

2018 Kansas Statutes

19-4804. Compensation; conditions and limitations; restitution not precluded. (a) An application for compensation shall be made in the manner and form prescribed by the state crime victims compensation board. A victim may seek compensation under this act whether or not an offender has been charged with the crime which results in the victim's loss.

(b) Compensation may not be awarded unless the crime has been reported to an appropriate law enforcement agency within 72 hours after its discovery and the claim has been filed with the local board within 60 days after the filing of such report, unless the local board finds there was good cause for the failure to report such crime within the time required.

(c) Compensation may not be awarded to a victim 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.

(d) Compensation may not be awarded unless the local board finds the victim has fully cooperated with appropriate law enforcement agencies. The local board may deny, withdraw or reduce an award of compensation for noncooperativeness.

(e) Compensation otherwise payable to a victim shall be diminished:

(1) To the extent, if any, that the economic loss upon which the victim's claim is based is recouped from other persons, including collateral sources; or

(2) to the extent a local board deems reasonable because of the contributory misconduct of the victim.

(f) Compensation may be awarded only if the local board finds a genuine need is present.

(g) No compensation payment may exceed \$500 if the property crime results in a felony charge. If the crime is committed by a juvenile, whether this subsection applies shall be determined on the basis of whether a felony would be charged had the offender been an adult.

(h) No compensation payment may exceed \$250 if the property crime results in a misdemeanor or traffic charge. If the crime is committed by a juvenile, whether this subsection applies shall be determined on the basis of whether a misdemeanor would be charged had the offender been an adult. If the original crime charged was a felony and through plea negotiations the adult or juvenile offender is charged with and pleads guilty or nolo contendere to a misdemeanor, in the discretion of the local board, subsection (g) limits may apply to the compensation payment.

(i) If extraordinary circumstances are present and subject to the requirements imposed by subsection (c) of K.S.A. 19-4803, and amendments thereto, the local board may exceed the amounts in subsections (g) and (h).

(j) Compensation for work loss or personal injury due to criminally injurious conduct shall be governed by K.S.A. 74-7301 et seq., and amendments thereto, and rules and regulations promulgated by the state crime victims compensation board for that purpose. No local board may duplicate compensation for criminally injurious conduct through payments under this act.

(k) The local board may determine a floor amount of compensation which would be administratively wasteful. Once such an amount is chosen it shall be made public and must be uniformly applied to all persons filing claims with the local board.

(l) The local board may provide written policy for the handling of an expedited claims process where prompt assistance and payment of services needed to repair property damage is needed to thwart the possibility of the onset of illness or disease to the victim or victim's family, and where the victim has no other means of paying for such services.

(m) No award made pursuant to this act shall be subject to execution, attachment, garnishment or other legal process, except that an award for allowable expenses shall not be exempt from a claim of a creditor to the extent the creditor has provided products, services or accommodations the costs of which are included in the payment made pursuant to this act.

(n) No assignment or agreement to assign any right to compensation for loss under this act shall be enforceable in this state.

(o) No local fund shall pay any single individual or such individual's immediate family member compensation on more than two claims within a given fiscal year.

(p) No claim shall be allowed unless the crime charged is pursuant to article 37 of chapter 21 of [the] Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2018 Supp. 21-6412, and amendments thereto, or similar crimes in county or municipal penal codes. If the crime charged is pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-3734, 21-3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753, 21-3754 and 21-3756, prior to their repeal, and K.S.A. 2018 Supp. 21-5806, 21-5815, subsection (a) of 21-5817, 21-5820, 21-5821, 21-5830, 21-5831, 21-5832 and 21-5837, and amendments thereto, no claim for compensation under this act shall be allowed. In addition to claims that may be made for criminally injurious conduct with the state crime victims compensation board, a claim for compensation for property damage may be allowed under this act for crimes charged under K.S.A. 21-3418, 21-3426 or 21-3427, prior to their repeal, and K.S.A. 2018 Supp. 21-5420 or 21-6418, and amendments thereto.

(q) Payment or payments made from a local fund under this act shall not limit, impair or preclude the ability of a court or the prisoner review board to order restitution, and prescribe the manner and conditions of payment of restitution, as allowed by law.

History: L. 1990, ch. 321, § 5; L. 2000, ch. 119, § 1; L. 2011, ch. 91, § 9; L. 2012, ch. 16, § 2; July 1.

Section was amended by L. 2011, ch. 30, § 108, but that version was repealed by L. 2011, ch. 91, § 41.