

## **CHAPTER 6.1. COMPENSATION FOR VICTIMS OF VIOLENT CRIMES**

### **IC 5-2-6.1**

#### **Chapter 6.1. Compensation for Victims of Violent Crimes**

### **IC 5-2-6.1-0.5**

#### **"Bodily injury"**

Sec. 0.5. As used in section 7 of this chapter, "bodily injury" means:

- (1) an impairment of a physical condition;
- (2) a visible injury;
- (3) physical pain; or
- (4) emotional trauma that stems directly from the impairment of a physical condition, a visible injury, or physical pain.

As added by P.L.121-2006, SEC.1.

### **IC 5-2-6.1-1**

#### **Claimant**

Sec. 1. As used in this chapter, "claimant" means a victim filing an application for assistance under this chapter. The term includes:

- (1) a parent;
- (2) a surviving spouse;
- (3) a legal dependent; or
- (4) a personal representative;

of the claimant.

As added by P.L.47-1993, SEC.2.

### **IC 5-2-6.1-2**

#### **Division**

Sec. 2. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.47-1993, SEC.2.

### **IC 5-2-6.1-2.5**

#### **"Emergency shelter care"**

Sec. 2.5. As used in this chapter, "emergency shelter care" means housing in a facility having the primary purpose of providing temporary or transitional shelter for the homeless or for a specific population of the homeless.

As added by P.L.121-2006, SEC.2.

### **IC 5-2-6.1-3**

#### **Fund**

Sec. 3. As used in this chapter, "fund" refers to the violent crime victims compensation fund established by section 40 of this chapter.

As added by P.L.47-1993, SEC.2.

### **IC 5-2-6.1-4**

#### **Institute**

Sec. 4. As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-5**

##### **Intoxicated**

Sec. 5. As used in this chapter, "intoxicated" has the meaning set forth in IC 9-13-2-86.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-5.5**

##### **"Motor vehicle"**

Sec. 5.5. As used in this chapter, "motor vehicle" has the meaning set forth in IC 7.1-1-3-26.3.

As added by P.L.121-2006, SEC.3.

#### **IC 5-2-6.1-5.7**

##### **Out-of-pocket loss**

Sec. 5.7. As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.

As added by P.L.129-2009, SEC.1.

#### **IC 5-2-6.1-6**

##### **Person**

Sec. 6. As used in this chapter, "person" includes a sole proprietorship, a partnership, a corporation, an association, a fiduciary, and an individual.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-6.7**

##### **Terrorist act**

Sec. 6.7. As used in this chapter, "terrorist act" means an act that:

- (1) involves a violent act that is dangerous to human life;
- (2) violates a criminal law of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state;
- (3) appears to be intended to:
  - (A) intimidate or coerce a civilian population;
  - (B) influence the policy of a government by intimidation or coercion; or
  - (C) affect the conduct of a government by assassination or kidnapping; and
- (4) occurs primarily outside the territorial jurisdiction of the United States or transcends national boundaries because of the:
  - (A) means by which the act is accomplished;
  - (B) persons intended to be intimidated or coerced; or
  - (C) place in which the person that commits the act operates or seeks asylum.

As added by P.L.36-1997, SEC.2.

#### **IC 5-2-6.1-7**

##### **Victim**

Sec. 7. As used in this chapter, "victim" means an individual who suffers bodily injury or death as a

result of a violent crime.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-8**

##### **Violent crime**

Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act. As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.3; P.L.129-2009, SEC.2.

#### **IC 5-2-6.1-9**

##### **Violent crime compensation unit**

Sec. 9. The violent crime compensation unit is established as a unit of the victim services division of the institute.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-10**

##### **Duties of division**

Sec. 10. The division shall do the following:

- (1) Maintain an office and staff in Indianapolis.
- (2) Prescribe forms for processing applications for assistance.
- (3) Determine claims for assistance filed under this chapter and investigate or reopen cases as necessary.
- (4) Prepare a report of the division's activities each year for the governor and the legislative council.

A report prepared under this subdivision for the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.47-1993, SEC.2. Amended by P.L.28-2004, SEC.55.

#### **IC 5-2-6.1-11**

##### **Powers of division**

Sec. 11. The division may do the following:

(1) Require from the attorney general, the state police department, local law enforcement personnel, a county department of public welfare, or a prosecuting attorney copies of investigations and data to assist the division in determining the validity of a claimant's application for assistance under this chapter.

