Session of 2017

HOUSE BILL No. 2033

By Committee on Judiciary

1-11

AN ACT concerning the crime victims compensation board; relating to claims for compensation; amending K.S.A. 2016 Supp. 74-7305 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the board.

(b) Compensation may not be awarded unless an application has been filed with the board within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes: (1) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto; (9) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto; (10) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual exploitation of a child as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto. Compensation for mental health counseling may be awarded; if a claim is filed within two years of: (I) Testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the
Kansas Statutes Annotated, and amendments thereto, of an offender who
victimized the claimant or the victim on whose behalf the claim is made;
or (2) notification, to a claimant who is notified that DNA testing of a
sexual assault kit or other evidence has revealed a DNA profile of a
suspected offender who victimized the claimant or the victim on whose
behalf the claim is made, or is notified of the identification of a suspected
offender who victimized the claimant or the victim on whose behalf the
claim is made, whichever occurs later. For all other incidents of criminally
injurious conduct, compensation may not be awarded unless the claim has
been filed with the board within two years after the injury or death upon
which the claim is based. Compensation may not be awarded to a claimant
who was the offender or an accomplice of the offender and may not be
awarded to another person if the award would unjustly benefit the offender
or accomplice.

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

(1) Economic loss upon which the claimant's claim is based is
recouped from other persons, including collateral sources;
(2) board deems reasonable because of the contributory misconduct
of the claimant or of a victim through whom the claimant claims; or
(3) board deems reasonable, because the victim was likely engaging
in, or attempting to engage in, unlawful activity at the time of the crime
upon which the claim for compensation is based. This subsection shall not
be construed to reduce or deny compensation to a victim of domestic
abuse or sexual assault.

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

(1) The number of claimant's dependents;
(2) the usual living expenses of the claimant and the claimant's
family;
(3) the special needs of the claimant and the claimant's dependents;
(4) the claimant's income and potential earning capacity; and
(5) the claimant's resources.

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

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

(g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex offenses established in article 35 of chapter 21, of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2016 Supp. 21-6419 through 21-6422, and amendments thereto, or human trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2016 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than $100.

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

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

Sec. 2. K.S.A. 2016 Supp. 74-7305 is hereby repealed.

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