

## HOUSE BILL No. 2781

By Committee on Judiciary

Requested by Dan Burrows on behalf of the Office of the Attorney General

2-8

1 AN ACT concerning the crime victims compensation board; relating to  
2 claims for compensation; allowing compensation for criminally  
3 injurious conduct; increasing the amount of awards and increasing the  
4 amount that can be transferred from the crime victims compensation  
5 fund to the crime victims assistance fund in each fiscal year; amending  
6 K.S.A. 75-752 and K.S.A. 2023 Supp. 74-7305 and repealing the  
7 existing sections.  
8

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

10 Section 1. K.S.A. 2023 Supp. 74-7305 is hereby amended to read as  
11 follows: 74-7305. (a) An application for compensation shall be made in the  
12 manner and form prescribed by the crime victims compensation division  
13 created by K.S.A. 75-773, and amendments thereto.

14 (b) (1) Except as otherwise provided in this subsection, compensation  
15 may not be awarded unless an application has been filed with the division  
16 within two years of the reporting of the incident to law enforcement  
17 officials if the victim was less than 16 years of age and the injury or death  
18 is the result of any of the following crimes:

19 (A) Enticement of a child as defined in K.S.A. 21-3509, prior to its  
20 repeal;

21 (B) human trafficking as defined in K.S.A. 21-3446, prior to its  
22 repeal, or K.S.A. 21-5426(a), and amendments thereto;

23 (C) aggravated human trafficking as defined in K.S.A. 21-3447, prior  
24 to its repeal, or K.S.A. 21-5426(b), and amendments thereto; or

25 (D) a sexually violent crime; as defined in K.S.A. 22-3717, and  
26 amendments thereto.

27 (2) Compensation for mental health counseling may be awarded to a:

28 ~~(A) Victim, as defined in K.S.A. 74-7301(m)(4), and amendments~~  
29 ~~thereto, if the board finds there was good cause for the failure to file within~~  
30 ~~the time specified in this subsection and the claim is filed before the victim~~  
31 ~~turns 19 years of age;~~

32 ~~(B) victim of a sexually violent crime, as defined in K.S.A. 22-3717,~~  
33 ~~and amendments thereto, if the board finds there was good cause for the~~  
34 ~~failure to file within the time specified in this subsection and:~~

35 ~~(i) The claim is filed with the division within 10 years of the date~~

1 such crime was committed; or

2 (ii) ~~if the victim was less than 18 years of age at the time such crime~~  
3 ~~was committed, the claim is filed within 10 years of the date the victim~~  
4 ~~turns 18 years of age;~~

5 ~~(C) victim who is or will be required to testify in a sexually violent~~  
6 ~~predator commitment, pursuant to article 29a of chapter 59 of the Kansas~~  
7 ~~Statutes Annotated, and amendments thereto, of an offender who~~  
8 ~~victimized the victim or the victim on whose behalf the claim is made, if~~  
9 ~~the claim is made within two years of such testimony; or~~

10 ~~(D) victim who is notified that DNA testing of a sexual assault kit or~~  
11 ~~other evidence has revealed a DNA profile of a suspected offender who~~  
12 ~~victimized the victim or the victim on whose behalf the claim is made, or~~  
13 ~~is notified of the identification of a suspected offender who victimized the~~  
14 ~~victim or the victim on whose behalf the claim is made, if the claim is~~  
15 ~~made within two years of such notification.~~

16 ~~(3) For all other incidents of criminally injurious conduct,~~  
17 ~~compensation may not be awarded unless:~~

18 ~~(A) The claim has been filed with the division within two years after~~  
19 ~~the injury or death upon which the claim is based;~~

20 ~~(B) in a case where a victim who is notified that DNA testing of a~~  
21 ~~sexual assault kit or other evidence has revealed a DNA profile of a~~  
22 ~~suspected offender who victimized the victim or the victim on whose behalf~~  
23 ~~the claim is made, or is notified of the identification of a suspected~~  
24 ~~offender who victimized the victim or the victim on whose behalf the claim~~  
25 ~~is made, the claim has been filed with the division within two years of such~~  
26 ~~notification;~~

27 ~~(C) the board finds that compensation may be awarded to:~~

28 ~~(i) A victim as defined in K.S.A. 74-7301(m)(4), and amendments~~  
29 ~~thereto, if the claim has been filed before the victim turns 19 years of age;~~

30 ~~(ii) a victim of a sexually violent crime as defined in K.S.A. 22-3717,~~  
31 ~~and amendments thereto, if:~~

32 ~~(a) The claim has been filed with the division within 10 years after~~  
33 ~~the date such crime was committed; or~~

34 ~~(b) the victim was less than 18 years of age at the time such crime~~  
35 ~~was committed, and the claim has been filed within 10 years after the date~~  
36 ~~the victim turns 18 years of age; or~~