(2) Require medical examination of victims.

(3) Hold hearings, administer oaths, examine any person under oath, issue subpoenas requiring the attendance and giving of testimony of witnesses, and require the production of books, papers, and documentary or other evidence. The subpoena powers provided in this subdivision may be exercised only by the director of the division or the director's designated representative.

(4) Take or cause to be taken affidavits or depositions.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-11.5**

##### **Confidentiality**

Sec. 11.5. A claimant's:

- (1) personal information (as defined in IC 9-14-3.5-5); and
- (2) medical records;

are confidential.

As added by P.L.121-2006, SEC.4.

#### **IC 5-2-6.1-12**

##### **Persons eligible for assistance**

Sec. 12. Except as provided in sections 13 through 15 of this chapter, the following persons are eligible for assistance under this chapter:

(1) A resident of Indiana who is a victim of a violent crime committed:

(A) in Indiana; or

(B) in a jurisdiction other than Indiana, including a foreign country, if the jurisdiction in which the violent crime occurs does not offer assistance to a victim of a violent crime that is substantially similar to the assistance offered under this chapter.

(2) A nonresident of Indiana who is a victim of a violent crime committed in Indiana.

(3) A surviving spouse or dependent child of a victim of a violent crime who died as a result of that crime.

(4) Any other person legally dependent for principal support upon a victim of a violent crime who

died as a result of that crime.

(5) A person who is injured or killed while trying to prevent a violent crime or an attempted violent crime from occurring in the person's presence or while trying to apprehend a person who had committed a violent crime.

(6) A surviving spouse or dependent child of a person who dies as a result of:

(A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or

(B) trying to apprehend a person who had committed a violent crime.

(7) A person legally dependent for principal support upon a person who dies as a result of:

(A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or

(B) trying to apprehend a person who had committed a violent crime.

(8) A person who is injured or killed while giving aid and assistance to:

(A) a law enforcement officer in the performance of the officer's lawful duties; or

(B) a member of a fire department who is being obstructed from performing lawful duties.

As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.4.

#### **IC 5-2-6.1-13**

##### **Participants in criminal acts and prisoners not eligible for benefits; exceptions; award of**

**compensation to dependents of violent criminals** Sec. 13. (a) Subject to subsection (b) and except as provided in subsection (c), benefits may not be awarded:

(1) if the victim sustained the injury as a result of participating or assisting in, or attempting to commit or committing a criminal act;

(2) if the injury occurred while the victim was a resident in a county, city, or federal jail or prison or in an institution operated by the department of correction;

(3) if the victim profited or would have profited from the criminal act; or

(4) if, at the time the injury occurred, the victim was intoxicated and contributed to the commission of an unrelated felony.

(b) If the victim is a dependent child or dependent parent of the person who commits a violent crime, compensation may be awarded where justice requires.

(c) Benefits may be awarded to a person described in subsection (a)(4) who is the victim of a sex crime under IC 35-42-4, a crime of family violence (as defined in IC 35-41-1-6.5), or a crime of domestic violence (as defined in IC 35-41-1-6.3).

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.5.

#### **IC 5-2-6.1-13.5**

##### **Only one claimant per victim eligible for a benefit**

Sec. 13.5. The division may not award a benefit to more than one (1) claimant per victim.

As added by P.L.121-2006, SEC.6.

#### **IC 5-2-6.1-14**

##### **Persons worth more than \$200,000 not eligible for benefits**

Sec. 14. (a) Benefits may not be awarded to a claimant under section 12(1), 12(2), 12(3), 12(4), or 15 of this chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars (\$200,000) at the time of suffering bodily injury.

(b) Benefits may not be awarded to a claimant under section 12(5), 12(6), 12(7), or 12(8) of this

chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars (\$200,000) at the time of suffering bodily injury.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.7.

#### **IC 5-2-6.1-15**

##### **Payment of funeral, burial, or cremation expenses of victim**

Sec. 15. (a) If a victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.8;

P.L.129-2009, SEC.3.

#### **IC 5-2-6.1-16**

##### **Applications for assistance**

Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) The application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in person, through the division's web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.9.

