent disfigurement	(e) funeral expense	(e) determined on review of medical and physician's reports	(e) funeral and related expenses	(e) funeral and burial expenses	(e) permanent disfigurement	(e) none	(e) funeral expenses	(e) none	(e) funeral and burial expenses	(e) permanent mental or physical impairment
Must a minimum loss be sustained before an award can be made?	no	yes	yes	no	yes	yes	yes	yes	yes	yes	no
If yes, amount and describe		The lesser of \$100 or 20% of the victim's net monthly income	\$25.00		\$200	\$100 or two weeks' loss of earnings	\$100 or two weeks' loss of earnings	\$100	\$100 unreimbursed medical or two weeks' loss of earnings	\$100 unreimbursed medical or two weeks' loss of earnings	
Must the claimant have sustained serious financial hardship?	no	yes	no	no	no	yes	no	no	no	yes	no
In death cases, who may be eligible for an award?											
(a) spouse	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes	(a) yes
(b) children	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes	(b) yes
(c) parents	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes	(c) yes
(d) not related, but deriving principal support from the victim	(d) yes	(d) yes	(d) yes	(d) no	(d) yes	(d) yes	(d) no	(d) yes	(d) no	(d) yes	(d) no
(e) other--specify	(e) dependents of victim	(e) any persons who voluntarily pays medical and/or burial expenses	(e) any person who legally or voluntarily pays medical or burial expenses	(e) estate of the deceased	(e) For death expenses--relative only; loss of support--dependency	(e) none	(e) none	(e) third person paying for suppliers or services	(e) none	(e) none	(e) none
Are the residents only eligible for an award?	no	yes	yes	no	no	no	yes	no	no	no	yes
Are state residents eligible if victimized while out of state?	pending clarification by Attorney General	yes	yes	no	no	no	no	no	no	no	no

Question	Alaska	California	Delaware	Heavil	Illinois	Maryland	Massachusetts	Minnesota	New Jersey	New York	Washington
Is there a ceiling on the award which may be made for:											
(a) medical expenses	(a) n/a	(a) \$10,000	(a) n/a	(a) n/a	(a) n/a	(a) n/a	(a) n/a	(a) n/a	(a) n/a	(a) no	(a) no
(b) loss or support or earnings	(b) n/a	(b) \$10,000 (includes \$2,000 for rehabilitation and job training)	(b) n/a	(b) n/a	(b) n/a	(b) n/a	(b) n/a	(b) n/a	(b) n/a	(b) \$15,000	(b) no
(c) total	(c) \$25,000 per victim; \$100,000 for dependents of deceased victim	(c) \$22,000 (includes \$2,000 for rehabilitation and job training)	(c) \$10,000	(c) \$10,000	(c) \$10,000	(c) \$45,000 but if claimant is alive when paid, maximum is \$100,000 (paid monthly payments until death)	(c) \$10,000	(c) \$10,000	(c) \$10,000	(c) not applicable	(c) no
Before an award is made, are deductions made for insurance, taxes, etc., to assure that the award is only "out of pocket" losses?	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Does this include a deduction for the proceeds of insurance paid for by the victim?	yes	yes	no	no	no	yes	yes	yes	yes	yes	yes
May emergency awards be made?	yes	no	no	no	no	yes	no	yes	no	yes	yes
When the claimant is represented by counsel, is the attorney's fee paid out of the award or supplemental to the award?	supplemental	supplemental	supplemental	out of award	statute silent	out of award	out of award	out of award	supplemental	out of award	out of award
Claims statistics (time reported)	7/1/73-6/30/74	7/1/73-6/30/74	1/1/75-6/30/75 (six months)	1/1/74-12/31/74	10/1/73-3/31/75 (18 months)	7/1/73-6/30/74	7/1/73-6/30/74	7/1/74-5/31/75 (11 months)	1/1/74-12/31/74	4/1/74-3/31/75	7/1/74-6/30/75
Claims filed	50	1,313	25	165	285	459	351	225	635	2,341	697
Awards made	26	727	0	116	58	180	146	57	598	910	380
Open claims end of period	24	838	25	146	713	182	417	98	approx. 1,000	1,110	152
Program costs (period)	7/1/73-6/30/74	7/1/73-6/30/74	7/1/73-6/30/74	1/1/74-12/31/74	10/1/73-3/31/75	7/1/74-6/30/75	7/1/73-6/30/74	7/1/74-5/31/75	1/1/74-12/31/74	4/1/74-3/31/75	7/1/74-6/30/75
Program administration	\$34,698 40%	\$ 205,580 13%	Information	\$ 30,097 18%	Information	\$ 117,447 10%	Information	\$27,000 20%	\$ 189,000 18%	\$ 574,171 10%	\$104,336 31%
Payment of award	\$2,958 60%	1,375,101 87%	not furnished	\$68,353 81%	Information furnished	\$1,005,912 90%	not furnished	\$5,620 71%	\$81,000 8%	\$ 2,525,132 81%	\$14,386 4%
Total	\$27,656 100%	\$1,580,681 100%	no-penalty of 101 (of fine) on criminal penalty deposited in victim's compensation fund	\$207,350 100%	Information furnished	\$1,223,355 100%	Information furnished	\$52,620 100%	\$1,200,000 100%	\$3,100,303 100%	\$18,770 100%
Is the program funded exclusively by State appropriations? If no, describe other sources.	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
If an award decision is made, does it have to be approved by another State agency? If yes, describe.	no	no	no	no	no	no	no	no	no	yes Attorney General and Comptroller	no
Are the following legally required to inform victims of their rights under the program?	(a) yes (b) no (c) no	(a) yes (b) yes (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no	(a) yes (b) no (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no	(a) no (b) no (c) no

