

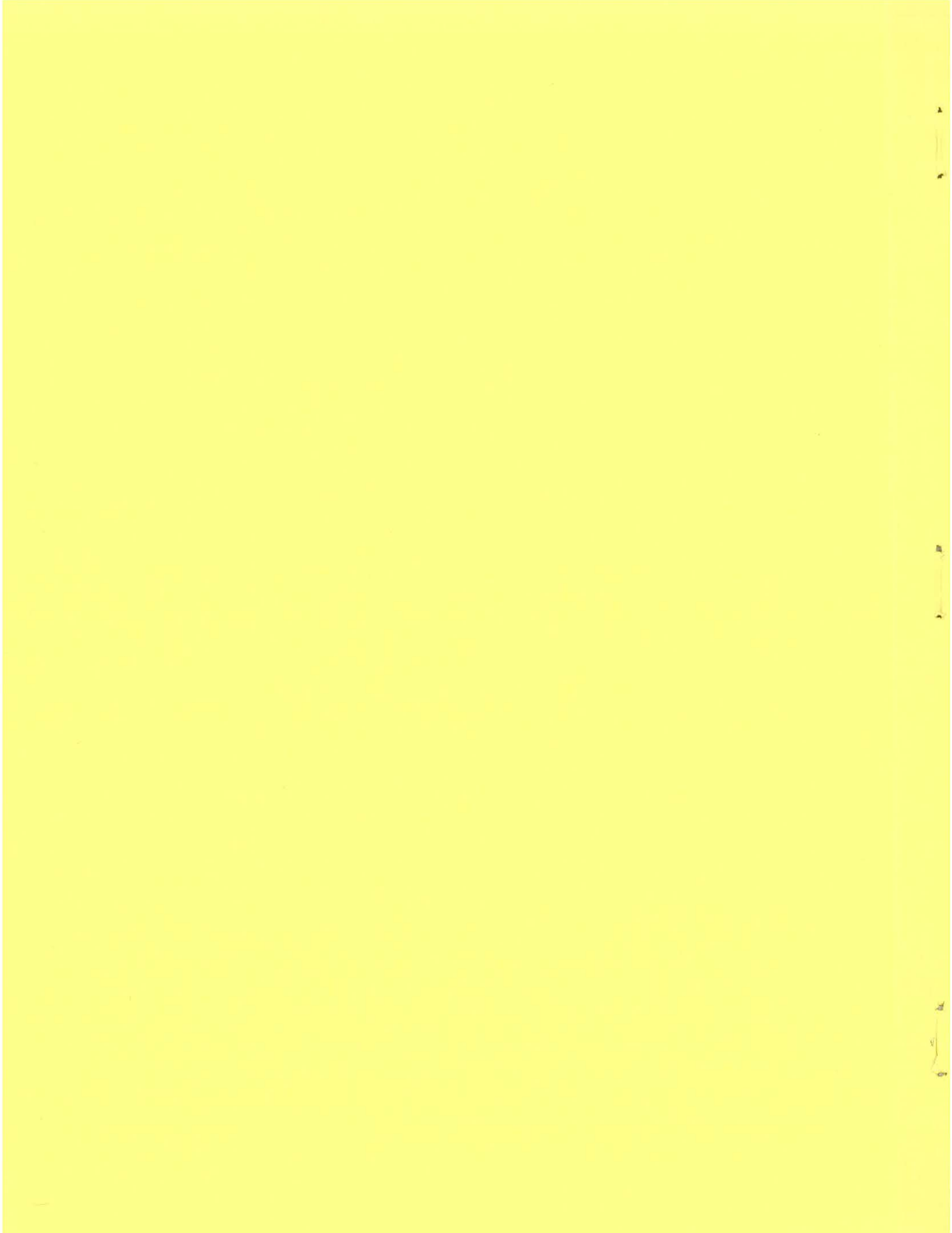
STUDY OF THE PROBLEMS OF COMPENSATION
FOR CERTAIN VICTIMS OF CRIMINAL ACTS
AND POSSIBLE STATUTORY CHANGES
TO ENTITLE OTHER VICTIMS OF
CRIME TO COMPENSATION



Bulletin No. 85-3

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

June 1984



S T U D Y O F T H E P R O B L E M S O F
C O M P E N S A T I O N F O R C E R T A I N
V I C T I M S O F C R I M I N A L
A C T S A N D P O S S I B L E
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T O C O M P E N S A T I O N

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LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

JUNE 1984

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| Senate Concurrent Resolution No. 29 (File 129, <u>Statutes of Nevada 1983</u>) | vi |
| Report of the Legislative Commission to the Members of the 63rd Session of the Nevada Legislature | vii |
| Summary of Recommendations | ix |
| Report to the 63rd Session of the Nevada Legislature by the Legislative Commission's Subcommittee to Study the Problems of Compensation for Certain Victims of Criminal Acts and Possible Statutory Changes to Entitle Other Victims of Crime to Compensation | 1 |
| I. Introduction and Overview of Victims' Compensation Programs and Legislation in Nevada, Other States and at the National Level | 1 |
| A. Historical Review of Nevada's Program for Compensation of Victims of Crime | 4 |
| B. Victims' Compensation Programs in Other States | 6 |
| C. Federal Victims' Compensation Programs | 10 |
| D. Recent Efforts by the Judicial System to Improve the Treatment of Victims | 13 |
| II. Findings and Recommendations | 14 |
| A. Appeals Officers to Conduct Hearings in Contested Applications for Awards | 14 |
| B. Award Limits | 15 |
| C. Civil Actions By or Against Victims of Crime | 16 |
| D. Collateral Source Deductions | 17 |

| | <u>Page</u> |
|--|-------------|
| E. Compensation for Medical Expenses Associated with the Treatment of Venereal Disease or Pregnancy | 18 |
| F. Compensation for Victims of Sexual Abuse ... | 19 |
| G. Contributory Misconduct | 20 |
| H. Counseling | 21 |
| I. Emergency Awards | 22 |
| 1. Integration of Preliminary and Emergency Awards | 22 |
| 2. Emergency Awards to Tourists and to Persons Who Have Claims of Less than \$100 | 23 |
| 3. Deadlines for Making Application for Emergency Awards | 24 |
| 4. Definition of Financial Hardship | 25 |
| J. Emergency Medical Treatment for Victims of Sexual Assault | 25 |
| K. Extension of the Time Limitations on Applying for Compensation by Minors Who Were Involved in the Production of Pornography | 26 |
| L. Fund for Compensation of Victims of Crime | 27 |
| M. Funding for Aid to Victims of Crime Program | 27 |
| N. Garnishment | 29 |
| O. Good Samaritans | 30 |
| P. Initial Screening of Applications to Determine Compliance with Statutory Requirements Under the Aid to Victims of Crime Provisions in the Statutes | 30 |

| | <u>Page</u> |
|--|-------------|
| Q. Liberal Interpretation of Statutes Dealing with Aid to Victims of Criminal Acts | 31 |
| R. Seventy-Five Percent of the Money Received Because of Offender's Notoriety to Be Placed in Fund for Compensation of Victims of Crime | 32 |
| S. Notice of Release of Defendant | 33 |
| T. Notification to Victims About Victims of Crime Programs | 34 |
| U. Reciprocal Agreements for Compensation of Victims of Crime with Other States | 35 |
| V. Easing of Constitutional Restriction on the Use of Fines | 36 |
| W. Removal of Restrictions Against Compensation | 37 |
| 1. Relative Exclusions | 37 |
| 2. Financial Means Test | 39 |
| 3. Crimes Involving Motor Vehicles | 40 |
| X. Training on Victims' Rights for Police Officers | 41 |
| 1. Peace Officers' Standards and Training Program (POST) to Include Training on Rights of Victims and the Compensation of Victims | 41 |
| 2. Ongoing Training for Peace Officers on Victims' Rights and the Compensation of Victims | 42 |
| Y. Videotaped Depositions as Testimony from Minors Who Are Victims of Sexual Abuse | 42 |
| III. Bibliography and Footnotes | 44 |
| IV. Credits | 52 |

| | <u>Page</u> |
|---|-------------|
| IV. Appendices | 56 |
| Appendix A | |
| <u>Victim Rights and Services: A Legislative</u> <u>Directory, 1984, published by the National</u> <u>Organization for Victim Assistance</u> | 58 |
| Appendix B | |
| Memorandum and Attachments, Dated January 27, 1984, to Assemblyman Courtenay C. Swain from Donald A. Rhodes, Research Director, Legis- lative Counsel Bureau, Reporting on the Results of a Survey of Other States' Programs for Compensation of Victims of Crime to Determine the Effect of the Removal of Ineligibility Criteria Pertaining to Relatives, Residents of Same Household, and Continuing Relationships | 143 |
| Appendix C | |
| Letter, Dated March 22, 1984, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, from William A. Bible, Director of the Department of Administration, Concerning Compensation for Medical Expenses Associated with the Treatment of Venereal Disease or Pregnancy and the Exclusion of Minors Who Were Involved in the Production of Pornography from the Time Limitations on Applying for Compensation | 153 |
| Appendix D | |
| Letter Opinion, Dated November 30, 1983, from Brian McKay, Attorney General (Prepared by James T. Spencer, Deputy Attorney General), Addressing Whether a Victim of Assault Who Is Eligible for Assistance Pursuant to <u>Nevada</u> <u>Revised Statutes 217.280 to NRS 217.350,</u> <u>Inclusive, May Also Receive Assistance Under</u> <u>NRS 217.010 to NRS 217.270, Inclusive</u> | 157 |
| Appendix E | |
| Letter, Dated February 8, 1984, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, from Bryn Armstrong, Chairman of the State Board of Parole Commissioners, Concern- ing Notification of Temporary Passes for Prison Inmates to the Victims of Their Crimes | 163 |

| | <u>Page</u> |
|--|-------------|
| Appendix F | |
| Letter, Dated February 16, 1984, from Vernon G. Housewright, Director of Depart- ment of Prisons, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, Concerning Notification of Temporary Passes for Prison Inmates to the Victims of Their Crimes | 167 |
| Appendix G | |
| Charts Showing Certain Provisions of Nevada Law Relating to Rights of Crime Victims and Compensation for Victims of Crime in Nevada .. | 171 |
| Appendix H | |
| Victims of Crime Pre-Application Form Used by the State Board of Examiners | 183 |
| Appendix I | |
| Victims of Crimes Program Statistics (Nevada), May 31, 1984 | 189 |
| Appendix J | |
| Victims of Criminal Acts (Nevada Listing of Persons Who Have Applied for Compensation), October 23, 1981 through May 29, 1984 | 195 |
| Appendix K | |
| The National Judicial College "Statement of Recommended Judicial Practices" for Treatment of Victims of Crime, which Was Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Victims of Crime at The National Judicial College, Reno, Nevada, December 2, 1983 | 235 |
| Appendix L | |
| Suggested Legislation | 243 |

Senate Concurrent Resolution No. 29—Senators Wagner and Foley
FILE NUMBER 129.

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the problems of compensation for certain victims of criminal acts and possible statutory changes to entitle other victims of crime to compensation.

WHEREAS, Provisions of Nevada law entitle certain victims of criminal acts to compensation; and

WHEREAS, Most victims of criminal acts are not eligible for compensation under these provisions; and

WHEREAS, Other states have developed broader programs for assistance to victims of criminal acts; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to study the present program of compensation for certain victims of criminal acts, programs developed in various other states, and possible ways to change the law to entitle other victims of criminal acts to compensation; and be it further

Resolved, That the legislative commission report the results of its study and any recommended legislation to the 63rd session of the legislature.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 63RD SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Concurrent Resolution No. 29 of the 62nd session of the Nevada legislature, which directs the legislative commission to study the problems of compensation for certain victims of criminal acts and possible statutory changes to entitle other victims of crime to compensation. As required by the resolution, the study covered:

1. The present program of compensating victims of crime in Nevada;
2. Programs developed in other states to compensate victims of crime; and
3. Possible ways to change the law to entitle other victims of crime to compensation.

The legislative commission appointed a subcommittee to conduct the study and recommend appropriate action to the 1985 session of the Nevada legislature. The study was originally planned as a staff study but was given full study status, because of the magnitude and importance of the issues and subject matter involved, by the legislative commission at its August 25, 1983, meeting. Legislative members of the subcommittee were:

Assemblyman Courtenay C. Swain, Chairman
Assemblyman Michael O. Malone, Vice Chairman

The subcommittee has attempted, in this report, to present its findings and recommendations briefly and concisely. A great deal of data was gathered in the course of the study. The data which bear directly upon recommendations in this report are included. The report is intended as a useful guide to busy legislators. All supporting documents and minutes are on file with the legislative counsel bureau and available to any member.

This report is transmitted to the members of the 63rd session of the Nevada legislature for their consideration and appropriate action.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
May 1984

* * * * *

LEGISLATIVE COMMISSION

Senator James I. Gibson, Chairman

Senator Thomas J. Hickey
Senator Robert E. Robinson
Senator Randolph J. Townsend
Senator Sue Wagner

Assemblyman Louis W. Bergevin
Assemblyman Joseph E. Dini, Jr.
Assemblyman John E. Jeffrey
Assemblyman Michael O. Malone
Assemblyman David D. Nicholas
Assemblyman John M. Vergiels

SUMMARY OF RECOMMENDATIONS

This summary represents the major conclusions reached by the subcommittee. These conclusions are based upon suggestions which came from public hearings, representatives of state and local government agencies, and expert witnesses. They also reflect actions taken in other states to compensate and to assist victims of crime, staff research, and the experience and research of the members of the subcommittee.