#### **IC 5-2-6.1-17**

##### **Requirements for compensation**

Sec. 17. (a) The division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than seventy-two (72) hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

- (1) law enforcement and other records concerning the circumstances of the crime are available; and
- (2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.10; P.L.129-2009, SEC.4.

#### **IC 5-2-6.1-18**

##### **Denial of awards for failure of claimants to cooperate with law enforcement officials**

Sec. 18. The division shall deny an award of compensation under this chapter if the claimant fails to

fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender before the date the award is paid.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-19**

##### **Forfeiture of awards for failure of claimants to cooperate with law enforcement officials**

Sec. 19. A claimant who fails to fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender after an award is paid forfeits the award.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-20**

##### **Suspension of reporting and cooperation requirements**

Sec. 20. If:

(1) the division finds a compelling reason for failure to report to or cooperate with law enforcement officials; and

(2) justice requires;

the division may suspend the requirements of section 17, 18, or 19 of this chapter.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-21**

##### **Compensable losses**

Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005, and before July 1, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income the:

(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or

(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim

would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not

died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars (\$4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars (\$2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.11; P.L.129-2009, SEC.5.

### **IC 5-2-6.1-21.1**

#### **Compensable losses; health care provider compensation**

Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;

(B) prescription drugs; and

(C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current

wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars (\$5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars (\$3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period not to exceed two (2) years after the date of the violent crime if:

(1) the victim or the victim's representative requests the extension; and

(2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient mental health counseling, established by subsection (d)(7), if the victim:

(1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);

(2) was under eighteen (18) years of age at the time of the alleged crime; and

(3) did not reveal the crime within two (2) years after the date of the alleged crime.

As added by P.L.129-2009, SEC.6.

#### **IC 5-2-6.1-22**

##### **Subrogation of rights; notice of civil actions**

Sec. 22. (a) The state is subrogated to the rights of the victim to whom an award is granted to the extent of the award.

(b) The subrogation rights are against the perpetrator of the crime or a person liable for the pecuniary loss.

(c) If the victim initiates a civil action against the perpetrator of the crime or against the person liable for the pecuniary loss, the victim shall promptly notify the division of the filing of the civil action.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-23**

##### **Liens on civil awards; deductions; limits**

Sec. 23. (a) In addition to the subrogation rights under section 22 of this chapter, the state is entitled to a lien in the amount of the award on a recovery made by or on behalf of the victim.

(b) The state may:

(1) recover the amount under subsection (a) in a separate action; or

(2) intervene in an action brought by or on behalf of the victim.

(c) If the claimant brings the action, the claimant may deduct from the money owed to the state under the lien the state's pro rata share of the reasonable expenses for the court suit, including attorney's fees of not more than fifteen percent (15%).

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.12.

#### **IC 5-2-6.1-24**

##### **Hearing officers**

Sec. 24. (a) The division shall employ sufficient hearing officers to review each application for an award to carry out this chapter.

(b) Hearing officers must have at least three (3) semesters of legal training at an accredited law school or have equivalent training and experience under standards prescribed by the director.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-25**

##### **Review of applications; additional information**

Sec. 25. (a) The division shall review all applications to ensure that the applications are complete.

(b) If an application is not complete, the application shall be returned to the applicant with a brief statement of the additional information required.

(c) The applicant may, not more than thirty (30) days after receipt of the request for additional information, either supply the information or appeal to the director.

(d) The decision of the director is final.

(e) If:

- (1) the applicant does not furnish additional information;
- (2) additional time is not granted by the director for good cause; or
- (3) the applicant does not appeal the request not later than thirty

(30) days after the request;

the application shall be denied.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-26**

##### **Investigations**

Sec. 26. (a) If an application is complete, the division shall accept the application for filing and investigate the facts stated in the application.

(b) As part of the investigation, the division shall verify that:

- (1) a violent crime was committed;
- (2) the victim was bodily injured or killed as a result of the crime;
- (3) the requirements of sections 13, 16(a), 16(b), 17, 18, and 19 of this chapter are met; and
- (4) out-of-pocket loss exceeded one hundred dollars (\$100).

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-27**

##### **Hearings**

Sec. 27. (a) A hearing officer may hold a hearing concerning the merits of the application to allow any interested person to appear to offer evidence and argument on any issue relevant to the application or to the facts surrounding the bodily injury or death upon which the application is based.