n/a = ceiling not apportioned between medical expenses and loss of support or earnings.

Source: Prepared by LCER staff from completed questionnaires and statistics furnished by above states. For New York, data obtained by LCER staff from information furnished by OUCB, August 1975.

Several states with existing agencies administering the program, like Washington and Wisconsin, tie the compensation award payments to the existing state statutory workmen's compensation benefit schedules.

Table I summarizes compensation for victims of crime programs in 11 states. The table was extracted from an October 31, 1975 program audit report of the New York Legislative Commission on Expenditure Review titled, "Financial Aid to Crime Victims".

The following table and narrative provide statistical data and experiences of a number of states that have crime victims' compensation programs.

Table 2: Number of Claims, Award Payments Granted, by State, FY 1975

State	No. of New Claims Made	No. of Claims Allowed	Total Cost of Awards
Alaska	71	33	\$125,266.20
California	3,792	763	1,418,539.63
Maryland	638	324	1,577,644.19
New York	2,341	910	2,526,132.00
Washington	697	380	214,384.67

Alaska

The 1975 Second Annual Report of Alaska's Violent Crimes Compensation Board states that the crime compensation program is growing not only in increased public awareness but also in the greater number of applications received during the past fiscal year.

The board gives much credit to various other agencies such as the Department of Law (through its district attorneys), Office of Attorney General, Alaskan State Troopers and municipal police departments for their cooperation in making the program an effective one.

The board also increased its activities in advertising the program more widely via radio, television and newspapers. The board even provided attorneys' offices and doctors' offices with pamphlets describing the program for the purpose of reaching additional potential claimants.

Overall, the board is pleased with the success of the program during its brief history.

The following table from the board's second annual report lists the administrative costs, the total amount of awards granted and the number of applications for the past several fiscal years.

Table 3: Statistics Concerning Alaska's Compensation Program

Costs of Administration:

The costs to administer the Act for FY 1975 were as follows:

Staff salaries (2 persons) & Benefits	\$36,190.33
Travel includes Board Member travel & per diem):	6,558.41
Attorney fees, office expenses, equipment, etc.	9,092.76
Total Costs	\$51,841.50

The total of administration (\$51,841.50) and awards granted (\$103,727.48) is \$155,568.98. Therefore, 33.3% of our budget has been used for administration. This percentage should decrease as volume of claims build up. The volume of work has increased and this is mainly due to the increase in public awareness and with the constraints eased in the new amendment more victims will find they are eligible and will file claims.

	<u>FY 1973</u>	<u>FY 1974</u>	<u>FY 1975</u>
Applications received	15	50	71
Applications heard	0	37	51
Total amount awards granted	0	\$36,025.60	\$125,266.20
Pending claims at end of FY	13	38	44

California

Although the California State Board of Control is not required to prepare an annual report, Mr. Richard A. Godegast, Assistant Executive Secretary of the board, has provided data on the fiscal impact of California's program of indemnification to victims of crimes.

Prior to the 1974-75 fiscal year, the old statute provision provided for a \$5,000 maximum award. Chapter 1144 (Senate Bill 149), Laws of 1973, increased the maximum. 1974-75 data includes claims filed under both the old and new statutes.