The subcommittee recommends:

APPEALS OFFICERS TO CONDUCT HEARINGS IN CONTESTED APPLICATIONS FOR AWARDS

1. The statutes be amended to provide that applicants' appeals be processed by an appeals officer prior to final review by the state board of examiners.
(BDR 16-97)

AWARD LIMITS

2. The statutes be amended to provide that minors who are involved in the production of pornography be subject to the same award limits as other victims of crime.
(BDR 16-98)
3. The statutes be amended to remove the minimum threshold on awards and to increase the standard award limit to \$25,000. The subcommittee further recommends that the board be permitted to make awards of up to \$100,000 for medical expenses and that any awards in excess of \$25,000 be paid directly to the medical care provider(s).
(BDR 16-98)

CIVIL ACTIONS BY OR AGAINST VICTIMS OF CRIME

4. The statutes be amended to require that a civil action relating to injuries suffered as a result of a crime brought by a victim of a crime against the offender must be brought to trial within 90 days after commencement of the action. (BDR 3-102)
5. The statutes be amended to prohibit an offender who is convicted of a crime of violence from bringing an

action against the victim of the offense for injuries sustained by the offender in the course of the crime. (BDR 3-102)

6. The statutes be amended to provide that in any civil action relating to the crime brought against the offender by the victim, conviction of the criminal offense is conclusive evidence of facts necessary to support the conviction. (BDR 3-102)

COLLATERAL SOURCE DEDUCTIONS

7. The statutes be amended to clarify that any collateral source payments which a victim receives must be deducted from the victim's total expenses, and not just from the amount awarded, in determining the amount by which the award is to be reduced. (BDR 16-97)

COMPENSATION FOR MEDICAL EXPENSES ASSOCIATED WITH THE TREATMENT OF VENEREAL DISEASE OR PREGNANCY

8. The statutes be amended to provide that the hearing officer may order the payment of an award to a victim for medical expenses associated with the treatment of venereal disease or pregnancy which resulted from the offense. (BDR 16-101)

COMPENSATION FOR VICTIMS OF SEXUAL ABUSE

9. The statutes be amended to make victims of sexual abuse (as defined in NRS 200.5011) eligible for awards under the compensation for victims program, even if the offense is committed by a relative. (BDR 16-101)

CONTRIBUTORY MISCONDUCT

10. The statutes be amended to provide that an award may be reduced to the extent that a victim's behavior contributed to his injury. (BDR 16-99)

COUNSELING

11. The statutes be amended to require the board of county commissioners of each county to provide by ordinance

for the counseling of the nonoffending parent(s); sibling(s) who reside with the victim(s) and the victim(s) of sexual abuse (as defined in subsection 7 of NRS 200.5011). Such ordinances should provide that the counseling must be requested by the victim(s); non-offending parent(s) or sibling(s). (BDR 16-101)

12. The statutes be amended to require the board of county commissioners of each county to provide by ordinance for the counseling of the parent(s) of the victim(s) of sexual assault and other person(s) who have close emotional attachment to the victim(s) and who are selected by the victim(s) to undergo counseling. (BDR 16-101)

EMERGENCY AWARDS

13. The statutes be amended to combine and rename, as emergency awards, the emergency and preliminary award provisions for victims of crime contained in chapter 217 of the Nevada Revised Statutes. The subcommittee recommends further that a hearing officer, and not a compensation officer, be responsible for determining if an award should be made and that the provisions contained in NRS 217.095 relating to the replacement of money and the replacement or repair of lost or damaged property be incorporated into the combined provision. (BDR 16-100)
14. The statutes be amended to permit the payment of emergency awards to tourists who are victims of crime in Nevada. The subcommittee recommends further that such awards be permitted for the replacement of money lost as a direct consequence of a criminal action if the applicant needs to replace the lost money to pay his expenses for the next 7 days. The subcommittee recommends that cash awards not exceed \$200. (BDR 16-100)
15. The statutes be amended to permit the payment of emergency awards by the hearing officer, not limited to a minimum of \$100, to victims of crime determined to be in immediate need of eyeglasses, dentures, other prosthetic devices or locks, windows or doors in the victims' dwellings damaged or destroyed during the course of the crime. (BDR 16-100)
16. The statutes be amended to require that no preliminary or emergency award may be made unless the application is made within 45 days after the date of the personal

injury or death or, if the incident or offense could not reasonably have been reported within that period, within 15 days of the time when a report could reasonably have been made. (BDR 16-100)

17. The statutes be amended to permit the hearing officer to deny an emergency award if he believes the victim has sufficient financial resources to sustain him until the final award is made. (BDR 16-100)

EMERGENCY MEDICAL TREATMENT FOR VICTIMS OF SEXUAL ASSAULT

18. The statutes be amended to clarify that emergency medical care for a victim of sexual assault is the medical care provided in an emergency service area of a hospital to a maximum time limit of 72 hours after the victim first appears at the hospital. (BDR 16-101)

EXTENSION OF THE TIME LIMITATIONS ON APPLYING FOR COMPENSATION BY MINORS WHO WERE INVOLVED IN THE PRODUCTION OF PORNOGRAPHY

19. The statutes be amended to specify that the deadline for application for compensation specified in Nevada Revised Statutes 217.210 for a minor who was sexually abused or who was involved in the production of pornography is when the minor reaches the age of majority. (BDR 16-99)

FUND FOR COMPENSATION OF VICTIMS OF CRIME

20. The statutes be amended to remove the provision that any amount over \$350,000 in the fund for the compensation of victims of crime be distributed to the counties at the end of each fiscal year. (BDR 16-98)

FUNDING FOR AID TO VICTIMS OF CRIME PROGRAM

21. That additional funds for the aid to certain victims of crime program be provided by an annual appropriation of \$150,000 from the state general fund. The subcommittee further recommends that such appropriations cease when section 3 of article 11 of the Nevada constitution is amended to provide that all fines collected under the penal laws of the state be pledged for

educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature. (BDR 16-98)

22. A joint resolution be enacted urging Congress to provide funding for state level programs providing assistance and compensation to victims of crime. (BDR 103)
23. The statutes be amended to provide that the interest earned on the money in the fund for the compensation of victims of crime be credited to that fund. (BDR 16-98)
24. The statutes be amended to add a collective restitution assessment of \$1 on every person convicted of a crime with the purpose not to punish but to provide restitution to make victims as a group whole from offenders as a group. The subcommittee recommends further that the money obtained from the assessment be paid into the fund for compensation of victims of crime. (BDR 16-98)
25. The statutes be amended to provide that the administrative assessment against persons found guilty of misdemeanors be increased from \$10 to \$12 per assessment and that the additional \$2 be paid into the fund for the compensation for victims of crime. The subcommittee further recommends that such additional assessment be terminated when section 3 of article 11 of the Nevada constitution is amended to provide that all fines collected under the penal laws of the state be pledged for educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature. (BDR 16-98)

GARNISHMENT

26. The statutes be amended to provide that awards to victims of crime under the provisions of chapter 217 of NRS not be subject to garnishment. (BDR 16-107)

GOOD SAMARITANS

27. The statutes be amended to permit the payment of awards, not limited to a minimum of \$100, and the awarding of the governor's certificate for meritorious

citizen service, to persons who attempt to prevent the commission of a crime. (BDR 16-99)

INITIAL SCREENING OF APPLICATIONS TO DETERMINE
COMPLIANCE WITH STATUTORY REQUIREMENTS UNDER
THE AID TO VICTIMS OF CRIME PROVISIONS
IN THE STATUTES

28. The statutes be amended to provide for the initial screening upon receipt by the state board of examiners of applications by victims of crime for compensation. The subcommittee recommends further that conditional denial be permitted if the application does not appear to meet statutory requirements for compensation. The subcommittee recommends further that any applicant denied compensation during an initial screening be permitted to, within 15 days after the denial, appeal the decision. (BDR 16-97)

LIBERAL INTERPRETATION OF STATUTES DEALING
WITH AID TO VICTIMS OF CRIMINAL ACTS

29. That chapter 217 of NRS be amended to declare that its provisions be liberally construed to effect its stated purposes. (BDR 16-97)

SEVENTY-FIVE PERCENT OF THE MONEY RECEIVED BECAUSE OF
OFFENDER'S NOTORIETY TO BE PLACED IN FUND
FOR COMPENSATION OF VICTIMS OF CRIME

30. That 75 percent of the money an offender receives based on his notoriety be paid into the fund for the compensation of victims of crime. (BDR 16-98)

NOTICE OF RELEASE OF DEFENDANT

31. The statutes be amended to expand the notification provisions to victims of crime to include situations in which offenders are given temporary passes, furloughs, work release permits by the department of prisons or when prisoners escape from the department of prisons. (BDR 16-108)

NOTIFICATION TO VICTIMS ABOUT VICTIMS OF CRIME PROGRAMS

32. The statutes be amended to require the hearings division of the department of administration to prepare and disseminate information describing the provisions of the state's victims of crime program contained in chapter 217 of the Nevada Revised Statutes.
(BDR 16-109)
33. A resolution be enacted by the 1985 session of the Nevada legislature urging (1) district attorneys, law enforcement agencies, hospitals, programs offering assistance to victims of crime, and programs offering assistance to elderly persons to provide information to victims of crime describing the state's aid to certain victims of crime programs; and (2) all public and private agencies which assist victims of crime to cooperate with each other to ensure that the needs of the victims are met quickly, courteously and compassionately.
(BDR 104)

RECIPROCAL AGREEMENTS FOR COMPENSATION OF VICTIMS OF CRIME WITH OTHER STATES

34. The statutes be amended to permit the processing of applications for awards for compensation of nonresidents if the states in which the victims reside make agreements with Nevada to process applications for awards from Nevada residents who become victims of crime within their respective jurisdictions.
(BDR 16-99)

EASING OF CONSTITUTIONAL RESTRICTION ON THE USE OF FINES

35. That section 3 of article 11 of the Nevada constitution be amended to provide that all fines collected under the penal laws of the state be pledged for educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature.
(BDR C-105)

REMOVAL OF RESTRICTIONS AGAINST COMPENSATION

36. The statutes be amended to remove the prohibition against awarding compensation to the victim of a crime who is a relative of the offender or who lives with the offender

in a continuing relationship unless the offender would profit by the compensation of the victim or the victim does not cooperate with agencies of law enforcement. Such cooperation need not mean prosecution. (BDR 16-99)

37. The statutes be amended to require the hearing officer not to include the value of the victim's dwelling, motor vehicle, or savings and investments to an amount equivalent to the annual salary of the victim, when considering the need of the victim or his dependents for financial assistance. (BDR 16-99)
38. The statutes be amended to make the victims of persons convicted of driving under the influence of alcohol, hit-and-run, or fleeing the scene of a crime eligible for awards under the state's aid to victims of crime program. (BDR 16-99)

TRAINING ON VICTIMS' RIGHTS FOR POLICE OFFICERS

39. The state's peace officers and training program (POST) include at least 4 hours of training on the needs of victims, victims' rights and programs which offer compensation to victims. The subcommittee further recommends that all, and not just the budgeted amount, of the portion of the administrative assessment on defendants found guilty of a misdemeanor which is earmarked for the peace officers' standards and training committee of the department of motor vehicles be used for the continuing education of persons whose primary duty is law enforcement. The subcommittee recommends the amounts received in excess of the amounts authorized for expenditure in the general appropriations act be retained for the education of peace officers and not be deposited to the credit of the state general fund. (BDR 14-110)
40. The 1985 session of the Nevada legislature enact a resolution urging police and sheriffs' departments in the state to provide ongoing training to their personnel on the needs of victims, victims' rights and programs which offer compensation to victims. (BDR 106)

VIDEOTAPED DEPOSITIONS AS TESTIMONY FROM MINORS
WHO ARE VICTIMS OF SEXUAL ABUSE

41. The statutes be amended to provide that, in cases involving sexual abuse, the district attorney may order the taking of a videotaped deposition from the victim upon a showing that the minor may be unable to testify without suffering unreasonable and unnecessary mental or emotional harm. (BDR 16-101)

REPORT TO THE 63RD SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY THE PROBLEMS OF COMPENSATION FOR
CERTAIN VICTIMS OF CRIMINAL ACTS AND
POSSIBLE STATUTORY CHANGES TO
ENTITLE OTHER VICTIMS OF
CRIME TO COMPENSATION

I. INTRODUCTION AND OVERVIEW OF VICTIMS' COMPENSATION
PROGRAMS AND LEGISLATION IN NEVADA, OTHER
STATES AND AT THE NATIONAL LEVEL

You must know what it is to have your life wrenched and broken, to realize that you will never really be the same. Then you must experience what it means to survive, only to be blamed and used and ignored by those you thought were there to help you. Only when you are willing to confront all these things will you understand what victimization means. (20:vii)*

As noted in Compensating Victims of Crime: An Analysis of American Programs (22), the pain and suffering of victims of violent crime, are often severely compounded by the victims' experiences with the criminal justice system and by the financial burdens resulting from the criminal acts. The financial burdens may be overwhelming. Often the victim must face medical and hospital bills, months of lost wages, continuing costs associated with long-term treatment or rehabilitation, permanent disability and possible forced career change. The dependents of slain victims face not only the personal grief but loss of family income. Even modest losses can be devastating to the most vulnerable--the poor and the elderly. Consider the plight of an elderly victim of crime on a small, fixed income who is assaulted and robbed of her money for food and rent, whose shattered eyeglasses or broken hearing aid must be replaced.

*The numbers in parentheses at the end of sentences refer to items in the bibliography and footnotes section of this report. The number before the colon refers to the publication or footnote entry, and the number(s) after the colon refers to the page number(s) of the publication. For example, the citation (20:vii) refers to page vii of the twentieth entry in the bibliography--President's Task Force on Victims of Crime.

The report says:

It is to respond to these crucial needs that programs of crime victim compensation were developed. These programs provide monetary compensation to victims injured as the result of a crime and to the dependents of those killed. Since 1965, when California initiated the first American program, more than 35 states and territories have passed victim compensation legislation. As legislators in different states struggled to balance compassion for the innocent with a prudent concern for the budget, the resulting programs varied widely--in level of benefits paid, eligibility criteria, procedural requirements, and overall costs. Not surprisingly, assessments of their success in alleviating the financial problems of injured victims have been equally varied. (22:iii)

As discussed later, the 1983 session of the Nevada legislature passed over 12 measures pertaining to (1) compensation for victims of crime, (2) assistance provided to victims of crime, and (3) the treatment of victims of crime by representatives of the criminal justice system. It felt, however, that because many other states have developed broader programs for assistance to victims of criminal acts, a comprehensive review of Nevada's program of compensation was in order. Accordingly, it passed Senate Concurrent Resolution No. 29 (File No. 129, Statutes of Nevada 1983) which directs the legislative commission to study the problems of compensation for certain victims of criminal acts and possible statutory changes to entitle other victims of crime to compensation.