37 ~~(iii) a victim who is or will be required to testify in a sexually violent~~  
38 ~~predator commitment pursuant to article 29a of chapter 59 of the Kansas~~  
39 ~~Statutes Annotated, and amendments thereto, of an offender who~~  
40 ~~victimized the victim or the victim on whose behalf the claim is made, if~~  
41 ~~the claim has been filed with the division within two years of such~~  
42 ~~testimony; or~~

43 ~~(D) the board determines that denying compensation would be a~~

1 *severe injustice to the victim.*

2 (c) Compensation may not be awarded to a claimant who was the  
 3 offender or an accomplice of the offender and may not be awarded to  
 4 another person if the award would unjustly benefit the offender or  
 5 accomplice.

6 (d) (1) Compensation otherwise payable to a claimant shall be  
 7 reduced or denied; to the extent, if any, that the:

8 ~~(1)~~(A) Economic loss upon which the claimant's claim is based is  
 9 recouped from other persons, including collateral sources;

10 ~~(2)~~(B) board deems reasonable because of the contributory  
 11 misconduct of the claimant or of a victim through whom the claimant  
 12 claims; or

13 ~~(3)~~(C) board deems reasonable, because the victim was likely  
 14 engaging in, or attempting to engage in, unlawful activity at the time of the  
 15 crime upon which the claim for compensation is based.

16 (2) This subsection shall not be construed to reduce or deny  
 17 compensation to a victim of domestic abuse or sexual assault.

18 (e) Compensation may be awarded only if the board finds that unless  
 19 the claimant is awarded compensation the claimant will suffer financial  
 20 stress as the result of economic loss otherwise repairable. A claimant  
 21 suffers financial stress only if the claimant cannot maintain the claimant's  
 22 customary level of health, safety and education for self and dependents  
 23 without undue financial hardship. In making its determination of financial  
 24 stress, the board shall consider ~~all relevant factors, including~~ *the totality of*  
 25 *the circumstances based on the following factors:*

- 26 (1) The number of the claimant's dependents;
- 27 (2) the usual living expenses of the claimant and the claimant's  
 28 family;
- 29 (3) the special needs of the claimant and the claimant's dependents;
- 30 (4) the claimant's income and potential earning capacity; ~~and~~
- 31 (5) the claimant's resources; *and*
- 32 (6) *other factors deemed appropriate by the board.*

33 (f) Compensation may not be awarded unless:

34 (1) The criminally injurious conduct resulting in injury or death was  
 35 reported to a law enforcement officer within 72 hours after ~~its occurrence~~  
 36 ~~or the occurrence of the criminally injurious conduct;~~

37 (2) *the victim obtained a forensic medical examination within seven*  
 38 *days after the occurrence of the criminally injurious conduct; or*

39 (3) the board finds there was good cause for the failure to report *or*  
 40 *obtain an examination within that the time limits provided in this*  
 41 *subsection.*

42 (g) The board, upon finding that the claimant or victim has not fully  
 43 cooperated with appropriate law enforcement agencies, may deny,

1 withdraw or reduce an award of compensation.

2 (h) Compensation for work loss, replacement services loss,  
3 dependent's economic loss and dependent's replacement service loss may  
4 not exceed ~~\$400~~ \$800 per week or actual loss, whichever is less.  
5 *Compensation for work loss for a victim of human trafficking or*  
6 *aggravated human trafficking as defined in K.S.A. 21-5426, and*  
7 *amendments thereto, shall be awarded in an amount not less than \$350*  
8 *per week and not more than \$800 per week.*

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

12 (j) Nothing in subsections ~~(d)(2)~~ (d)(1)(B), ~~(d)(3)~~ (d)(1)(C), (f) and  
13 (g) shall be construed to reduce or deny compensation to a victim of  
14 human trafficking or aggravated human trafficking; as defined in K.S.A.  
15 21-5426, and amendments thereto, or commercial sexual exploitation of a  
16 child; as defined in K.S.A. 21-6422, and amendments thereto, who was 18  
17 years of age or younger at the time the crime was committed and is  
18 otherwise qualified for compensation.

19 Sec. 2. K.S.A. 75-752 is hereby amended to read as follows: 75-752.  
20 During the fiscal year ending June 30, ~~2010~~ 2025, and during each ensuing  
21 fiscal year thereafter, The director of accounts and reports is hereby  
22 authorized to transfer an amount certified by the attorney general of not to  
23 exceed ~~\$300,000~~ \$500,000 from the crime victims compensation fund to  
24 the crime victims assistance fund.

25 Sec. 3. K.S.A. 75-752 and K.S.A. 2023 Supp. 74-7305 are hereby  
26 repealed.

27 Sec. 4. This act shall take effect and be in force from and after its  
28 publication in the statute book.