In his letter of April 6, Mr. Godegast made the following remarks concerning his state's program:

"A separate review of claims under SB 149, reflects an average award of approximately \$1,700.00. While the new statute does have a larger potential award, the increase in filings has kept the average award below those of previous years.

"We are presently receiving an average of 542 claims per month. The initial screening reduces this by 25% leaving 406 claims for processing. Our experience is that an additional 15% will not pursue their applications, thus leaving 345 for verification of losses by investigation which is done by the Attorney General.

"Our normal allowance and denial rate by the Board of Control is 53% allowed and 45% denied. The current year, page 2 of the Statistic Sheet, will not be representative of these figures due to a special effort by this staff to purge a large number of applications for which the applicants have not provided the required questionnaire within the requested 45 days.

"The Board of Control Staff devoted to the Victim of Crime Claims Unit, excluding the Executive Secretary, is composed of 4 professionals and 5 clerical positions on a full time basis. Additional clerical support is available as the work-load demands. We are planning to add 1 additional professional after July 1, 1976, and possibly 1 additional clerk.

"The Attorney General's office is utilizing 16 para-professional Claims Specialists, 7 Special Agents, 6 Clerical, 1 Claims Coordinator, and 1 Deputy Attorney General. That office also is considering additional staffing at the Claims Specialist level and reducing the Special Agent staffing.

"Our current projections for claims received during the next fiscal year, July 1, 1976 to June 30, 1977, is for a 30% increase over our present 6,500 projection for this fiscal year. The growth of our program has been primarily due to Section 13968, specifically sub-section "c". The notification by law enforcement agencies has proven to be very effective in assuring that each potential victim is advised of the existence of the program. It has been so effective that we increased filing by 194% during the first year the new statute was in effect."

The following two tables concerning California's crime victims compensation program were supplied by Mr. Godegast.

**Table 4: State Board of Control Victims of Crimes Program
Section 13960. et seq. Government Code
To June 30, 1975**

Fiscal Year	New Claims	Denied	No.	Allowed	
				Amount	Budgeted (1)
1967-68	169	39	21	\$ 16,513.65	\$ 67,500.00
1968-69	401	180	63	78,688.57	25,000.00 (2)
1969-70	369	285	130	171,644.26	100,000.00 (3) (5)
1970-71	471	254	173	383,779.49	100,000.00 (4) (5)
1971-72	698	266	267	523,359.13	275,000.00 (6) (7)
1972-73	1,081	323	401	717,709.40	850,000.00 (6) (8)
1973-74	1,313(10)	535	727	1,375,101.32	1,102,000.00 (9) (11)
1974-75	3,792	659	765	1,418,539.63	1,695,466.00 (12)
TOTALS	8,294	2,541	2,545	\$4,685,335.45	

- (1) Plus court fines against perpetrators deposited to Indemnity Fund
- (2) Plus emergency fund augmentations of \$59,000
- (3) Plus emergency fund augmentations of \$77,500
- (4) Plus deficiency bill augmentation of \$284,400
- (5) Plus \$25,000 to AG for investigation
- (6) Plus \$50,000 to AG for investigation
- (7) Plus emergency fund augmentation of \$250,000
- (8) \$25,000 transferred from Item 47a to Item 47b for additional AG investigation charges
- (9) Plus \$150,000 to AG for investigation
- (10) Prior to 75-74 fiscal year new claims posted as total received not accepted
- (11) Plus \$331,000 Augmentation: \$316,000 for awards; \$15,000 for AG investigation
- (12) Plus \$225,000 to AG for investigation

Table 5: Average Awards Including Attorney Fees

Fiscal Year	Average
1967-68	\$ 786.36
1968-69	1,249.02
1969-70	1,320.35
1970-71	2,218.37
1971-72	1,960.15
1972-73	1,789.80
1973-74	1,891.47
1974-75	1,859.16

Maryland

The following information was extracted from the 6th Annual Report of the Maryland Criminal Injuries Compensation Board for the fiscal year period of July 1, 1974 through June 30, 1975.

The Criminal Injuries Compensation Board was created July 1, 1968. The State of Maryland was one of the first states to create such a program.