As mandated by the resolution, the study covered:

1. The present program of compensating victims of crime in Nevada;
2. Programs developed in other states to compensate victims of crime; and
3. Possible ways to change the law to entitle other victims of crime to compensation.

The subcommittee held public hearings in Las Vegas on November 5, 1983, and in Reno on April 19, 1984. On April 27, 1984, it held a work session and selected 42 recommendations from an 11-page document containing recommendations in 31 subject areas.

The subcommittee compiled a wealth of reports, periodical articles, survey data and other information relating to the compensation and treatment of victims of crime. These materials, and certain correspondence to the subcommittee, are cited in the "Bibliography and Footnotes" section of this report.

The subcommittee heard testimony from several expert witnesses including LeRoy Lamborne, nationally known expert on compensation for victims of crime, and several Nevadans who administer programs to aid victims and their dependents. All persons who signed the subcommittee's witness roster and also made presentations to the subcommittee are listed in the "Credits" section of this report.

The study was originally planned as a staff study but was given full study status, because of the magnitude and importance of the issues and subject matter involved, by the legislative commission at its August 25, 1983, meeting. The members of the subcommittee spent considerable personal time studying the plight of victims of crime and reviewing state records relating to the compensation of victims.

The appendices to this report contain several documents which provide detailed descriptions of programs for compensating victims of crime in other states and illustrate program statistics pertaining to awards to victims of crime in Nevada. In an effort to keep down the length of this report, most of that data and information will not be repeated in the narrative. The reader may find it especially useful, however, to review Appendices A, Victim Rights and Services: A Legislative Directory, 1984; I, "Victims of Crimes Program Statistics"; and J, "Victims of Criminal Acts." Another comprehensive treatment of the subject is provided by the United States Department of Justice's Compensating Victims of Crime: An Analysis of American Programs which is available in the research division library of the legislative counsel bureau.

A. HISTORICAL REVIEW OF NEVADA'S PROGRAM FOR COMPENSATION OF VICTIMS OF CRIME*

Provisions providing for the compensation for victims of criminal acts were first placed in the Nevada Revised Statutes (NRS) in 1969, by the passage of Assembly Bill 683 (chapter 604, Statutes of Nevada 1969). That measure established the procedure for the payment of awards by the state board of examiners to so-called "Good Samaritans" or their relatives. The bill defined "Good Samaritan" or "victim" as:

A person who is physically injured or killed while attempting to prevent the commission of a crime or to arrest a suspected criminal or while aiding or attempting to aid a police officer to do so.

The measure established procedures for application, criteria for the board to consider in determining whether to make an order for compensation, criteria for the board to consider in determining the amount of compensation to be allowed by the order, and set award limits at a \$5,000 lump sum payment.

In 1975, there were some significant changes to the law. Assembly Bill 664 (chapter 654, Statutes of Nevada 1975) added provisions authorizing counties to adopt ordinances providing for the counseling and medical treatment at county expense of rape victims. Another assembly measure, Assembly Bill 284 (chapter 756, Statutes of Nevada 1975) redefined the class of persons eligible for compensation, set deadlines

*This report primarily deals with Nevada's program for compensating victims of crime. It should be noted, however, that the state's laws have been amended over the years to require direct payment or restitution to victims of crime by persons convicted of committing crimes against them. For example: (1) Nevada Revised Statutes 176.189 requires the court to order as a condition of probation or suspension of sentence, in appropriate circumstances, that the defendant make full or partial restitution; (2) NRS 213.126 permits the state board of parole commissioners to impose as a condition of parole, in appropriate circumstances, a requirement that the parolee make restitution; and (3) NRS 209.4829 permits the director of the department of prisons to assign offenders meeting certain conditions to restitution centers. There are also other mechanisms in the law for victims of crime to bring civil actions against offenders to recover damages.

for hearings and decisions by the board, and provided for the rehearing of certain applications. The measure also permitted the payment of funeral expenses of up to \$1,000.

With the passage of Assembly Bill 447 (chapter 691, Statutes of Nevada 1981), the term "victim" was expanded to include other classes of victims of crime besides Good Samaritans. The measure revised hearing requirements and procedures; specified appeals rights and procedures; provided for the appointment, duties and pay of compensation officers; specified factors which must be considered in determining the amount of compensation; and required the state board of examiners to submit a report to the legislature containing information on the amount of compensation awarded, the number of claimants, the number of claimants who were denied compensation, and the average length of time taken to award compensation from the date of receipt of the application to the date of payment of compensation.

Assembly Bill 447 also added the so-called "Son of Sam" provision to the law which requires that one-half of the value of all money and other property which an offender receives for books, movies and television and other payments which he receives based on his notoriety as an offender must be paid into the fund for compensation to victims of crime.

The mechanism for so-called "victim impact statements" was added to the law in 1981 with the passage of Senate Bill 12 (see NRS 176.145) which requires that information concerning the effects of a crime on the victim, including psychological harm or financial loss, be included in reports of presentence investigation.

The year 1983 was a milestone in Nevada's victims' compensation law. As noted earlier, the 62nd session of the Nevada legislature passed 12 measures* relating to victims of crime which, among other things:

- Provided penalties for intimidating or harassing witnesses;
- Permitted the payment of emergency and preliminary awards;

*Assembly Bill 163, A.B. 183, A.B. 275, A.B. 557, A.B. 577, S.B. 111, S.B. 145, S.B. 244, S.B. 369, S.B. 386, S.B. 404, and S.B. 426. Descriptions of these measures can be found in the document, Summary of Legislation, 1983, prepared by the research division of the legislative counsel bureau.

- Increased the maximum award limit to \$15,000;
- Specified victims' rights including: (1) protection of victims of crime and witnesses who cooperate with the prosecuting attorney in criminal cases, (2) the notification of a victim or a witness of changes in court dates, (3) the return of a victim's property when it is no longer needed as evidence, (4) that a court trying a criminal case provide victims and witnesses a secure waiting area which is not used by the members of the jury or the defendant and his family and friends, and (5) that in felony cases the warden of the prison inform the victim or witness when the defendant is released from prison;
- Permitted the attendance of a person to support the prosecuting witness at the preliminary hearing and trial in cases involving sexual assault and other sex-related crimes; and
- Provided victims of crime with the opportunity to testify at the parole hearing of those offenders who carried out crimes against them.

B. VICTIMS' COMPENSATION PROGRAMS IN OTHER STATES

California established the Nation's first crime victim compensation program in 1965. That program was followed shortly by one in New York in 1966, one in Hawaii in 1967, and programs in Maryland and Massachusetts in 1968. (22:7) As shown in Table I, "Victim Compensation," taken from Victim Rights and Services: A Legislative Directory, 1984 (71:2-3), 38 states and Washington, D.C., had programs in operation as of January 1984. Table I lists the pertinent features of each program including exclusions and award limits. An in-depth review of these topics is provided in Appendix A.

As can be seen in Table I, there are several major differences among the states concerning how they compensate victims of crime. These differences include various program rationales, methods of assessing programs, program structures and organizations, eligibility and coverage policies, administrative procedures, costs, funding techniques, methods of coordinating programs with other agencies providing services to victims of crime, and the effects the programs have had on the victims of crime. (22:6-7)

Victim compensation programs have been developed for a variety of reasons. The major rationales for programs include views that citizens have a right to be compensated if the state fails to protect them (based upon

TABLE I
VICTIM COMPENSATION*

All programs cover the injured victim(s) of crimes causing physical injury and compensate for medical losses. Two types of physical injury crimes may be excluded: those which involve a perpetrator who lives in the same household, is a relative of, or has had a continuing relationship with the victim; and those which have been the result of a motor vehicle crime. The following chart indicates the variation on those issues and others affecting eligibility and benefits. For a detailed report on current compensation programs, the reader should refer to *Compensating Victims of Crime: An Analysis of American Programs* by Daniel McGills and Patricia Smith, prepared for the National Institute of Justice by Abt Associates, Inc.

| Program Elements | States | | | | | | | | | | | | | | | | | | |
|----------------------------------|--------|------|----------------|-----|----------------|-----|----|-----|----------------|-----|-----|----------------|----------------|-----|------|----------------|----------------|-----|----------------|
| | AK | CA | CO | CT | DE | FL | HI | IL | IN | IA | KS | KY | LA | MA | MD | MI | MN | MO | MT |
| Eligibility: Intervenor | X | X | | X | | X | X | X | X | | X | X | X | X | X | X | X | | X |
| Dependents | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Third Parties ¹ | X | X | X | | X | | X | | | | X | | X | | | | X | | |
| Family Exclusion ² | X | | X ³ | X | | X | | | X ³ | X | X | X | X ³ | X | X | X ⁴ | X ⁵ | | X ⁶ |
| Residents Only | | | X | X | X ⁷ | | X | | | | | X ⁷ | X | | | | | ? | |
| Motor Vehicles Excluded | X | | | X | X | X | X | X | | X | X | X | | X | X | X | X | | X |
| Recidivists MV Included | | X | | | | | | | | | | | | | | | | | |
| Means Test | | X | | X | | X | | | | | X | X | | | X | X | | | |
| Recovery: Counseling | X | X | | X | X | X | X | X | X | ? | X | X | X | X | X | X | X | | X |
| Disability | X | | | X | X | | | X | X | ? | | | X | | X | | | | |
| Rehabilitation | X | X | | X | X | X | | X | | ? | X | | | | | X | X | | |
| Loss/Earnings | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | X |
| Loss/Support | X | X | X | X | X | X | X | | | ? | X | X | X | X | | | | | |
| Funeral | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | X |
| Replacement Services | X | | | X | | X | | | | | X | | | | | | X | | |
| Pain/Suffering | | | | | X | | X | | | | | | | | | | | | |
| Other Expenses | X | X | | X | X | X | X | | X | X | X | | X ⁸ | | | X | | | X |
| Benefits: Maximum (in thousands) | 25 | 23 | 1.5 | 10 | 10 | 10 | 10 | 15 | 10 | 2 | 10 | 15 | 10 | 10 | 45 | 15 | 25 | 10 | 25 |
| Minimum Loss | 0 | 100 | 25 | 100 | 25 | 0 | 0 | 200 | 100 | 0 | 100 | 100 | 250 | 100 | 100 | 100 | 0 | 200 | no cap |
| Deductible | 0 | 0 | | 100 | 0 | 0 | 0 | 200 | 100 | 0 | 100 | 100 | 250 | 100 | 100 | 100 | 0 | | 0 |
| Attorney Fees | X | X | | X | | | X | X | X | | X | X | X | X | X | X | X | | X |
| Emerg. Award | 1500 | 1000 | | 500 | 0 | 500 | 0 | 0 | 500 | 500 | 0 | 500 | 500 | 0 | 1000 | 500 | 0 | | 0 |
| Reduced by Contribution | X | X | | X | X | X | X | X | | | | | | X | X | X | X | | X |
| Denied by Contribution | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| Source of Funds: General Rev. | X | | | | | | X | X | X | X | X | X | X | X | X | X | X | | |
| Penalty Assess. | | X | X | X | X | X | | | | X | | X | X | | | | X | X | X |
| Fines | | | X | X | X | X | | | X | X | | | | | | | X | X | |

FOOTNOTES

¹Third Parties refer to programs which will reimburse persons other than the victim who paid bills or provided services for the victim.

²Family exclusion includes those programs which exclude relatives, cohabitants of a household, or persons who have maintained a continuous relationship with the accused.

³In Indiana the spouse of the offender is ineligible for compensation. There is a separate fund for spouse abuse victims in the state.

*Arkansas is not listed on this chart because its recently passed authorization for a compensation fund was not accompanied by programmatic details.

TABLE I
VICTIM COMPENSATION (cont.)

| Program Elements | States | | | | | | | | | | | | | | | | | | | |
|----------------------------------|----------------|----|-----|------|----|------|----------------|----|-----|------|------|----|----------------|-----|------|------|-----|----|-----|----------------|
| | NC | NE | NV | NJ | NM | NY | ND | OH | OK | OR | PA | RI | SC | TN | TX | VA | WA | WV | WI | DC |
| Eligibility: Interveners | X | X | X | X | | | X | X | X | X | X | | X | X | X | X | X | X | X | X |
| Dependents | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Third Parties ¹ | X | X | X | X | X | | | X | X | | X | X | | X | X | X | X | X | X | |
| Family Exclusion ² | X ⁶ | X | X | X | X | X | X ⁶ | X | | X | X | X | X ⁶ | X | X | | X | X | X | |
| Residents Only | X | | X | | | | | | | | | | X ⁷ | | | | | | | X ⁷ |
| Motor Vehicles Excluded | X | X | X | X | X | X | X | X | X | | X | X | | X | | X | X | X | | |
| Recidivists MV Included | X | | | | | | | | | X | | | X | | | | | X | X | |
| Means Test | | | X | | | X | | | | | | | | | X | X | | | X | |
| Recovery: Counseling | | X | X | X | | | | X | X | X | X | X | ? | X | X | X | X | X | X | |
| Disability | | | | | | | | | X | | | | ? | | X | | X | | | |
| Rehabilitation | X | X | X | | | X | X | X | X | X | X | | ? | | | | X | X | X | |
| Loss/Earnings | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Loss/Support | X | | | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Funeral | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Replacement Services | X | | | | | | X | X | X | | | | | | | X | | X | X | |
| Pain/Suffering | | | | | | | | | | | | X | | X | | | | X | | |
| Other Expenses | | X | | X | X | | X | | X | X | X | | | | X | | | X | X | |
| Benefits: Maximum (in thousands) | 20 | 10 | 5 | 10 | 12 | 20 | 25 | 25 | 10 | 23 | 25 | 25 | 10 | 10 | 50 | 10 | 15 | 20 | 10 | 25 |
| Minimum Loss | 100 | 0 | 100 | 100 | 0 | 0 | 100 | 0 | 0 | 250 | 100 | 0 | 300 | 100 | 0 | 100 | 200 | 0 | 0 | 100 |
| Deductible | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 250 | 0 | 0 | | 0 | 0 | 100 | 0 | 0 | 0 | |
| Attorney Fees | X | X | X | X | | X | X | X | | | X | X | | X | X | | | X | X | |
| Emerg. Award | 0 | 0 | 0 | 1500 | X | 1500 | 1000 | X | 500 | 1000 | 1000 | 0 | 1500 | 500 | 1800 | 1000 | 0 | 0 | 500 | 1000 |
| Reduced by Contribution | X | | | X | X | X | | | X | | X | | X | | X | X | | X | | |
| Denied by Contribution | X | X | | X | | X | X | X | X | X | | | X | | X | X | | X | X | |
| Source of Funds: General Rev. | X | X | | X | X | X | X | | X | X | | | | | | | X | X | | |
| Penalty Assess. | | | | X | | | | X | X | | X | X | X | X | X | X | X | X | | |
| Fines | | | | X | | | | X | | | X | X | X | X | X | X | | X | | |

FOOTNOTES

⁴A victim residing with the accused is ineligible to receive an award in Michigan; however, the victim's out-of-pocket expenses may be paid directly to a medical care provider.