(b) If a hearing is held, the claimant shall be notified in writing by certified mail with return receipt requested fifteen (15) days in advance concerning the date, time, place, and scope of the hearing in accordance with IC 4-21.5-3.

(c) A hearing must be open to the public unless the hearing officer, in consultation with the director, determines that the hearing or a part of the hearing should be held in private in the interest of the

victim or society where justice requires.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-28**

##### **Decisions**

Sec. 28. (a) Not more than ten (10) days after the hearing, the hearing officer shall issue a written decision supported by findings of fact and conclusions of law based on the record from the hearing, the investigation, and the application of the claimant.

(b) Copies of the decision shall be mailed to the claimant at the address given in the application and to the attorney general.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.13; P.L.1-2007, SEC.23.

#### **IC 5-2-6.1-29**

##### **Appeals**

Sec. 29. (a) The state or a claimant may appeal the findings of the hearing officer not more than twenty-one (21) days after the date of

receipt of the findings by filing a written appeal with the director.

(b) If an appeal is filed, the director shall review the matter and place the appeal on the docket for review by the division.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-30**

##### **Procedures**

Sec. 30. A proceeding under this chapter must be according to procedures adopted by the division.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-31**

##### **Denial of awards without opportunity for hearing prohibited**

Sec. 31. The hearing officer may not deny an award without providing the claimant with an opportunity for a hearing.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-32**

##### **Reduction of awards; other conditions**

Sec. 32. (a) The division shall reduce an award made under this chapter by the amount of benefits received or to be received from the following sources if those benefits result from or are in any manner attributable to the bodily injury or death upon which the award is based:

- (1) Benefits from public or private pension programs, including Social Security benefits.
- (2) Benefits from proceeds of an insurance policy.
- (3) Benefits under IC 22-3-2 through IC 22-3-6.
- (4) Unemployment compensation benefits.
- (5) Benefits from other public funds, including Medicaid and Medicare.

Compensation must be further reduced or denied to the extent that the claimant's loss is recouped from other collateral sources.

(b) The division shall further reduce an award under this chapter by the following:

- (1) The amount of court ordered restitution actually received by the victim from the offender.

(2) Benefits actually received by the victim from a third party on behalf of the offender.

(c) The division shall determine whether the victim vigorously pursued recovery against available collateral sources described in this section.

(d) If the division finds that a victim has failed to pursue an applicable collateral source of recovery, the division shall reduce or deny an award under this section by the amount that is available to the victim through the collateral source.

(e) A claimant must exhaust any paid or otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time accrued through an employer before applying for benefits. The division may not reimburse the victim for the use of paid or

otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time.

As added by P.L.47-1993, SEC.2. Amended by P.L.7-2003, SEC.1; P.L.121-2006, SEC.14.

### **IC 5-2-6.1-33**

#### **Refund of award overpayments**

Sec. 33. If:

(1) an award is made under this chapter; and

(2) the claimant receives a sum required to be deducted under section 32 of this chapter;

the claimant shall refund to the state the amount of overpayment.

As added by P.L.47-1993, SEC.2.

### **IC 5-2-6.1-34**

#### **Denial of awards due to victim's contributory conduct**

Sec. 34. (a) In determining the amount of the award, the division shall determine whether the victim contributed to the infliction of the victim's injury or death.

(b) If the division finds that the victim contributed to the infliction of the victim's injury or death, the division may deny an award.

(c) If the division further finds that the victim's contributory conduct was solely attributable to an effort to:

(1) prevent a crime from occurring in the victim's presence; or

(2) apprehend a person who committed a crime in the victim's presence;

the victim's contributory conduct does not render the victim ineligible for compensation.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.15.

### **IC 5-2-6.1-35**

#### **Amount of awards; joint payments**

Sec. 35. (a) An award to a claimant under this chapter:

(1) may not exceed fifteen thousand dollars (\$15,000); and

(2) may not cover the first one hundred dollars (\$100) of the claim.

(b) The part of an award covering an unpaid bill shall be made payable to the service provider.

As added by P.L.47-1993, SEC.2. Amended by P.L.55-2000, SEC.1; P.L.121-2006, SEC.16.