The number of applications has increased dramatically this past year. The board anticipates a continued increase in the next year mainly due to greater public awareness of the program. Based on the board's projections, it is expected that there will be at least 700 claims filed in fiscal year 1976. The number of claims that were accepted and investigated during the 1975 fiscal year totaled 638. In addition, there were about 1,500 inquiries which did not necessitate any investigation. There were 412 decisions rendered, of which 324 awards were made and 88 were disallowed.

The types of awards granted generally fall into the following three categories:

- "a. Lump sum payments — where the claimant returns to work with no diminution in earnings.
- "b. Protracted claims — where the decision is made and then provides for periodic monthly payments during the continued disability and diminution in earnings, and lastly

"c. Death claims — where again the decision is made making an award up to the time of the decision and then providing for a monthly payment to the dependents."

The total awards granted in fiscal year 1975 amounted to \$1,577,644.19. Of that total, \$691,926.06 was awarded in lump sum payments and \$885,718.13 was awarded in protracted payments.

Article 26A, Section 17 imposes an additional \$5 in court costs on all persons convicted of a crime by any judge with criminal jurisdiction in the state. The following table lists, by fiscal year, the total monies collected by the Comptroller in addition to listing the monies expended and the awards granted.

Table 6: Collections, Expenditures and Awards

Fiscal Year	Collected	Expended	Awards
1969	118,948.60	None	None
1970	135,438.75	66,151.13	328,000.00
1971	121,969.93	215,000.00	614,283.39
1972	84,253.58	431,136.18	1,036,604.84
1973	90,000.00	531,685.66	893,286.93
1974	104,964.47	635,874.27	771,766.40
1975	118,063.90	1,000,207.21	1,577,644.19
1976 Estimate	135,000.00	1,250,000.00	1,750,000.00

New York

According to an October 1975 report by the New York Legislative Commission On Expenditure Review titled "Financial Aid to Crime Victims", the New York Crime Victims Compensation Board spent \$3.1 million during fiscal year 1974-75 for 1,200 awards and program administration. Nineteen percent (\$574,000) was spent for administration and the remaining \$2.5 million was for award payments. The number of awards granted may appear small in number, but — for a variety of reasons — most crime victims do not qualify. Another factor is that about 80% of those persons who might be eligible under the program fail to file a claim. Efforts are being made by government and private agencies to make more eligible people aware of the program and subsequently file a claim. The average payment in 1975 was \$2,054.

In comparing crime victims' programs in a number of states, the report stated that New York paid victims \$2.5 million, almost double the amount of the next highest ranking state, California, which paid \$1.37 million. Administrative costs amounted to \$574,171 in New York and \$206,580 in California.

During the 1975 fiscal year the board received 2,341 claims and made 2,399 decisions (910 awards and 1,489 denials). The board had a staff comprised of the chairman, 4 board members, 14 investigators, 6 stenographers and 12 clerical employees.

The following 3 separate listings of findings, by the New York Legislative Commission On Expenditure Review, relate to award payments and claims, public awareness of the program and program costs, respectively.

A. Findings Relating to Awards and Claims

"1. Until October 1975 CVCB provided more assistance to upstate than to New York City claimants in obtaining data to support a claim. Forty-eight percent of the upstate claimants received awards as compared to 36 percent for New York City in 1974-75.

2. From 1970-71 to 1974-75 awards were made to 3,401 (38 percent) of 8,878 claimants. The award percentage has declined from 42 percent in 1970-71 to 38 percent in 1974-75.

3. The claimant's failure to provide required claim data accounted for more than one-half of the 1,489 claims denied in 1974-75.

4. From 1970-71 to 1974-75, 84 percent of the claims were for personal injury and the remainder from the death of the crime victim. However, the number of death claims during this period increased by almost 100 percent while the number of personal injury claims increased by 39 percent.

5. An award may be made to an eligible claimant who has \$100 in unreimbursed medical expenses or lost earnings or support of at least two continuous weeks. The award for medical expenses is open ended while a maximum of \$135 per week (\$15,000 total) may be paid for loss of support or earnings. CVCB may also pay a victim's funeral expenses.

6. From 1970-71 to 1974-75, 16 percent of the claimants have chosen to have their claims filed by attorneys. On a sample of claims, a lower percentage of those filed by an attorney received awards (34 percent) than those filed by individuals (42 percent); and it took longer to complete the claim when it was filed by an attorney.

7. CVCB may pay an attorney's fee only when an award is made, and the fee is paid out of the award for medical expenses and/or loss of support or earnings.