⁵The ineligibility-of-a-relative provision can be waived if there is formal or permanent separation in cases involving a spouse and the spouse prosecutes the offender; if it is an incest case; and in cases involving mental derangement.

⁶These programs may waive the family exclusion "in the interests of justice."

⁷These programs restrict recovery to residents but allow non-residents to recover if the state in which they reside have reciprocity with the state in which the crime took place.

⁸Injuries caused by motor vehicles are excluded in these states unless there was intent on the part of the accused to use the vehicle to commit the crime.

⁹Nevada's compensation fund is generated by bond forfeitures and "Son of Sam" monies.

¹⁰Louisiana compensates for catastrophic property loss. There is also the implication that victims of such crimes may receive compensation for counseling.

legal tort theory and contract theory analogs), beliefs that programs are an appropriate humanitarian response by government to compelling human needs (including both 'insurance theories' that suggest all aggrieved citizens should receive assistance and 'welfare theories' aimed only at the poverty stricken), and rationales based upon potential byproducts of victim compensation such as improved citizen cooperation with law enforcement, greater visibility of crime's costs and consequent increased incentives for crime prevention, and the like. (22:7)

The programs have been established in a variety of ways with sponsorships differing greatly from state to state. Workers' compensation departments are the most prevalent program sponsors, followed by the courts and departments of public safety. Other sponsoring agencies include departments of social services, governors' offices and, in Nevada, the state board of examiners with staff assistance from the department of administration and hearing officers. (22:15)

Eligibility and benefit policies also differ on a state-by-state basis:

The most common eligibility restrictions deal with residency requirements, the role of contributory misconduct, requirements related to the relationship of the victim and the offender, the nature of compensable crimes, financial hardship requirements, rules regarding crime reporting and cooperation with law enforcement officials, and filing deadlines.

All victim compensation programs restrict the types of financial losses that are compensable. Typically programs are authorized to reimburse victims for medical and/or funeral expenses incurred as a result of a crime, and also to compensate for lost wages or loss of support to the dependents of a deceased victim. Almost all programs provide reimbursements for counseling expenses incurred as the result of a victimization incident. (22:16)

Major emerging issues, as addressed by the subcommittee in its recommendations, include:

- Relative and household exclusions;
- Financial means tests;
- Minimum loss policies;

- Adequacy of emergency awards;
- Reciprocal compensation agreements with other states;
- Property loss provisions;
- Lack of public awareness of victims' compensation programs; and
- Delays in the processing of claims. (22:16-22)

Funding for the states' compensation for victims of crime programs comes from several different sources. According to a survey conducted by the National Institute of Justice, the most common source of support for the compensation programs is from the states' general revenues. The next most common means of support are fines and special penalties.

C. FEDERAL VICTIMS' COMPENSATION PROGRAMS

During the past 19 years, dozens of victims' rights and victims' compensation bills have been considered by the United States Congress. These matters have also been addressed by recommendations contained in the final reports of recent Presidential and Attorney General task forces.*

One congressional measure to become law is Senator John Heinz' "The Victim and Witness Protection Act of 1982" which, among other things, represents a statement of federal policy in behalf of victims of crime. The bill requires:

- A 'victim impact statement' to be made part of the report filed with the sentencing judge;
- A federal judge to order restitution when passing sentence for crimes involving bodily injury or property loss, or else state for the record the reason for not doing so;
- The Attorney General to develop guidelines for the fair treatment of crime victims and witnesses; and

*See Attorney General's Task Force on Violent Crime Final Report, August 17, 1981 (17) and Final Report President's Task Force on Victims of Crime, December 1982 (20).

- The Attorney General to recommend legislation to restrict the ability of federal felons to profit from a crime's notoriety.

The Act also makes intimidation of, or retaliation against, witnesses a federal offense. (9:14)

As listed in the "Bibliography and Footnotes" section of this report, pending congressional legislation which would provide for federal financial assistance to state-level victims' assistance programs or victims' compensation programs include H.R. 2978 (34), H.R. 3498 (35), and S. 704 (52).

Congressman Peter W. Rodino, Jr., Chairman of the House Committee on the Judiciary, said, among other things, the following about his bill, H.R. 3498, during a hearing before the Subcommittee on Criminal Justice on Thursday, February 2, 1984:

Some 50 of our colleagues have joined me in introducing H.R. 3498, a bill that will enable the Federal Government to do more to help crime victims. The bill is in part similar to legislation that I have introduced in previous Congresses, but it also incorporates many of the recommendations of the President's Task Force on Victims of Crime.

In brief, the bill establishes a Crime Victims Fund to be used to provide financial aid to state crime victim compensation programs and to crime victim assistance programs. Eighty percent of the Crime Victims Fund will be used to assist state crime victim compensation programs, and 20 percent will be used to aid crime victim assistance programs. A state crime victim compensation program will be eligible for assistance if the following 6 criteria are met:

- (1) The program offers compensation to victims for personal injuries caused by criminal acts and to surviving dependents of persons whose deaths were caused by criminal acts;
- (2) The program promotes victim cooperation with the reasonable requests of law enforcement authorities;
- (3) The program is able to reduce awards to claimants for their contributory misconduct;

- (4) The state is subrogated, to the extent of any compensation paid, to any claim that the claimant has against the wrongdoer;
- (5) The program does not discriminate against nonresidents; and
- (6) The program compensates victims of crimes occurring within the state that would be crimes covered by the program but for the fact that the crimes fall within the exclusive Federal jurisdiction.

Each program that qualifies is eligible for a grant of up to 50 percent of the compensation paid to victims of state crimes. Each qualified program will receive the same percentage. In addition, the program will receive a grant for 100 percent of the compensation paid to victims of crimes that fall within exclusive Federal jurisdiction.

In addition to assisting state crime victim compensation programs, the legislation will provide financial aid to crime victim assistance programs. Each state will receive a grant, which the governor of the state is responsible for distributing to victim assistance programs within the state. The amount of the grant a state gets is determined by a formula that takes population into account but that also ensures that the less populous states will receive adequate funds. Each state will get a pro-rata share of three-quarters of the first \$7,200,000 available. The remaining one-quarter and any other money available will be distributed on the basis of population.

How the state's grant is distributed is within the discretion of the governor. However, to receive financial aid under the legislation, a crime victim assistance program must meet these 5 criteria:

First, the program must be established exclusively to provide services directly to crime victims generally or to any specific category of crime victims and must be a nonprofit private organization, a program of a state or local government, or a combination of such organizations or governments or both. Second, the program must provide crisis intervention services on a 24 hour a day basis without regard to the financial status of the victim; mental health counseling; and information about

the referrals for (1) medical and mental health treatment, (2) victim assistance and compensation, and (3) the investigation and prosecution of crime. Third, the program must promote coordinated community efforts to aid crime victims and their families. Fourth, the program must utilize volunteers in performing services for which it gets a grant. Fifth, the program must demonstrate independent support by receiving financial support from sources other than a victim assistance grant. (62:3-5)

D. RECENT EFFORTS BY THE JUDICIAL SYSTEM TO IMPROVE THE TREATMENT OF VICTIMS

The courts appear to be focusing increased attention on the plight of victims of crime. At a December 2, 1983, plenary session of the National Conference of the Judiciary on the Rights of Victims of Crime at the National Judicial College, those judges in attendance adopted a "Statement of Judicial Practices."* The conclusion to that "statement" says:

Judges have a role in improving the treatment of victims and witnesses by reason of their position in the American Judicial system and their positions in their communities.

Judges believe that fair treatment of victims and witnesses can, consistent with constitutional limitations, be brought about by changes in the law, rules of procedure and legislation. Judges believe that they can influence the actions of others, including officers of the court and public officials, in the treatment of witnesses and victims. Judges also can encourage community support for change in the treatment of witnesses and victims. By their attitude and the attitudes of their staff, judges can set examples in the treatment of witnesses and victims.

We urge that our fellow judges exercise their leadership role in improving the treatment of victims and witnesses. Victims of crime should not be victims of the criminal justice system. (69:6)

The statement makes a series of recommendations for (1) the fair treatment of victims and witnesses, (2) victim participation in the judicial process, (3) the protection of victims and witnesses, and (4) judicial education.

*This document is contained as Appendix K to this report.

II. FINDINGS AND RECOMMENDATIONS

The following sections of this report represent the subcommittee's recommendations and legislative proposals pertaining to the problems of compensation for certain victims of criminal acts and possible statutory changes to entitle other victims of crime to compensation. The recommendations cover a broad range of topics including contributory misconduct, counseling, emergency awards, emergency medical treatment for victims of sexual assault, funding for the aid to victims of crime program, notification of victims, removal of restrictions against compensation, and training on victims' rights for police officers.

A. APPEALS OFFICERS TO CONDUCT HEARINGS IN CONTESTED APPLICATIONS FOR AWARDS

During the subcommittee's public hearing on November 5, 1983, the director of the department of administration made several suggestions for possible recommendations for the subcommittee to include in its report. One of those recommendations was that the statutes be amended to provide a two-tiered structure for the review of hearing officers' decisions on victims' applications for awards similar to the procedures followed by the state industrial insurance system (SIIS).*

Under the existing aid to victims of crime program, applications for compensation are referred to compensation officers who conduct investigations and submit their reports and recommendations to hearing officers. Hearing officers review the applications, hold hearings, if necessary, and then issue decisions. Aggrieved applicants may, after the hearing officers make their decisions, make appeals directly to the state board of examiners.

The director of the department of administration felt that the board should be relieved of directly reviewing all appeals, especially those which may be effectively dealt with by an appeals officer. The subcommittee concurs and, therefore, recommends:

- The statutes be amended to provide that applicants' appeals be processed by an appeals officer prior to final review by the state board of examiners. (BDR 16-97)

*For an overview of the SIIS model, see NRS 616.542.

B. AWARD LIMITS

Subsection 3 of NRS 217.200 provides that:

No award may be made for less than \$100 or for more than \$15,000 except in the case of a minor who was involved in the production of pornography.

The subcommittee believes the award limit should be raised and applied uniformly to all classes of eligible victims. It feels it would be improper for it to establish award limits based on the nature or type of crime. It thought, therefore, that a uniform award limit should be established in the law for victims of all crime. It recognized the plight and trauma of children who are involved in the production of pornography. It agreed, however, with the suggestion it received from the attorney general's office that a limit or cap be placed on the amount of awards that can be made to children who are involved in pornography.

The subcommittee, therefore, recommends:

- The statutes be amended to provide that minors who are involved in the production of pornography be subject to the same award limits as other victims of crime.
(BDR 16-98)

As noted in the introduction, Nevada's award limit for victims of crime was originally set at \$5,000 in 1969. That limit remained the same until 1983 when it was increased to \$15,000. In 1981, the legislature set a minimum threshold of \$100 on awards.

Several witnesses who appeared before the subcommittee stated that award limits should be increased and that the minimum threshold should be removed. Experience has shown that minimum loss requirements, witnesses said, often discriminate against certain classes of victims, especially rape victims, the elderly and the disabled. The lower threshold precludes the payment for low-cost but potentially important items such as eyeglasses, hearing aids or other items essential to the physical or psychological health of a victim. Several states, therefore, have amended or are in the process of amending their statutes to remove minimum loss requirements. (22:77)

The subcommittee was also advised that Nevada's current maximum award for victims of crime is low considering the expenses

faced by many victims of crime. As shown in Table I of the introduction, several states* and Washington, D.C., have set their award limits at over \$20,000. Certain states, such as New York and Texas, exempt award limits for medical expenses from their established maximums. (22:74)

The subcommittee believes Nevada should follow the example of other states and, therefore, recommends:

- The statutes be amended to remove the minimum threshold on awards and to increase the standard award limit to \$25,000. The subcommittee further recommends that the board be permitted to make awards of up to \$100,000 for medical expenses and that any awards in excess of \$25,000 be paid directly to the medical care provider(s). (BDR 16-98)

C. CIVIL ACTIONS BY OR AGAINST VICTIMS OF CRIME

The district attorney of Washoe County challenged the subcommittee to "break new legal ground in Nevada" by recommending legislation to the next legislature which would aid victims of crime in civil actions against offenders. He pointed out that the scales of justice need to be brought back into balance to provide the victims of crime with legal protections and safeguards which are equal to those of the persons who prey upon them. He suggested (1) a "speedy civil trial provision" similar to Nevada's "speedy criminal trial provision" which was added to the law in 1983 by Senate Bill 211 (chapter 307, Statutes of Nevada 1983), (2) protection for victims from civil actions brought against them by offenders for injuries sustained in the course of the crime, and (3) that conviction of the criminal offense be conclusive evidence of the facts necessary to support the conviction in a related civil action brought by the victim against the offender. The subcommittee understands that these suggestions will require some careful legal scrutiny. It believes, however, that they have merit and, therefore, recommends:

- The statutes be amended to require that a civil action relating to injuries suffered as a result of a crime

*Arkansas, California, Maryland, Minnesota, Montana, North Carolina, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Texas and West Virginia.

brought by a victim of a crime against the offender must be brought to trial within 90 days after commencement of the action. (BDR 3-102)

- The statutes be amended to prohibit an offender who is convicted of a crime of violence from bringing an action against the victim of the offense for injuries sustained by the offender in the course of the crime. (BDR 3-102)
- The statutes be amended to provide that in any civil action relating to the crime brought against the offender by the victim, conviction of the criminal offense is conclusive evidence of facts necessary to support the conviction. (BDR 3-102)

D. COLLATERAL SOURCE DEDUCTIONS

According to the National Institute of Justice, the various states' compensation programs reduce the level of awards paid to victims of crime by deducting any payment that the victims receive from other sources. The purpose of these reductions is to prevent double recovery, ensuring that the victims do not enrich themselves at the expense of the state and other, possibly more needy, victims. (22:79)

There appears to be two ways in which collateral source payments are deducted from awards: (1) they are deducted from the total allowable reward, or (2) they are deducted from the total or gross loss caused to the victim by the criminal act. Nevada follows the first approach.