### **IC 5-2-6.1-36**

#### **Emergency awards**

Sec. 36. (a) If:

(1) the division determines that a claimant will suffer severe financial hardship unless an emergency award is made; and

(2) it appears likely that a final award will be made; an emergency award not to exceed five hundred dollars (\$500) may be authorized by the director or the director's designated

representative.

(b) The amount of an emergency award is:

(1) deducted from the final award made by the division; and

(2) recoverable from the claimant if no award is made by the division or to the extent that the emergency award exceeds the amount of the final award.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-37**

##### **Repealed**

(Repealed by P.L.121-2006, SEC.30.)

#### **IC 5-2-6.1-37.5**

##### **Contingency fee at hearing may not exceed 10%**

Sec. 37.5. An attorney who represents a victim at a hearing conducted by the division related to a claim under this chapter may not:

(1) charge a claimant a contingency fee for the representation that exceeds ten percent (10%) of the value of the award; or

(2) receive a direct payment from the division.

As added by P.L.121-2006, SEC.17.

#### **IC 5-2-6.1-38**

##### **Exemption of awards from process**

Sec. 38. An award made by the division to a claimant is not subject to execution, attachment, garnishment, or other process, except the claim of a creditor to the extent that the costs were included in the award.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-39**

##### **Payment of forensic medical exams and additional forensic services**

Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to the alleged sex crime victim. However, the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the

victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

(d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(g) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.5; P.L.121-2006, SEC.18; P.L.41-2007, SEC.1; P.L.129-2009, SEC.7.

#### **IC 5-2-6.1-40**

##### **Compensation fund; establishment**

Sec. 40. The violent crime victims compensation fund is established as a dedicated fund to provide money for the awards provided under this chapter and for reimbursements under IC 16-21-8-6.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-41**

##### **Compensation fund; composition**

Sec. 41. The fund consists of amounts deposited under IC 5-2-6.3-6(b)(3), IC 11-10-7-5, IC 11-10-8-6, IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from the general assembly.

As added by P.L.47-1993, SEC.2. Amended by P.L.98-2004, SEC.49; P.L.121-2006, SEC.19; P.L.105-2006, SEC.1.

#### **IC 5-2-6.1-42**

##### **Compensation fund; reversion of money and income**

Sec. 42. Money in the fund and income derived from money in the fund do not revert to the state general fund at the end of a state fiscal year.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-43**

##### **Computation and payment of awards**

Sec. 43. (a) If the division determines that an award from the fund becomes final during a month, the division shall compute the award before the fifteenth day of the following month.

(b) Except as provided in section 44 of this chapter, an award must be paid not more than thirty (30) days after the date on which the award is computed.

(c) Awards must be paid in the order in which the awards become final.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-44**

##### **Suspension of payments; prorated payments**

Sec. 44. (a) If the fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all awards that become final in a month, the division shall suspend payment of the claims that become final during the month and the following two (2) months.

(b) At the end of the suspension period the division shall pay the suspended claims. If the fund would be exhausted by payment in full of the suspended claims, the amount paid to each claimant shall be prorated.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-45**

##### **Liability for determinations**

Sec. 45. The state is not liable for a written determination made by the division under this chapter except to the extent that money is available in the fund on the date the award is computed by the division under this chapter.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-46**

##### **Rules**

Sec. 46. The division shall adopt rules under IC 4-22-2 governing the computation and payment of awards under this chapter and the payment of reimbursements under IC 16-21-8-6.

As added by P.L.47-1993, SEC.2.

#### **IC 5-2-6.1-47**

##### **Forfeit of awards for forgery, fraud, or deception**

Sec. 47. A claimant convicted of forgery, fraud, or deception in connection with a claim under this chapter forfeits an award paid to the claimant under this chapter.

As added by P.L.47-1993, SEC.2.

**IC 5-2-6.1-48****Expenses of administration**

Sec. 48. The division may pay expenses incurred in administering this chapter only from money appropriated for that purpose from the violent crime victims compensation fund.

As added by P.L.47-1993, SEC.2.

**IC 5-2-6.1-49****Secured storage fund**

Sec. 49. (a) The secured storage fund is established as a dedicated fund to provide money to assist counties to pay expenses for the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(b) The division shall administer the secured storage fund.

(c) The institute shall identify grants and other funds that can be used to fund the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(d) The division may accept any gifts or donations to the secured storage fund.

(e) Money in the secured storage fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.41-2007, SEC.2.