

## 1 HOUSE BILL NO. 211

2 INTRODUCED BY G. FRAZER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING VICTIM COMPENSATION;  
5 PROVIDING A PARENT OR GUARDIAN OF A MINOR VICTIM OF A SEXUAL OFFENSE IS ENTITLED TO  
6 CLAIM WAGE LOSS BENEFITS FOR ACTUAL WAGE LOSS DUE TO TAKING CARE OF THEIR CHILD AND  
7 TAKING THEIR CHILD TO MENTAL HEALTH OR MEDICAL TREATMENT DUE TO CRIMINALLY  
8 INJURIOUS CONDUCT RELATED TO THE CHILD'S VICTIMIZATION; AND AMENDING SECTION 53-9-128,  
9 MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 53-9-128, MCA, is amended to read:

14 **"53-9-128. Compensation benefits.** (1) A claimant is entitled to weekly compensation benefits when  
15 the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the  
16 time the claimant seeks weekly benefits, the claimant, as a result of the injury, must have no reasonable  
17 prospect of being regularly employed in the normal labor market. The weekly benefit amount is 66 2/3% of the  
18 wages received at the time of the criminally injurious conduct, subject to a maximum of one-half the state's  
19 average weekly wage as determined in 39-51-2201. Weekly compensation payments must be made at the end  
20 of each 2-week period. Weekly compensation payments may not be paid for the first week after the criminally  
21 injurious conduct occurred, but if total actual loss of wages continues for 1 week, weekly compensation  
22 payments must be paid from the date the wage loss began. Weekly compensation payments must continue  
23 until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

24 (2) The claimant is entitled to be reimbursed for reasonable services by a physician or surgeon,  
25 reasonable hospital services and medicines, and other treatment approved by the office for the injuries suffered  
26 due to criminally injurious conduct. Unless expressly requested by the claimant, benefits may not be paid under  
27 this subsection until the claimant has been fully compensated for total wage loss benefits as provided in  
28 subsection (1) or (7).

1           (3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled  
2 to receive, in a gross single amount payable to all dependents, weekly benefits amounting to 66 2/3% of the  
3 wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one-  
4 half the state's average weekly wage as determined in 39-51-2201. Weekly compensation payments must be  
5 made at the end of each 2-week period.

6           (b) Benefits under subsection (3)(a) must be paid to the spouse for the benefit of the spouse and  
7 other dependents unless the office determines that other payment arrangements should be made. If a spouse  
8 dies or remarries, benefits under subsection (3)(a) must cease to be paid to the spouse but must continue to be  
9 paid to the other dependents as long as their dependent status continues.

10          (4) Reasonable funeral and burial expenses of the victim, not exceeding \$3,500, must be paid if all  
11 other collateral sources have properly paid expenses but have not covered all expenses.

12          (5) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death  
13 because of injuries suffered due to an act of criminally injurious conduct may not exceed \$25,000 in the  
14 aggregate.

15          (6) Compensation benefits are not payable for pain and suffering, inconvenience, physical  
16 impairment, or nonbodily damage.

17          (7) (a) A person who has suffered injury as a result of criminally injurious conduct and as a result of  
18 the injury has no reasonable prospect of being regularly employed in the normal labor market and who was  
19 employable but was not employed at the time of the injury may in the discretion of the office be awarded weekly  
20 compensation benefits in an amount determined by the office not to exceed \$100 per week. Weekly  
21 compensation payments must continue until the claimant has a reasonable prospect of being regularly  
22 employed in the normal labor market. The claimant must be awarded benefits as provided in subsection (2).

23          (b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was  
24 employable but not employed at the time of death may in the discretion of the office be awarded, in a gross  
25 single amount payable to all dependents, a sum not to exceed \$100 per week, which is payable in the manner  
26 and for the period provided by subsection (3)(b) or for a shorter period as determined by the office. The  
27 claimant must be awarded benefits as provided in subsection (4).

28          (8) Except for benefits paid under subsections (3), (5), and (7)(b) or other benefits paid when the

1 victim is killed as a result of criminally injurious conduct, amounts payable as weekly compensation may not be  
2 commuted to a lump sum and may not be paid less frequently than every 2 weeks.

3 (9) (a) Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), the spouse, parent, child, brother, or sister  
4 of a victim who is killed as a result of criminally injurious conduct is entitled to reimbursement for mental health  
5 treatment received as a result of the victim's death.

6 (b) Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), the parent, brother, or sister of a minor who is  
7 a victim of criminally injurious conduct involving a sexual offense and who is not entitled to receive services  
8 under Title 41, chapter 3, is entitled to reimbursement for mental health treatment received as a result of that  
9 criminally injurious conduct.

10 (c) Subject to the limitations in subsection (9)(e), the parent or guardian of a minor who is a victim of  
11 criminally injurious conduct involving a sexual offense and who is not entitled to receive services under Title 41,  
12 chapter 3, is entitled to:

13 (i) claim benefits under subsection (1);

14 (ii) mileage at the rate allowed by the internal revenue service for the current year; and

15 (iii) if not receiving benefits under (9)(c)(i), actual wage loss reimbursement for wage loss incurred  
16 taking the minor victim to mental health or medical treatment received as a result of that criminally injurious  
17 conduct.

18 ~~(e)(d)~~ Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), minor children who were present in a home  
19 where domestic violence occurred are entitled to reimbursement for mental health treatment received as a  
20 result of that criminally injurious conduct.

21 ~~(d)(e)~~ Total payments made under subsections (9)(a) through ~~(9)(e)~~ (9)(d) may not exceed ~~\$2,000~~  
22 \$5,000 or 12 consecutive months of treatment for each person, whichever occurs first."

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