Deductions based on the first approach were the subject of a Hawaii Supreme Court ruling in 1981 where:

The Court held that 'The State's limitation would impose a narrow interpretation of the law by automatically denying an award where a victim received more than \$10,000 in benefits without regard to the gross economic loss plus pain and suffering.' The State's interpretation would have the effect of denying awards to persons who have suffered great economic loss, but who have received collateral benefits in excess of \$10,000, while compensating claimants who have suffered small economic losses but who have received less than \$10,000 in collateral benefits. (22:80)

The subcommittee believes that deducting the collateral source payments from the victim's gross expenses which are

associated with the criminal act clearly is the more equitable approach. It, therefore, recommends:

- The statutes be amended to clarify that any collateral source payments which a victim receives must be deducted from the victim's total expenses, and not just from the amount awarded, in determining the amount by which the award is to be reduced. (BDR 16-97)

E. COMPENSATION FOR MEDICAL EXPENSES ASSOCIATED WITH THE TREATMENT OF VENEREAL DISEASE OR PREGNANCY

Certain witnesses appearing before the subcommittee expressed the opinion that awards to victims of crime for medical expenses associated with a criminal act should include reimbursement of medical costs for the treatment of venereal disease or for medical care during pregnancy. The subcommittee felt these suggestions have merit and asked the director of the department of administration for an opinion as to whether awards can be made to cover those expenses. In a March 22, 1984, letter (contained with this report as Appendix C), the director advised the subcommittee:

Following the Subcommittee's November 5, 1983, meeting, I requested and obtained an opinion from the Attorney General on whether a victim of sexual assault who is eligible for assistance pursuant to NRS 217.280 to NRS 217.350 may also receive assistance under NRS 217.010 to NRS 217.270 (Aid to Certain Victims of Crime). This opinion, copy enclosed, indicates that 'the victim of sexual assault is essentially a victim of a specialized type of battery' and that 'physical injuries directly caused by a battery are compensable under the General Victim of Crimes provisions in Chapter 217 of NRS to a limit far exceeding the limit set for victims of sexual assault under those specific provisions.' I feel that this opinion gives us the authority to provide compensation for medical expenses pursuant to NRS 217.200 to a rape victim who becomes pregnant or who contracts VD. (76:1-2)

The subcommittee felt the director's response was appropriate. It thought, however, that his opinion, and that of the attorney general, whom he had asked for advice, should be placed in the statutes to forestall any differences of interpretation in the future. The subcommittee, therefore, recommends:

- The statutes be amended to provide that the hearing officer may order the payment of an award to a victim for

medical expenses associated with the treatment of venereal disease or pregnancy which resulted from the offense.
(BDR 16-101)

F. COMPENSATION FOR VICTIMS OF SEXUAL ABUSE

As discussed later in this report under the heading "Removal of Restrictions Against Compensation," NRS 217.220 specifies several instances where victims are precluded from receiving awards. One of those exclusions is for persons who are relatives of offenders.

The subcommittee was told that the statutory prohibition against victims who are relatives of offenders receiving awards works a special hardship on children, especially those who are sexually abused. According to John Sarb, executive director of WE CAN, Inc.--a community-based child abuse and neglect prevention and treatment agency in Clark County:

It is as if the inherent assumption is the pain and suffering is less if inflicted by a relative. When * * * (children are) * * * sexually abused by their adult caretakers, just the opposite is true. The pain, shame, anger, and embarrassment that any act of sexual aggression engenders are all there for the child victim of intrafamilial sexual abuse. Added to this is the incredible confusion that results when the person responsible to teach you right from wrong does something very wrong and tells you it is right. Worse still, these children are often convinced it is their fault. Such is the power of the parent-child relationship. * * * (Many children who have been molested) * * * grow up to be people who cannot distinguish right from wrong; who fear and despise authority; who cannot establish trusting, intimate relationships; and who mask their pain and confusion behind chronic substance abuse, violence, and their own sexual misconduct.

These terrible effects can be remediated with professional therapy. None of the approximately 150 child victims we have seen over the last two years has been eligible for compensation under either of the laws designed to help victims of crime and victims of sexual assault. I would like to see the law changed to permit compensation. (64:2-3)

The subcommittee concurs with Mr. Sarb and, therefore, recommends:

- The statutes be amended to make victims of sexual abuse (as defined in NRS 200.5011) eligible for awards under the compensation for victims program, even if the offense is committed by a relative. (BDR 16-101)

G. CONTRIBUTORY MISCONDUCT

Under existing law, compensation must not be awarded if the victim violated a penal code of this state which caused or contributed to his injuries or death. Nevada Revised Statutes 217.180 also requires that the hearing officer consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death. These prohibitions can lead to hardships for victims which far outweigh the extent of their contributory misconduct.

The following example was given to the subcommittee by Florence McClure, executive director of Community Action Against Rape:

I have just learned that a 26-year-old woman who was sexually assaulted three days after a female operation was denied an award. Two doctors subsequently said that she required a partial hysterectomy because of the attack. * * *

This young woman is indigent; she lives in public housing in Henderson and has only been able to work sporadically. * * * (She) * * * was hitchhiking and, we know it is not prudent to do that. I would not do it. However, her circumstances are different than mine. She did not have a car and she needed money to feed herself and her 2-year-old child. She knew she could get money from a friend if she could get to Las Vegas where he had a shop. Since she did not have a car, she hitched-a-ride. She was down and out and not thinking clearly. She was attacked by a man who gave her a ride. She told him of the operation and begged him not to assault her. He would not listen. He was found guilty by a jury. It was not until later that we discovered the extent of damage done to her. (59:6-7)

The subcommittee believes an outright prohibition against the payment of awards to persons who may have contributed to their injuries is inappropriate. The subcommittee understands that the intention of victims' compensation programs is to make reparations to innocent victims of crime.

Unfortunately, the injuries suffered by certain victims are more a result of poor judgment than criminal intent or complicity.

The circumstances of each case should be considered. The subcommittee, therefore, recommends:

- The statutes be amended to provide that an award may be reduced to the extent that a victim's behavior contributed to his injury. (BDR 16-99)

H. COUNSELING

As mentioned in the introduction, NRS 217.290 to 217.350 require the board of county commissioners of each county to provide by ordinance for the medical treatment of victims of sexual assault. The law also requires the counties to provide for the psychological counseling of victims or their spouses who suffer emotional trauma as a result of the sexual assault. Any costs for the medical treatment and counseling must be paid, to a maximum of \$1,000, by the counties.

Persons appearing before the subcommittee suggested that eligibility for psychological counseling be extended to the victims of sexual abuse and to the nonoffending parent(s) and sibling(s) who reside with the victim. Witnesses also recommended that counseling be provided for the parent(s) of the victims of sexual assault and other persons, sometimes referred to as "significant others" who have close emotional attachment to the victim.

It was pointed out to the subcommittee that the trauma of child sexual abuse is no less severe than the trauma of sexual assault to an adult. In fact, the psychological scars of child sexual abuse may be more long-lasting. The subcommittee agrees the victims of child sexual assault, their nonoffending parent(s) and sibling(s) should be eligible for counseling. The nonoffending parent(s) and sibling(s) have been traumatized too. If they are not helped through their trauma, they cannot be a resource to the abused child.

The parents and the persons who have been closely emotionally attached to the victim of sexual assault, moreover, have been emotionally scarred by the assault and should be eligible for counseling under the law. The subcommittee, therefore, recommends:

- The statutes be amended to require the board of county commissioners of each county to provide by ordinance for the counseling of the nonoffending parent(s); sibling(s)

who reside with the victim(s) and the victim(s) of sexual abuse (as defined in subsection 7 of NRS 200.5011). Such ordinances should provide that the counseling must be requested by the victim(s), nonoffending parent(s) or sibling(s). (BDR 16-101)

- The statutes be amended to require the board of county commissioners of each county to provide by ordinance for the counseling of the parent(s) of the victims of sexual assault and other person(s) who have close emotional attachment to the victim(s) and who are selected by the victim(s) to undergo counseling. (BDR 16-101)

I. EMERGENCY AWARDS

1. Integration of Preliminary and Emergency Awards

The 1983 session of the Nevada legislature amended the victims of crime law to provide for both emergency and preliminary awards. Assembly Bill 577 (chapter 607, Statutes of Nevada 1983) permits hearing officers to order emergency awards to victims to help them avoid financial hardship and provides for the deduction of the emergency awards from the final award.

Senate Bill 369 of 1983 (codified as NRS 217.095) provides for preliminary monetary awards to victims of crime. Under that act, a person is eligible for a preliminary award if his income is not more than \$750 per month. Preliminary award limits are \$400 for the replacement of lost money and \$1,000 for the replacement or repair of lost or damaged property which is essential to the physical or psychological health of the applicant. The law, as is the case with emergency awards, provides that the amount of any preliminary award must be deducted from the final award. It also enumerates procedures for the processing of preliminary awards. Under the statutory provisions dealing with preliminary awards, a compensation officer, a nonstate employee who is remunerated by contract by the state board of examiners, may grant a preliminary award.

The director of the department of administration and the chief deputy attorney general advised the subcommittee that the provisions in the law dealing with preliminary and emergency awards for victims of crime are conflicting and confusing. They suggested that the emergency and preliminary award statutes be combined and renamed. They felt that both awards should be processed in the same manner and that nonstate employees, meaning the compensation officers, should not be empowered to order awards.

The director of the department of administration suggested that the emergency award statute be the framework for combining the preliminary and emergency award provisions in the law. He also suggested that the language in the preliminary award section of the statutes specifying \$400 for the replacement of lost money and \$1,000 for the replacement or repair of lost or damaged property should be kept in the combined new statute.

The subcommittee agrees that the law's existing provisions for emergency and preliminary awards to victims of crime need to be combined to avoid confusion and misinterpretation. The subcommittee, therefore, recommends:

- The statutes be amended to combine and rename, as emergency awards, the emergency and preliminary award provisions for victims of crime contained in chapter 217 of the Nevada Revised Statutes. The subcommittee recommends further that a hearing officer, and not a compensation officer, be responsible for determining if an award should be made and that the provisions contained in NRS 217.095 relating to the replacement of money and the replacement or repair of lost or damaged property be incorporated into the combined provision. (BDR 16-100)

2. Emergency Awards to Tourists and to Persons Who Have Claims of Less than \$100

A spokesman for the Las Vegas Metropolitan Police Department told the subcommittee of assistance which has been provided to victims of crime in Clark County with money provided from the "Police-Firemen Football Fund." Money from the fund, which the spokesman advised had greatly diminished, is used to provide quick financial help to victims such as tourists or persons with small losses who may not qualify for awards from the state program. The spokesman indicated that the emphasis is on rapid payment of awards. The awards are usually given on the basis of crime report information and an officer's recommendation. Recent examples of payments include money to replace an assault victim's glasses, replacement of a burglary victim's broken window, payment of living expenses to an elderly tourist for 2 days until she could return home, and payment of charges to release a robbery victim's automobile from impound.

The Las Vegas Metropolitan Police Department officer, and several other persons who appeared before the subcommittee, felt that the state should, because its main industry is tourism, provide awards to tourists who are victims of crime

in Nevada. He and other persons making presentations also thought the law should be amended to permit awards of less than \$100.

The subcommittee applauds local efforts to assist and compensate victims of crime. It agrees, however, that the state should also provide compensation and assistance to tourists, the elderly and low-income persons who are victims of crime in Nevada. It, therefore, recommends:

- The statutes be amended to permit the payment of emergency awards to tourists who are victims of crime in Nevada. The subcommittee recommends further that such awards be permitted for the replacement of money lost as a direct consequence of a criminal action if the applicant needs to replace the lost money to pay his expenses for the next 7 days. The subcommittee recommends that cash awards not exceed \$200. (BDR 16-100)
- The statutes be amended to permit the payment of emergency awards by the hearing officer, not limited to a minimum of \$100, to victims of crime determined to be in immediate need of eyeglasses, dentures, other prosthetic devices, or locks, windows or doors in the victims' dwellings damaged or destroyed during the course of the crime. (BDR 16-100)

3. Deadlines for Making Application for Emergency Awards

Under existing law, no order for the payment of compensation may be made unless the application is made within 1 year after the date of the personal injury or death on which the claim is based, and the personal injury or death was the result of an incident or offense which was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within 5 days of the time when a report could reasonably have been made. The law does not specify shorter or different deadlines for emergency and preliminary awards.

The subcommittee felt that applications for emergency or preliminary awards presuppose an urgency situation or need for quick response. Apparently, that is not always the situation. The subcommittee was told of an application for a preliminary award which was received by the board of examiners in October 1983, for a crime which occurred in April 1983, a lapse of 6 months.

The subcommittee recognizes that there are times when the nature of the injuries will preclude a victim from submitting

an application for award in an expeditious manner. It believes, however, that there should be general deadlines in the law for applying for emergency awards, in addition to those that are now in the law for standard awards, for persons not in emergency situations. It, therefore, recommends:

- The statutes be amended to require that no preliminary or emergency award may be made unless the application is made within 45 days after the date of the personal injury or death or, if the incident or offense could not reasonably have been reported within that period, within 15 days of the time when a report could reasonably have been made. (BDR 16-100)

4. Definition of Financial Hardship

Nevada Revised Statutes 217.200 permits emergency awards to be made to victims of crime to help them avoid financial hardship. The chief deputy attorney general told the subcommittee that the law does not define "financial hardship." He said this omission needs to be addressed to avoid confusion or improper interpretation.

