

HOUSE BILL No. 2495

By Committee on Corrections and Juvenile Justice

1-24

1 AN ACT concerning the crime victims compensation board; relating to
2 applications for compensation; mental health counseling; amending
3 K.S.A. 2019 Supp. 74-7305 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2019 Supp. 74-7305 is hereby amended to read as
7 follows: 74-7305. (a) An application for compensation shall be made in the
8 manner and form prescribed by the crime victims compensation division
9 created by K.S.A. 75-773, and amendments thereto.

10 (b) *Except as otherwise provided in this subsection*, compensation
11 may not be awarded unless an application has been filed with the division
12 within two years of the reporting of the incident to law enforcement
13 officials if the victim was less than 16 years of age and the injury or death
14 is the result of any of the following crimes: (1) ~~Indecent liberties with a~~
15 ~~child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2019-~~
16 ~~Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent~~
17 ~~liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or~~
18 ~~K.S.A. 2019 Supp. 21-5506(b), and amendments thereto; (3) aggravated~~
19 ~~criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or~~
20 ~~K.S.A. 2019 Supp. 21-5504(b), and amendments thereto; (4) Enticement~~
21 ~~of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent~~
22 ~~solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or~~
23 ~~K.S.A. 2019 Supp. 21-5508(a), and amendments thereto; (6) aggravated~~
24 ~~indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its~~
25 ~~repeal, or K.S.A. 2019 Supp. 21-5508(b), and amendments thereto; (7)~~
26 ~~sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its~~
27 ~~repeal, or K.S.A. 2019 Supp. 21-5510, and amendments thereto; (8)~~
28 ~~aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or~~
29 ~~K.S.A. 2019 Supp. 21-5604(b), and amendments thereto; (9) (2) human~~
30 ~~trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2019~~
31 ~~Supp. 21-5426(a), and amendments thereto; (10) (3) aggravated human~~
32 ~~trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2019~~
33 ~~Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual~~
34 ~~exploitation of a child as defined in K.S.A. 2019 Supp. 21-6422, and~~
35 ~~amendments thereto (4) a sexually violent crime, as defined in K.S.A. 22-~~
36 ~~3717, and amendments thereto.~~ Compensation for mental health

1 counseling may be awarded if a claim is filed within two years of: (1)
2 Testimony, to a claimant who is, or will be, required to testify in a sexually
3 violent predator commitment, pursuant to article 29a of chapter 59 of the
4 Kansas Statutes Annotated, and amendments thereto, of an offender who
5 victimized the claimant or the victim on whose behalf the claim is made;
6 or (2) notification, to a claimant who is notified that DNA testing of a
7 sexual assault kit or other evidence has revealed a DNA profile of a
8 suspected offender who victimized the claimant or the victim on whose
9 behalf the claim is made, or is notified of the identification of a suspected
10 offender who victimized the claimant or the victim on whose behalf the
11 claim is made, whichever occurs later to a victim of a sexually violent
12 crime, as defined in K.S.A. 22-3717, and amendments thereto, if the board
13 finds there was good cause for the failure to file within the time specified
14 in this subsection. For all other incidents of criminally injurious conduct,
15 compensation may not be awarded unless the claim has been filed with the
16 division within two years after the injury or death upon which the claim is
17 based.

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

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

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

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

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

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

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

41 (2) the usual living expenses of the claimant and the claimant's
42 family;

43 (3) the special needs of the claimant and the claimant's dependents;

1 (4) the claimant's income and potential earning capacity; and

2 (5) the claimant's resources.

3 ~~(e)~~ (f) Compensation may not be awarded unless the criminally
4 injurious conduct resulting in injury or death was reported to a law
5 enforcement officer within 72 hours after its occurrence or the board finds
6 there was good cause for the failure to report within that time.

7 ~~(f)~~ (g) The board, upon a finding that the claimant or victim has not
8 fully cooperated with appropriate law enforcement agencies, may deny,
9 withdraw or reduce an award of compensation.

10 ~~(g)~~ (h) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or
11 K.S.A. 2019 Supp. 21-5604, and amendments thereto, or cases of sex
12 offenses established in article 35 of chapter 21, of the Kansas Statutes
13 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
14 Statutes Annotated, and amendments thereto, K.S.A. 2019 Supp. 21-6419
15 through 21-6422, and amendments thereto, or human trafficking or
16 aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447,
17 prior to their repeal, or K.S.A. 2019 Supp. 21-5426, and amendments
18 thereto, compensation may not be awarded if the economic loss is less than
19 \$100.

20 ~~(h)~~ (i) Compensation for work loss, replacement services loss,
21 dependent's economic loss and dependent's replacement service loss may
22 not exceed \$400 per week or actual loss, whichever is less.

23 ~~(i)~~ (j) Compensation payable to a victim and to all other claimants
24 sustaining economic loss because of injury to or death of that victim may
25 not exceed \$25,000 in the aggregate.

26 ~~(j)~~ (k) Nothing in subsections ~~(e)(2), (e)(3), (e) and (f) (d)(2), (d)(3),~~
27 ~~(f) and (g)~~ shall be construed to reduce or deny compensation to a victim
28 of human trafficking or aggravated human trafficking, as defined in K.S.A.
29 2019 Supp. 21-5426, and amendments thereto, or commercial sexual
30 exploitation of a child, as defined in K.S.A. 2019 Supp. 21-6422, and
31 amendments thereto, who was 18 years of age or younger at the time the
32 crime was committed and is otherwise qualified for compensation.

33 Sec. 2. K.S.A. 2019 Supp. 74-7305 is hereby repealed.

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