

## HOUSE BILL No. 2033

By Committee on Judiciary

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1 AN ACT concerning the crime victims compensation board; relating to  
2 claims for compensation; amending K.S.A. 2016 Supp. 74-7305 and  
3 repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

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

9 (b) Compensation may not be awarded unless an application has been  
10 filed with the board within two years of the reporting of the incident to law  
11 enforcement officials if the victim was less than 16 years of age and the  
12 injury or death is the result of any of the following crimes: (1) Indecent  
13 liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or  
14 K.S.A. 2016 Supp. 21-5506(a), and amendments thereto; (2) aggravated  
15 indecent liberties with a child as defined in K.S.A. 21-3504, prior to its  
16 repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (3)  
17 aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its  
18 repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto; (4)  
19 enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5)  
20 indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its  
21 repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6)  
22 aggravated indecent solicitation of a child as defined in K.S.A. 21-3511,  
23 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments  
24 thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516,  
25 prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments  
26 thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its  
27 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto; (9)  
28 human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or  
29 K.S.A. 2016 Supp. 21-5426(a), and amendments thereto; (10) aggravated  
30 human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or  
31 K.S.A. 2016 Supp. 21-5426(b), and amendments thereto; or (11)  
32 commercial sexual exploitation of a child as defined in K.S.A. 2016 Supp.  
33 21-6422, and amendments thereto. Compensation for mental health  
34 counseling may be awarded; if a claim is filed within two years of: (1)  
35 Testimony, to a claimant who is, or will be, required to testify in a sexually  
36 violent predator commitment, pursuant to article 29a of chapter 59 of the

1 Kansas Statutes Annotated, and amendments thereto, of an offender who  
2 victimized the claimant or the victim on whose behalf the claim is made;  
3 *or (2) notification, to a claimant who is notified that DNA testing of a*  
4 *sexual assault kit or other evidence has revealed a DNA profile of a*  
5 *suspected offender who victimized the claimant or the victim on whose*  
6 *behalf the claim is made, or is notified of the identification of a suspected*  
7 *offender who victimized the claimant or the victim on whose behalf the*  
8 *claim is made, whichever occurs later. For all other incidents of criminally*  
9 *injurious conduct, compensation may not be awarded unless the claim has*  
10 *been filed with the board within two years after the injury or death upon*  
11 *which the claim is based. Compensation may not be awarded to a claimant*  
12 *who was the offender or an accomplice of the offender and may not be*  
13 *awarded to another person if the award would unjustly benefit the offender*  
14 *or accomplice.*

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

17 (1) Economic loss upon which the claimant's claim is based is  
18 recouped from other persons, including collateral sources;

19 (2) board deems reasonable because of the contributory misconduct  
20 of the claimant or of a victim through whom the claimant claims; or

21 (3) board deems reasonable, because the victim was likely engaging  
22 in, or attempting to engage in, unlawful activity at the time of the crime  
23 upon which the claim for compensation is based. This subsection shall not  
24 be construed to reduce or deny compensation to a victim of domestic  
25 abuse or sexual assault.

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

33 (1) The number of claimant's dependents;

34 (2) the usual living expenses of the claimant and the claimant's  
35 family;

36 (3) the special needs of the claimant and the claimant's dependents;

37 (4) the claimant's income and potential earning capacity; and

38 (5) the claimant's resources.

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

43 (f) The board, upon finding that the claimant or victim has not fully

1 cooperated with appropriate law enforcement agencies, may deny,  
2 withdraw or reduce an award of compensation.

3 (g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or  
4 K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex  
5 offenses established in article 35 of chapter 21, of the Kansas Statutes  
6 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas  
7 Statutes Annotated, and amendments thereto, K.S.A. 2016 Supp. 21-6419  
8 through 21-6422, and amendments thereto, or human trafficking or  
9 aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447,  
10 prior to their repeal, or K.S.A. 2016 Supp. 21-5426, and amendments  
11 thereto, compensation may not be awarded if the economic loss is less than  
12 \$100.

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

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

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

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