The subcommittee found it difficult to articulate a hard-and-fast financial means test for emergency awards because each situation is different. It felt, however, that guidelines should be provided in the statutes. It noted that hearing officers need to exercise good judgment and compassion in applying the guidelines. The subcommittee, therefore, recommends:

- The statutes be amended to permit the hearing officer to deny an emergency award if he believes the victim has sufficient financial resources to sustain him until the final award is made. (BDR 16-100)

J. EMERGENCY MEDICAL TREATMENT FOR VICTIMS OF SEXUAL ASSAULT

As noted in the introduction and elsewhere in this report, NRS 217.290 to 217.350 provide for medical care and psychological counseling to victims of sexual assault at the counties' expense. Moreover, under NRS 217.300 and NRS 449.244, any victim of sexual assault may request and receive initial emergency medical care at a hospital for any physical injuries which resulted from the sexual assault. Nevada Revised Statutes 217.310, et seq., provide that the victim may apply for additional medical care or for counseling for the victim or spouse, which is needed as a result of the emotional

trauma resulting from the assault, by submitting an affidavit to the board of county commissioners.

The subcommittee was told that, in certain jurisdictions, "emergency care" has been defined as "medical care received in the first 24 hours after the patient goes to the hospital or a medical care provider." This interpretation, according to persons appearing before the subcommittee, represents a problem for victims because, if a victim requires additional care within the next day or two, the victim is required to file an affidavit before further treatment will be paid by the county. This can be a time-consuming process and compound the emotional stress already placed on the victim of a sexual assault.

Because of the nature of the crime and its resulting injuries, the victims of sexual assault may require several visits to a medical care provider within the first few days following an assault. This fact should be recognized in the law. The subcommittee, therefore, recommends:

- The statutes be amended to clarify that emergency medical care for a victim of sexual assault is the medical care provided in an emergency service area of a hospital to a maximum time limit of 72 hours after the victim first appears at the hospital: (BDR 16-101)

K. EXTENSION OF THE TIME LIMITATIONS ON APPLYING FOR
COMPENSATION BY MINORS WHO WERE INVOLVED IN THE
PRODUCTION OF PORNOGRAPHY

As discussed elsewhere in this report, no order for the payment of compensation to a victim of crime may be made unless the application is made within 1 year after the date of the personal injury or death upon which the claim is based. It was suggested to the subcommittee that this deadline may work to the disadvantage of children who are involved in child pornography or children who were sexually abused. In those cases, the adult or adults who are responsible for the child may be the offender. Children who are involved in child pornography or who are victims of sexual abuse may need additional time, beyond that specified in the law, to make applications for awards. It may be years before the crime is discovered and reported to the police. The subcommittee, therefore, recommends:

- The statutes be amended to specify that the deadline for application for compensation specified in Nevada Revised

Statutes 217.210 for a minor who was sexually abused or who was involved in the production of pornography is when the minor reaches the age of majority. (BDR 16-99)

L. FUND FOR COMPENSATION OF VICTIMS OF CRIME

Money for awards to victims of crime is paid from the fund for compensation of victims of crime. Under the provisions of subsection 3 of NRS 217.260, if on June 30 of any year the fund contains more than \$350,000, excluding any money deposited which is recovered from a forfeiture of assets from the use of minors in pornographic performances, the state treasurer is required to distribute the excess to the counties in the same proportions that the money which each county paid to the fund bears to the amount paid to the fund by all counties.

This report contains a series of recommendations which will expand the classes of victims eligible for compensation. The next section, "Funding for Aid to Victims of Crime Program," contains recommendations to increase the amount of money available for awards. The subcommittee believes, that unless the reversion provision is deleted, the existing fund limit will negate many of those recommendations and the ability of the program to provide deserving applicants with awards. It, therefore, recommends:

- The statutes be amended to remove the provision that any amount over \$350,000 in the fund for the compensation of victims of crime be distributed to the counties at the end of each fiscal year. (BDR 16-98)

M. FUNDING FOR AID TO VICTIMS OF CRIME PROGRAM

The attitude of the persons who are responsible for approving or denying claims appears to be so overprotective of the fund that victims are, in a sense, being victimized again through the claims process. This must also be changed. (59:9)

The above statement reflects the sentiment of several persons who appeared before the subcommittee. Witnesses said there are too many restrictions on the payment of awards. Many felt the compensation for victims of crime law is too narrow in scope. Others told the subcommittee that the persons who administer the law are more concerned about the fund balance than in helping innocent victims of crime.

These perceptions may not be entirely fair or accurate. They are, however, the perceptions of victims and of representatives of groups that assist victims of crime in Nevada.

As noted in the previous section, the subcommittee made a series of recommendations to enable additional classes of victims of crime to receive awards. These recommendations, in addition to the previous commitment the Nevada legislature has made to assist victims of crime, should send a strong message to victims of crime in Nevada and to the persons who represent them that Nevada, indeed, cares about the plight of victims and has a strong commitment to easing their financial burdens.

It is imperative, therefore, that sufficient funds be available to make awards to deserving innocent victims of crime. Many other states obtain money for awards to victims of crime from fines. Nevada is restricted in that regard because of the provisions of section 3 of article 11 of the Nevada constitution which pledges all fines collected under the penal laws of the state for educational purposes.

The subcommittee felt that the constitution should be amended to permit fines to also be used for compensating the victims of crime--the persons who were injured by the crime.

Past legislatures have looked to other sources of revenue for Nevada's victim of crime compensation fund including (1) one-half of the money offenders receive from their notoriety (see NRS 217.265); (2) forfeitures of assets from using minors in pornography (see NRS 200.760); (3) certain balances of money from the sale of seized property used in the commission of crimes (see NRS 179.123); (4) certain money in the restitution accounts of probationers and parolees not paid after 3 years to victims (see NRS 213.126 and NRS 176.189); and (5) from gross misdemeanor and felony bail forfeitures (see NRS 178.518).

Other sources are now needed for the fund to compensate victims of crime. The subcommittee believes those sources should include money from (1) the general revenues of the state, (2) federal funds, (3) interest on the money in the compensation fund which now reverts to the general fund, and (4) additional administrative assessments against persons guilty of misdemeanor penalties. Certain of these additional sources will no longer be needed when section 3 of article 11 of the Nevada constitution is amended to provide that fines may be pledged for educational purposes or for compensation of victims of crime in accordance with a formula established by the legislature. In the meantime, the subcommittee's

recommendations, if enacted, could generate over \$800,000 annually of additional money for the fund for the compensation of victims of crime. The subcommittee, therefore, recommends:

- That additional funds for the aid to certain victims of crime program be provided by an annual appropriation of \$150,000 from the state general fund. The subcommittee further recommends that such appropriations cease when section 3 of article 11 of the Nevada constitution is amended to provide that all fines collected under the penal laws of the state be pledged for educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature. (BDR 16-98)
- A joint resolution be enacted urging Congress to provide funding for state level programs providing assistance and compensation to victims of crime. (BDR 103)
- The statutes be amended to provide that the interest earned on the money in the fund for the compensation of victims of crime be credited to that fund. (BDR 16-98)
- The statutes be amended to add a collective restitution assessment of \$1 on every person convicted of a crime with the purpose not to punish but to provide restitution to make victims as a group whole from offenders as a group. The subcommittee recommends further that the money obtained from the assessment be paid into the fund for compensation of victims of crime. (BDR 16-98)
- The statutes be amended to provide that the administrative assessment against persons found guilty of misdemeanors be increased from \$10 to \$12 per assessment and that the additional \$2 be paid into the fund for the compensation for victims of crime. The subcommittee further recommends that such additional assessment be terminated when section 3 of article 11 of the Nevada constitution is amended to provide that all fines collected under the penal laws of the state be pledged for educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature. (BDR 16-98)

N. GARNISHMENT

The chairperson for the Carson City Support Group for Families and Friends of Victims of Violent Crime suggested to the subcommittee that awards to victims of crime or their

dependents should not be subject to garnishment. She felt that the money the victim or his dependents receives because of the victim's medical expenses, loss of earnings, funeral expenses or other losses which resulted from the personal injury associated with the criminal act should not be used to retire the victim's other financial obligations.

The subcommittee agreed that awards should be protected from garnishment, especially in view of the emotional trauma, physical pain, and financial burden placed on victims by criminal acts. The subcommittee, therefore, recommends:

- The statutes be amended to provide that awards to victims of crime under the provisions of chapter 217 of NRS not be subject to garnishment. (BDR 16-107)

O. GOOD SAMARITANS

As noted in other sections of this report, no award may be made to a victim of crime for less than \$100.

Certain persons appearing before the subcommittee told of instances where persons had suffered minor injuries or had personal property destroyed while attempting to prevent the commission of a crime. The witnesses felt that Good Samaritans should be reimbursed for their losses, even if the losses are of small monetary value.

The subcommittee concurs and, therefore, recommends:

- The statutes be amended to permit the payment of awards, not limited to a minimum of \$100, and the awarding of the governor's certificate for meritorious citizen service to persons who attempt to prevent the commission of a crime. (BDR 16-99)

P. INITIAL SCREENING OF APPLICATIONS TO DETERMINE COMPLIANCE WITH STATUTORY REQUIREMENTS UNDER THE AID TO VICTIMS OF CRIME PROVISIONS IN THE STATUTES

The director of the department of administration also serves as clerk to the state board of examiners which administers the compensation program to aid victims of crime. The director requested that the law be amended to permit initial screening and conditional denial of applications for compensation by victims upon receipt by the state board of examiners. He

also suggested that applicants be permitted to appeal if their applications have been conditionally denied upon receipt.

The director noted that certain applications by victims for compensation clearly do not qualify under the terms of the statutes but that the applications must be submitted for review to a compensation officer who charges the fund for compensation of victims of crime for his services. Under the law, each compensation officer is entitled to receive a wage of up to \$50 per hour, as determined by contract, to a maximum of \$250 per case.

The subcommittee felt that the director's suggestions could, if carried out, speed up the processing of certain applications which clearly do not meet the standards for compensation and also reduce administrative charges against the victims' fund. The subcommittee, therefore, recommends:

- The statutes be amended to provide for the initial screening upon receipt by the state board of examiners of applications by victims of crime for compensation. The subcommittee recommends further that conditional denial be permitted if the application does not appear to meet statutory requirements for compensation. The subcommittee recommends further that any applicant denied compensation during an initial screening be permitted to, within 15 days after the denial, appeal the decision. (BDR 16-97)

Q. LIBERAL INTERPRETATION OF STATUTES DEALING WITH AID TO VICTIMS OF CRIMINAL ACTS

Other sections of this report discuss the perceptions of several persons who appeared before the subcommittee that those who administer the state's aid to certain victims of crime laws are too concerned with protecting the balance of the fund for compensation of victims of crime. This perception was addressed by the chief deputy attorney general, speaking for the attorney general, during the subcommittee's April 19, 1984, meeting, when he said:

There was much criticism of the perceived attitude of the hearing officers who must make the initial determination in victim compensation cases that they sometimes appear more interested in protecting the fund than insuring that all qualified persons receive just

compensation. In order to more positively state the legislature's attitude about this beneficent program, perhaps NRS 217.010 should be amended to declare that it is the intention of the legislature that a liberal interpretation be given to all the provisions of chapter 217 in order to carry out its remedial purposes. (57:2-3)

The subcommittee agrees with the attorney general that a statement declaring the legislature's intention that the statutes providing for the compensation of victims of crime should be liberally construed needs to be added to the law. As noted by Michael R. Gottfredson, an associate professor of criminal justice at Claremont Graduate School, Claremont, California:

Public compensation also makes the eminently worthwhile statement about crime and justice that the state regards seriously its obligations to protect its citizens, and will seek to redress them when their security has been violated.

The subcommittee, therefore, recommends:

- That chapter 217 of NRS be amended to declare that its provisions be liberally construed to effect its stated purposes. (BDR 16-97)

R. SEVENTY-FIVE PERCENT OF THE MONEY RECEIVED BECAUSE OF OFFENDER'S NOTORIETY TO BE PLACED IN FUND FOR COMPENSATION OF VICTIMS OF CRIME

As noted in the introduction, the 1981 session of the Nevada legislature amended the victims of crime law to require that one-half of the money received by an offender based on his notoriety must be placed in the fund for compensation of victims of crime.

Persons appearing before the subcommittee suggested that all such money be placed in the fund. The subcommittee understands the motivation for this recommendation. It is unconscionable for an offender to profit from his notoriety. Some have said, however, that there are possible constitutional questions if offenders are completely restricted from selling works describing their crimes. Moreover, diverting funds from the money offenders receive based on their notoriety to the victims of crime fund works to the aid of

victims. The subcommittee felt a compromise was in order. It, therefore, recommends:

- That 75 percent of the money an offender receives based on his notoriety be paid into the fund for the compensation of victims of crime. (BDR 16-98)

S. NOTICE OF RELEASE OF DEFENDANT

Senate Bill 145 (chapter 368, Statutes of Nevada 1983) added several provisions to the law dealing with the rights of victims of crime. One of those rights pertains to the right of victims to be notified when an offender who committed a felony crime against them is released from prison. The law says, in that regard:

If the crime was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides his current address, notify him at that address when the offender is released from the prison. If a current address is not provided, the warden may not be held responsible if this information is not received by the victim or witness. (See subsection 2 of NRS 178.5698.)

The subcommittee thought that victims should also be notified when offenders who committed crimes against them obtain short-term releases from prison or when those prisoners escape. It asked the department of prisons if it would object to such an extension of the notification provision in the law. The director's response, contained with this report as Appendix F, was, in part:

While this proposal imposes additional administrative requirements upon the Department, the added burden is acceptable to us given the importance of establishing effective victims' rights legislation. (75)

The subcommittee applauds the director's willingness to assist victims and recommends:

- The statutes be amended to expand the notification provisions to victims of crime to include situations in which offenders are given temporary passes, furloughs, work release permits by the department of prisons or when prisoners escape from the department of prisons. (BDR 16-108)

T. NOTIFICATION TO VICTIMS ABOUT VICTIMS OF CRIME PROGRAMS

Several persons who appeared before the subcommittee stressed the importance of proper notification to victims of crime about state and local programs available to assist victims and to offer them reparations for their injuries and losses.

It was suggested that the state disseminate information describing the provisions of the state's program and that various local agencies such as the district attorneys' offices, law enforcement agencies and providers of medical care provide information about the state and local programs to victims. It should be mentioned here that certain district attorneys' offices, such as those in Clark and Washoe counties, routinely provide detailed information to victims about compensation and assistance programs available to them. Local agencies are not, however, consistent in this practice.