8. An award payment, in the case of death or long-term disability, may extend over a period of several years. In such cases CVCB must periodically review the claimant's status to verify continuing eligibility for payments. Such reviews generally have been conducted every six months.

9. For a sample of 90 closed protracted injury and death claims, 42 percent had been closed when the CVCB investigator learned that the claimant was no longer disabled; in 34 percent of the closed cases, the claimant had received the maximum \$15,000 award. In ten percent the claimant had died, and 14 percent were closed for other reasons.

10. From 1970-71 to 1974-75 the average time from claim receipt through payment increased from approximately six to about eight months. The number of open claims grew 44 percent during this period.

11. Approximately ten percent of the CVCB open claims at June 30, 1975 had been open for six months or more. The majority of these could not be closed due to missing data from third parties — police, private insurance carriers, employers, etc.

12. If the claimant is dissatisfied with the decision of CVCB, he has several options which may change the decision. Such changes usually result from the claimant's submission of data not available to CVCB at the time of the original decision.

B. Findings Relating to Public Awareness of Program

"1. Less than two percent of the State's violent crime victims file claims with CVCB. However, more than 90 percent of all the victims would be ineligible since they were not injured, did not report the incident to the police, had no unreimbursed medical expenses and lost less than two weeks earnings.

2. In New York City in 1973, there were approximately 13,000 crime victims ineligible for compensation because their loss was below the minimum amount for which an award may be made.

3. Only 1,289 (20 percent) of the estimated number (6,326) of 1973 New York City crime victims eligible to file a claim with CVCB actually did so.

4. There is limited public awareness concerning the crime victims program. Low cost or free radio publicity available through the Radio, Motion Picture Bureau of the State Department of Commerce has not been employed to fullest advantage. Although CVCB prints and distributes program brochures, five out of eight upstate metropolitan police departments had none on hand when contacted by LCER staff in July 1975.

C. Findings Relating to Program Costs

"1. From April 1, 1974 through March 31, 1975, expenditures for the New York State Crime Victims program totaled \$3.1 million — \$600,000 (19 percent) for program administration, \$2.5 million (81 percent) for payment of awards.

2. Program expenditures more than doubled from 1970-71 (\$1.5 million) to 1974-75 (\$3.1 million).

3. New York awards twice as much annually as California which is second in expenditures.

4. The average cost for all claims paid during 1974-75 was \$2,054. Protracted personal injury claims with an average cost of \$5,027 are the highest. Personal injury claims accounted for two-thirds and death claims one-third of total award payments."

Washington

The 1973 Washington Legislature provided for compensation to victims of crime by enacting Chapter 122 (1st Ex Session), 1973, which became effective July 1, 1974. The program is administered by the Department of Labor and Industries, and the schedule of benefits closely parallels those benefit schedules under the industrial insurance program. Wisconsin's recently enacted compensation law is quite similar in this respect.

Under the program, medical expenses, disability payments and death benefits incurred by eligible individuals can now be paid from state funds pursuant to the appropriate statutory schedule provisions.

In a February 13, 1976 statement to members of the California House of Representatives Judiciary Committee's Subcommittee on Crime, Mr. Calvin Winslow, Assistant Director of the Crime Victims Compensation Division, stated that during the first year of operation, his division received 697 claims. In addition, the law provided that eligible persons who were injured between

January 1, 1972 and July 1, 1974 could file claims on a retroactive basis. The division has received 508 claims in this category.

As was indicated earlier, Washington's program is a "worker's compensation model" with benefits patterned on the Washington Worker's Compensation Act. Although Mr. Winslow noted that among 50 states there are good, bad and indifferent workers' compensation acts, Washington's act is rated by the National Commission on Workmen's Compensation, as one of the 2 or 3 best programs in the United States.

Since only 1 out of 5 positions allocated to run the program is involved in investigation, the division arranged to use the Industrial Insurance Division's staff of 60 investigators to do crime investigations. The Crime Compensation Division, according to Mr. Winslow, subsequently reimburses that division for the time and expenses that it incurs. The arrangement has apparently worked out satisfactory.

Mr. Winslow made the following remarks regarding his state's experience with the compensation program relative to the number of claims and various costs:

"Admittedly, with only one year and seven months and 1,800 claims as experience, our statistical base is shaky. With that warning, however, I feel that I can predict that for the fiscal year 1975-1976, we will receive 1,200 claims. Our rejection rate (not eligible because of family crime, auto accidents, provocation, etc.) has been running at 35%. We will then approve 65% of the 1,200 claims, or 780, which multiplied by the average claim cost of \$630 indicates a benefit cost of \$492,000.

"Our yearly administrative costs (staff salaries and benefits, goods and services, travel expenses, equipment purchases, advertising) amount to \$104,333.00.

"Our receipt of 1,200 claims during the current fiscal year compares favorably with the experience of other state programs, taking into consideration our population of 3.4 million and our violent crime rate of 271 per 100,000 population.

"Based upon our Department's sixty-five years of worker's compensation statistics, we predict that our liability incurred because of costly, long-term claims will continue to increase over the next five years, and will then level off...Based upon such considerations, we predict our claim costs in five years will be no more than one million dollars per annum."

V. FEDERAL LEGISLATIVE ACTIVITY

More than a dozen bills have been introduced in the 94th Congress to provide compensation to victims of crime. Although a few of the bills would provide aid only to victims of certain federal crimes, a majority would provide partial federal reimbursement monies to qualifying states for payments made by the states under their own programs.

In his June 19, 1975 message to Congress on crime, President Gerald Ford, called for a program to reimburse persons injured because of certain federal crimes. The program was incorporated in Senate Bill 1 (Crime Control Bill). Unfortunately, federal crimes represent such a small percentage of the total crimes that the administrative costs would probably outweigh the benefits received.

Among the bills providing grants for state compensation programs, H.R. 13157, introduced by Representative Rodino, *et al.*, appears to have the best chance of being considered and acted upon in this session of Congress. The Judiciary Committee has completed hearings on the bill. H.R. 13158 is an identical bill introduced at the same time.

Highlights of H.R. 13157

H.R. 13157, cited as the "Victims of Crime Act of 1976", contains the following six specific requirements that a state program must meet in order to qualify for a federal grant.

1. A state program must compensate victims for personal injury and also compensate surviving dependents of persons who died as a result of the crime.
2. The program must offer claimants the right to a hearing with administrative and judicial review procedures for any aggrieved claimant.
3. Recipients of awards under the program must be required to cooperate with appropriate law enforcement authorities.
4. Law enforcement agencies and officials must take reasonable care that victims are informed about the compensation program existing in the state and the procedure for applying for compensation under that program.
5. The state must be subrogated to any claim the victim, or a dependent, has against the criminal for damages resulting from the crime, to the extent of any money paid to the victim or dependent by the program.
6. The state program must not require claimants to seek or accept welfare benefits.

Many of the state programs would meet most of these six criteria.

The measure also contains a substantial number of limitations which prohibit reimbursement of certain state program costs, such as administrative expenses.

A three-member independent Crime Victim Compensation Commission would administer the federal aspects of the program. The members, appointed by the President with the advice and consent of the Senate, would serve 4-year terms and be paid at the rate provided for level V of the executive schedule under 5 U.S.C. Sec. 5316.

The bill authorizes \$40 million expenditures for fiscal year 1977, \$50 million for fiscal year 1978 and \$60 million for fiscal year 1979.

Impact on Wisconsin's Law

The major impact that the passage of H.R. 13157 would have on Wisconsin is that, should the state qualify, it would be eligible to receive federal reimbursement for the costs of its program. The reimbursement level is 50% for most crimes (those occurring within state jurisdiction) and 100% for those crimes occurring within the exclusive federal jurisdiction.

A state program is not entitled to be reimbursed for certain costs. Included among these are administrative costs, compensation awards for pain or suffering, compensation awards for property loss, reimbursement for compensation beyond \$50,000 per victim, reimbursement for compensation awards of lost wages of more than \$200 per week per person, and reimbursement for costs of a victim who failed to file a claim or report a crime within the specified time period.

The total amount of federal monies that can be granted to qualifying state programs is "subject to the availability of amounts appropriated".

In order for a state to qualify, it must meet six requirements that are listed in the bill. Of these, only one — or possibly two — represent any problem for Wisconsin. The requirement that recipients of awards must cooperate with appropriate law enforcement authorities would have to be incorporated into the Wisconsin law.

A requirement that state law enforcement agencies and officials take reasonable care to inform crime victims about the existence of the program and the procedure for applying for compensation under the program is not clearly spelled out in Wisconsin's law. The Wisconsin provision states that the law enforcement agency investigating a crime shall *provide forms* to each person who may be eligible to file a claim under this act. Whether this language would satisfy the federal requirement would have to be determined.

VI. SOURCES

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