It was also suggested to the subcommittee that public and private agencies which assist victims of crime work together to ensure that the needs of victims are properly met. The subcommittee recognized the good efforts of local agencies and volunteer groups in assisting victims but detected certain unproductive rivalries and jealousies.

The United States Department of Justice addresses notification to victims of crime about victims' compensation programs in its publication entitled Compensating Victims of Crime: An Analysis of American Programs. That publication says, in part:

The various techniques for making victims aware of the availability of victim compensation services include general advertisements and notification of victims by law enforcement personnel, medical providers, and victim/witness assistance programs. Many programs are not widely advertised due to a concern that sufficient funds are not available to pay all eligible victims in the state. This lack of public awareness of programs in many states is perhaps the most critical issue for victim compensation programs.

* * * The failure to announce the availability of certain other forms of relief (e.g., vaccine during an epidemic) would be considered a scandal. The failure to make victim compensation broadly available is also viewed as a scandal by proponents of such programs. States should review their current policies * * * and seek to close the gap between program rationales and actual program operations. (22:21)

The subcommittee agrees with the suggestions of those persons who appeared before it and of the U.S. Department of Justice concerning proper notification to victims about state and local programs to assist them. It, therefore, recommends:

- The statutes be amended to require the hearings division of the department of administration to prepare and disseminate information describing the provisions of the state's victims of crime program contained in chapter 217 of the Nevada Revised Statutes. (BDR 16-109)
- A resolution be enacted by the 1985 session of the Nevada legislature urging (1) district attorneys, law enforcement agencies, hospitals, programs offering assistance to victims of crime, and programs offering assistance to elderly persons to provide information to victims of crime describing the state's aid to certain victims of crime programs; and (2) all public and private agencies which assist victims of crime to cooperate with each other to ensure that the needs of the victims are met quickly, courteously and compassionately. (BDR 104)

U. RECIPROCAL AGREEMENTS FOR COMPENSATION OF VICTIMS OF CRIME WITH OTHER STATES

Under NRS 217.220, compensation must not be awarded if the victim * * * was not a resident of the State of Nevada at the time the incident upon which the claim is based occurred.

The subcommittee was told that this exclusion is improper, especially because Nevada, with its tourist-based economy, is so dependent on other states. As one person told the subcommittee, "You are welcome to come here and spend your money, but don't ask us for help if you become a victim of a crime here." Several states,* as illustrated in Table I contained in the introduction to this report, do not automatically deny awards to nonresidents. Other states provide for reciprocal agreements for the payment of awards to victims of crime. According to the U.S. Department of Justice:

*Arkansas, California, Florida, Illinois, Indiana, Iowa, Kansas, Massachusetts, Maryland, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming.

Fifteen state victim compensation programs have developed reciprocal agreements with other states, and these states will compensate the others' residents when victimized within their jurisdiction. Such agreements seem very appropriate in a mobile society such as the United States and eliminate unfortunate instances in which victims are ineligible for compensation simply because they are not victimized within their home state. Such reciprocal agreements should be strongly considered by all victim compensation programs. (22:20)

The subcommittee believes that, at a minimum, Nevada should join the other states which have agreed to compensate persons who become victims of crime in those states' respective borders. This may become a requirement for the state to receive federal funds. The subcommittee, therefore, recommends:

- The statutes be amended to permit the processing of applications for awards for compensation of nonresidents if the states in which the victims reside make agreements with Nevada to process applications for awards from Nevada residents who become victims of crime within their respective jurisdictions. (BDR 16-99)

V. EASING OF CONSTITUTIONAL RESTRICTION ON THE USE OF FINES

Section 3 of article 11 of the state's constitution provides, in part, "that all fines collected under the penal laws of the state be pledged for educational purposes."

The subcommittee commends the foresight of the framers of the state's constitution in providing for a continuing source of revenue for our public schools. It believes, however, that the time has come to broaden the scope of section 3 to permit funds to be used to provide awards to victims of crime. As discussed in several other locations in this report, fines are the most common source of money for victims' compensation programs in other states. It can be argued that by using fines to make awards to victims, the state is providing direct reparation from the criminal to the victim. The subcommittee, therefore, recommends:

- That section 3 of article 11 of the Nevada constitution be amended to provide that all fines collected under the penal laws of the state be pledged for educational purposes and for compensation of victims of crime in accordance with a formula established by the legislature. (BDR C-105)

W. REMOVAL OF RESTRICTIONS AGAINST COMPENSATION

1. Relative Exclusions

During the subcommittee's meetings, witnesses expressed concern that Nevada's exclusions for relatives or persons living with the offender in a continuing relationship from compensation from the victims of crime program creates unnecessary hardships. This matter has also been addressed in Compensating Victims of Crime: An Analysis of American Programs which says, in part:

The most controversial class of individuals typically excluded from potential compensation are relatives of the offender, persons living in the same household as the offender, and/or persons engaged in a continuing relationship with the offender. Three basic assumptions underlie this type of policy:

- a. that victims related to or residing with the offender are not innocent, i.e., that they contribute significantly to their own victimization;
- b. that the relationship enhances the potential for collusion and attempts to defraud the state; and
- c. that the offender may benefit directly or indirectly from the award to the victim.

The first of these assumptions is unenlightened, ignoring the painful realities of the prevalence of family violence in modern society. The second assumption is unreasonable, for it is doubtful that individuals would risk the possibility of criminal prosecution (since reporting of the incident to the police is another eligibility requirement), or be willing to endure actual physical injury to recoup only out-of-pocket expenses and lost wages. The last assumption can be circumvented by developing policies that insure that only the victim can obtain the compensation funds.

Several alternatives to policies of summary denial in cases of relation or common residence have recently been instituted around the country. One of these is simply to add a clause to the statute allowing the program to waive the provision "in the interest of justice." This allows a program to compensate, for instance, small children left orphaned as a result of their father murdering their mother--a claim that

otherwise would have to be denied. Another possibility is to allow for compensation in situations where the victim separates from the offender and cooperates in the prosecution * * * . A third and interesting way of circumventing this rule and thus providing aid to needy victims of familial violence is to allow for payment of expenses only to a service provider * * * . At least this helps to keep victims from going into serious debt as the result of a violent incident. Perhaps the most far-reaching way of ensuring that worthy victims will not be denied on a technicality, that is being used by many states, is to establish a policy that proscribes only those awards that would unjustly benefit the offender, rather than unconditionally disqualifying certain arbitrary classes of victims. (22:64-65)

The subcommittee's staff communicated with representatives of 20 states which do not exclude victims of crime for payment for one or more criterion relating to relatives, continuing relationship or same household. No one with whom the staff spoke indicated that the lack of his or her state's particular ineligibility criteria has a negative effect on the administration of the victims of crime compensation program or on the fund level for compensating victims.

In certain of the states, as mentioned in the earlier quote, there are factors which tend to give administrative authority to compensate victims who might normally be ineligible. These reasons include (1) the interest of justice, (2) the victim separates from defendant, (3) the victim cooperates with the prosecution, (4) payment is provided directly to a service provider, and (5) the offender is not unjustly benefited because of payment to the victim.*

The subcommittee believes the relative restriction should be removed from the aid to certain victims of crime provisions in the law. It, therefore, recommends:

- The statutes be amended to remove the prohibition against awarding compensation to the victim of a crime who is a relative of the offender or who lives with the offender in a continuing relationship unless the offender would

*Appendix B is a staff survey of other states' programs for compensation for victims of crime to determine the effect of the removal of ineligibility criteria pertaining to relatives, residents of same household and continuing relationships on the states' victims of crime compensation programs.

profit by the compensation of the victim or the victim does not cooperate with agencies of law enforcement. Such cooperation need not mean prosecution. (BDR 16-99)

2. Financial Means Test

Nevada Revised Statutes 217.180 requires a hearing officer to consider the need of the victim or his dependents for aid, and NRS 217.220 permits the hearing officer to deny an award if he determines that the claimant will not suffer serious financial hardship. The subcommittee was told that these provisions are inequitable and should be removed from the law.

According to one witness who appeared before the subcommittee:

Requiring victims to prove financial hardship can result in the gross inequity of denying claims of victims who have been diligent in saving money, especially the elderly on fixed income, while favoring those who may have earned more but have spent it freely.

Allow me to cite a recent example of a single, working mother whose 12 year old son suffered over a thousand dollars in medical expenses. The compensation officer's investigation showed no collateral sources to pay the medical bills. The mother stated she made \$747 per month as a cocktail waitress and \$110 in tips.

The recommendation of the report was to deny this request on lack of financial hardship. The officer stated in his report that he was 'highly suspect' of the amount of tips the mother received, and besides, she had \$30,000 in equity in her home; therefore, 'applicant has a source of funds which would provide a means to pay the medical bills.'

Twenty percent of the awards denied to Southern Nevada applicants in the past year and one-half were denied on the basis of financial hardship.

To quote from a 1979 study, 'If the goal of a victim compensation program is to meet the needs of victims, particularly during a time of loss and trauma, then resources must be used exploring ways to minimize their loss. The "serious financial hardship" requirement of some states, devised to limit costs and insure that

those most in need receive awards, actually denies many needy claimants, causing them unnecessary trauma and violates their privacy.' (66:3-4)

The subcommittee believes that the financial needs test should be redefined and made less stringent. It, therefore, recommends:

- The statutes be amended to require the hearing officer not to include the value of the victim's dwelling, motor vehicle, or savings and investments to an amount equivalent to the annual salary of the victim, when considering the need of the victim or his dependents for financial assistance. (BDR 16-99)

3. Crimes Involving Motor Vehicles

Another exclusion in Nevada law against compensation to victims of crime is when the victim was injured or killed as a result of the operation of a motor vehicle, boat or airplane, unless the vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim.*

As illustrated in Table I of the introduction, certain states, such as California, Colorado, Illinois, Louisiana, Missouri, Oregon, South Carolina, Texas and Wisconsin, do not automatically exclude the victims of crime involving motor vehicles from compensation. Several witnesses who appeared before the subcommittee thought that Nevada should join those states. They thought that the victims of persons convicted of driving under the influence of alcohol, hit-and-run, or fleeing the scene of a crime should be eligible for awards through the state victims of crime program. As stated by the resident agent in Clark County of Mothers Against Drunken Driving (MADD):

Driving under the influence in the State of Nevada is a felony . . . when an accident occurs and substantial bodily injury is incurred. Is a felony involving injury or death not a violent crime and are the victims of these crimes not entitled to compensation? We in the M.A.D.D. organization think the answer should be yes. (65:1)

*See paragraph (d) of subsection 1 of NRS 217.220.

The subcommittee agrees with MADD and, therefore, recommends:

- The statutes be amended to make the victims of persons convicted of driving under the influence of alcohol; hit-and-run; or fleeing the scene of a crime eligible for awards under the state's aid to victims of crime program. (BDR 16-99)

X. TRAINING ON VICTIMS' RIGHTS FOR POLICE OFFICERS

- 1. Peace Officers' Standards and Training Program (POST) to Include Training on Rights of Victims and the Compensation of Victims

According to information provided to the subcommittee by Nevada's peace officers' standards and training program, the current training received by POST trainees does not include any information on the needs of victims, victims' rights or programs which offer compensation to victims. This lack of training relates directly to funding limitations placed on the POST program. The peace officers' standards and training program's authorized annual expenditure is \$164,066. That amount is composed of \$22,223 of "startup" funds from the state general fund, a projected \$2,250 from agencies which send peace officers to the training, and \$139,593 from the misdemeanor assessments on each misdemeanor penalty provided by Assembly Bill 44 (chapter 375, Statutes of Nevada 1983). Based on misdemeanor assessments received as of the time this report was being written, the POST program could receive as much as \$200,000 annually from the assessments. Assembly Bill 44 requires, however, that: "Any amounts received in excess of the amounts authorized for expenditure must be deposited to the credit of the state general fund."

The subcommittee believes that, above all, peace officers should receive training on the laws pertaining to victims' rights and compensation. Peace officers are the first officials victims of crime usually encounter. It is important that victims learn as soon as possible after the crime of their rights and potential reparation.

The subcommittee also feels that money earmarked by the law for the training of peace officers should be used for that purpose and not revert to the general fund. This is especially important because the POST program is approximately 40 hours short of accepted national training standards. The subcommittee, therefore, recommends:

- The state's peace officers and training program (POST) include at least 4 hours of training on the needs of victims, victims' rights and programs which offer compensation to victims. The subcommittee further recommends that all, and not just the budgeted amount, of the portion of the administrative assessment on defendants found guilty of a misdemeanor which is earmarked for the peace officers' standards and training committee of the department of motor vehicles be used for the continuing education of persons whose primary duty is law enforcement. The subcommittee recommends the amounts received in excess of the amounts authorized for expenditure in the general appropriations act be retained for the education of peace officers and not be deposited to the credit of the state general fund. (BDR 14-110)

2. Ongoing Training for Peace Officers on Victims' Rights and the Compensation of Victims

Besides the recommended formal training provided by POST, the subcommittee believes peace officers should receive ongoing training on the needs of victims, victims' rights and programs which offer compensation to victims. It, therefore, recommends:

- The 1985 session of the Nevada legislature enact a resolution urging police and sheriffs' departments in the state to provide ongoing training to their personnel on the needs of victims, victims' rights and programs which offer compensation to victims. (BDR 106)

Y. VIDEOTAPED DEPOSITIONS AS TESTIMONY FROM MINORS WHO ARE VICTIMS OF SEXUAL ABUSE

A representative of the Clark County District Attorney's Office suggested that one of the subcommittee's recommendations be that videotaped depositions be permitted for minors who are victims of sexual abuse. He advised the subcommittee that certain other states, such as Florida and Texas,* have laws which permit the taking of videotaped depositions from young children when the court finds that there is a likelihood that the children will suffer severe emotional or mental strain if required to testify in open court. As of this writing, a California court judge has permitted the televised

*See F.S. 918.17 (53) and Texas S.B. 836 of 1983 (54).

testimony, a precedent-setting procedure for witnesses in California, in the preliminary hearing of a child abuse case. (4:11A).

The subcommittee believes the criminal justice system should take every step possible to avoid compounding the emotional trauma of victims, especially young victims who may have already been deeply emotionally scarred by the criminal event. Courtroom procedures, because of their adversarial nature, can be a painful experience. There is no need to compound the pain of young victims of sexual abuse. The subcommittee, therefore, recommends:

- The statutes be amended to provide that, in cases involving sexual abuse, the district attorney may order the taking of a videotaped deposition from the victim upon a showing that the minor may be unable to testify without suffering unreasonable and unnecessary mental or emotional harm. (BDR 16-101)

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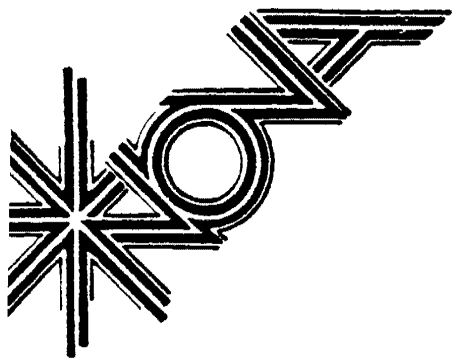
V. APPENDICES

| | <u>Page</u> |
|---|-------------|
| Appendix- A - <u>Victim Rights and Services: A Legislative Directory, 1984</u> , published by the National Organization for Victim Assistance | 58 |
| Appendix B - Memorandum and Attachments, Dated January 27, 1984, to Assemblyman Courtenay C. Swain from Donald A. Rhodes, Research Director, Legislative Counsel Bureau, Reporting on the Results of a Survey of Other States' Programs for Compensation of Victims of Crime to Determine the Effect of the Removal of Ineligibility Criteria Pertaining to Relatives, Residents of Same Household, and Continuing Relationships | 143 |
| Appendix C - Letter, Dated March 22, 1984, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, from William A. Bible, Director of the Department of Administration, Concerning Compensation for Medical Expenses Associated with the Treatment of Venereal Disease or Pregnancy and the Exclusion of Minors Who Were Involved in the Production of Pornography from the Time Limitations on Applying for Compensation | 153 |
| Appendix D - Letter Opinion, Dated November 30, 1983, from Brian McKay, Attorney General (Prepared by James T. Spencer, Deputy Attorney General), Addressing Whether a Victim of Assault Who Is Eligible for Assistance Pursuant to NRS 217.280 to NRS 217.350, Inclusive, May Also Receive Assistance Under NRS 217.010 to NRS 217.270, Inclusive | 157 |
| Appendix E - Letter, Dated February 8, 1984, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, from Bryn Armstrong, Chairman of the State Board of Parole Commissioners, Concerning Notification of Temporary Passes for Prison Inmates to the Victims of Their Crimes | 163 |

| | <u>Page</u> |
|--|-------------|
| Appendix F - Letter, Dated February 16, 1984, from Vernon G. Housewright, Director of Department of Prisons, to Donald A. Rhodes, Research Director, Legislative Counsel Bureau, Concerning Notification of Temporary Passes for Prison Inmates to the Victims of Their Crimes | 167 |
| Appendix G - Charts Showing Certain Provisions of Nevada Law Relating to Rights of Crime Victims and Compensation for Victims of Crime in Nevada | 171 |
| Appendix H - Victims of Crime Pre-Application Form Used by the State Board of Examiners | 183 |
| Appendix I - Victims of Crimes Program Statistics (Nevada), May 31, 1984 | 189 |
| Appendix J - Victims of Criminal Acts (Nevada List- ing of Persons Who Have Applied for Compensation), October 23, 1981, through May 29, 1984 | 195 |
| Appendix K - The National Judicial College "Statement of Recommended Judicial Practices" for Treatment of Victims of Crime, which Was Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Victims of Crime at The National Judicial College, Reno, Nevada, December 2, 1983 | 235 |
| Appendix L - Suggested Legislation | 243 |

APPENDIX A

Victim Rights and Services: A Legislative
Directory, 1984, published by the National
Organization for Victim Assistance



**VICTIM RIGHTS AND SERVICES:
A LEGISLATIVE DIRECTORY
1984**

The National Organization for Victim Assistance
1757 Park Road N.W.
Washington, D.C. 20010

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January, 1984

Dear Colleague,

In 1983, NOVA published its first directory of victim rights legislation. While it contained some errors and omissions, the response from readers indicated its usefulness clearly outweighed its problems.

We hope this new edition is even more helpful. We have added information on the many new laws dealing with victim compensation, victim service funding, victim bills of rights, victim involvement at sentencing, victim notification, restitution, and intimidation. We have expanded the summaries of legislation in the areas of counselor confidentiality, victim privacy, drunk driving laws, the insanity plea, and notoriety-for-profit. And we have added information on statutes giving victims the right to attend court proceedings, the right to a speedy trial, and special protections for child victims and witnesses.

The 1984 legislative directory comes to you as a looseleaf publication so that it can be periodically updated. Single copies of the publication are available at no cost, thanks to a grant from the Office of Justice Assistance, Research, and Statistics of the U.S. Justice Department. However, the quarterly update service and a special binder must be purchased from NOVA since neither is covered in the grant. If you are interested in either service, please let us know by using the order blank at the back of the directory.

While the legislative directory is the work product of the entire NOVA staff, two people took the lead in producing it. Adele Terrell is responsible for most of the updates from last year's directory, and Mario Thomas Gaboury served as the primary researcher in the new areas covered in the directory.

In addition, we warmly thank the victim advocates who continuously send us new bills and statutes from their states. We could not maintain our legislative clearinghouse without them.

Sincerely,


Marlene A. Young
Executive Director

Table of Contents

| | |
|--|----|
| Guide to Abbreviations and Form | i |
| Part One | |
| Legislation by Subject | 1 |
| Victim Compensation | 2 |
| Victim Service Funding | 4 |
| Victim Bill of Rights | 5 |
| Victim Involvement in Sentencing and Victim Statement of Opinion | 6 |
| Victim Participation | 7 |
| Restitution | 7 |
| Victim/Witness Notification | 8 |
| Protection from Intimidation | 9 |
| Other Significant Legislation | 10 |
| Counselor Confidentiality | 10 |
| Insanity Defense | 11 |
| Drunk Driving Laws | 12 |
| Legislative Issues for 1984 | 15 |
| Victim Privacy Protection | 15 |
| Compensation for Counseling | 15 |
| Notoriety-for-Profit | 16 |
| Important Innovations | 16 |
| Court Attendance | 16 |
| Speedy Disposition | 17 |
| Children's Rights | 17 |
| Part Two | |
| Legislation by State | 19 |
| Part Three | |
| Sample Statutes | 45 |
| Victim Compensation—New Mexico | 45 |
| Victim Services Funding—California | 49 |
| Victim Bill of Rights—Massachusetts | 53 |
| Victim Impact Statement with Accompanying Sample Statement—Maryland | 57 |
| Restitution—Utah | 61 |
| Parole Notification—Arizona | 63 |
| Intimidation—American Bar Association Model | 63 |
| Counselor Confidentiality—Pennsylvania | 65 |
| Court Attendance—Alabama | 66 |
| Children's Bill of Rights—Wisconsin | 67 |
| Federal "Victim and Witness Protection Act of 1982" | 69 |
| Federal Guideleines for Fair Treatment of Crime Victims and Witnesses | 74 |
| About NOVA | 76 |
| NOVA Services and Publications Order Form | 77 |

GUIDE TO ABBREVIATIONS AND FORMS

Abbreviations:

Annotated - Ann.
Bill of Rights - BOR
Chapter(s) - Chpt(s).
Section(s) - Sec(s).
Statute(s) - Stat(s).
Appropriation - approp.
Supplemental - Supp.
Amendment - Amend.
House Bill - HB
Senate Bill - SB
Assembly Bill - AB
Public Act - PA
Public Law - PL
Victim Impact Statement - VIS
Victim Statement of Opinion - VSO
Allocution - alloc.
Pre-Sentence Investigation Report - PSI
Penalty Assessment - pen. assmt.
General Revenue - gen. rev.

Format:

Statutes have been listed under each state in the following order, chronologically:

- Victim Compensation
- Victim Service Funding
- Victim Bill of Rights
- Victim Involvement in Sentencing/
- Victim Statement of Opinion
- Victim Participation
- Restitution
- Victim and Witness Notification
- Protection from Intimidation
- Other Summaries

State legislation is divided into two categories—enacted and introduced. Legislation introduced in years before 1984 and still listed as such remains pending and was not passed. All legislation introduced in 1984 is pending at this writing.

PART ONE: LEGISLATION BY SUBJECT

VICTIM COMPENSATION

Victim compensation legislation requires the establishment of funds to provide financial assistance to victims of violent crime under certain circumstances. Victims are usually required to report crimes and cooperate with the investigation and prosecution. However, the victim or his dependents may be granted compensation whether or not there has been an arrest. In many cases the definition of victim includes intervenors who are injured in an attempt to assist the original victim, or the police. Eligibility is frequently limited to situations where "financial hardship" can be demonstrated. Sometimes emergency awards are provided. In New York and Colorado, for example, special emergency awards are made available for the replacement of doors, locks, and windows (CO) and to replace other necessary property such as hearing aids and glasses and to provide reasonable, necessary transportation (NY).

Key issues in compensation legislation include: whether a state requires in-state residency, or out-of-state residency in a state that would offer compensation to the home-state's residents, for eligibility; the requirement of financial hardship; the use of a deductible-like private insurance plans; the requirement of a "minimum" loss before benefits are awarded; the ineligibility of victims who live with or are related to the offender; delays in compensation awards; and inadequacy of funding provisions.

The more effective programs provide for special funding mechanisms, such as penalties assessed to all offenders in addition to normal court costs and fines. Some states have experienced financial difficulties where the statute requires a dependence on general revenues or supplemental appropriations. The chart that follows summarizes compensation legislation in the U.S. (*See next page.*)

VICTIM COMPENSATION*

All programs cover the injured victim(s) of crimes causing physical injury and compensate for medical losses. Two types of physical injury crimes may be excluded: those which involve a perpetrator who lives in the same household, is a relative of, or has had a continuing relationship with the victim; and those which have been the result of a motor vehicle crime. The following chart indicates the variation on those issues and others affecting eligibility and benefits. For a detailed report on current compensation programs, the reader should refer to *Compensating Victims of Crime: An Analysis of American Programs* by Daniel McGills and Patricia Smith, prepared for the National Institute of Justice by Abt Associates, Inc.

| Program Elements | States | | | | | | | | | | | | | | | | | | |
|----------------------------------|--------|------|-----|-----|----|-----|----|-----|-----|-----|-----|-----|-----|-----|------|-----|----|-----|-----|
| | AK | CA | CO | CT | DE | FL | HI | IL | IN | IA | KS | KY | LA | MA | MD | MI | MN | MO | MT |
| Eligibility: Intervenor | X | X | | X | | X | X | X | X | | X | X | X | X | X | X | X | | X |
| Dependents | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Third Parties¹ | X | X | X | | X | | X | | | | X | | X | | | | X | | |
| Family Exclusion² | X | | X³ | X | | X | | | X³ | X | X | X | X⁴ | X | X | X⁴ | X⁵ | | X⁶ |
| Residents Only | | | X | X | X⁷ | | X | | | | | X⁷ | X | | | | | ? | |
| Motor Vehicles Excluded | X | | | X | X | X | X | X | | X | X | X | | X | X | X | X | | X |
| Reckless MV Included | | X | | | | | | | | | | | | | | | | | |
| Means Test | | X | | X | | X | | | | | X | X | | | X | X | | | |
| Recovery: Counseling | X | X | | X | X | X | X | X | X | ? | X | X | X | X | X | X | X | | X |
| Disability | X | | | X | X | | | X | X | ? | | | X | | X | | | | |
| Rehabilitation | X | X | | X | X | X | | X | | ? | X | | | | | X | X | | |
| Loss/Earnings | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | X |
| Loss/Support | X | X | X | X | X | X | X | | | ? | X | X | X | X | | | | | |
| Funeral | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | X |
| Replacement Services | X | | | X | | X | | | | | X | | | | | | X | | |
| Pain/Suffering | | | | | X | | X | | | | | | | | | | | | |
| Other Expenses | X | X | | X | X | X | X | | X | X | X | | X⁸ | | | X | | | X |
| Benefits: Maximum (in thousands) | 25 | 23 | 1.5 | 10 | 10 | 10 | 10 | 15 | 10 | 2 | 10 | 15 | 10 | 10 | 45 | 15 | 25 | 10 | 25 |
| Minimum Loss | 0 | 100 | 25 | 100 | 25 | 0 | 0 | 200 | 100 | 0 | 100 | 100 | 250 | 100 | 100 | 100 | 0 | 200 | 100 |
| Deductible | 0 | 0 | | 100 | 0 | 0 | 0 | 200 | 100 | 0 | 100 | 100 | 250 | 100 | 100 | 100 | 0 | | 0 |
| Attorney Fees | X | X | | X | | | X | X | X | | X | X | X | X | X | X | X | | X |
| Emerg. Award | 1500 | 1000 | | 500 | 0 | 500 | 0 | 0 | 500 | 500 | 0 | 500 | 500 | 0 | 1000 | 500 | 0 | | 0 |
| Reduced by Contribution | X | X | | X | X | X | X | X | | | | | | X | X | X | X | | X |
| Denied by Contribution | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| Source of Funds: General Rev. | X | | | | | | X | X | X | X | X | X | X | X | X | X | X | | |
| Penalty Assess. | | X | X | X | X | X | | | | X | | X | X | | | | X | X | X |
| Fines | | | X | X | X | X | | | X | X | | | | | | | X | X | |

FOOTNOTES

¹Third Parties refer to programs which will reimburse persons other than the victim who paid bills or provided services for the victim.

²Family exclusion includes those programs which exclude relatives, cohabitants of a household, or persons who have maintained a continuous relationship with the accused.

³In Indiana the spouse of the offender is ineligible for compensation. There is a separate fund for spouse abuse victims in the state.

*Arkansas is not listed on this chart because its recently passed authorization for a compensation fund was not accompanied by programmatic details.

VICTIM COMPENSATION (cont.)

| Program Elements | States | | | | | | | | | | | | | | | | | | | |
|----------------------------------|----------------|----|-----|------|----|------|----------------|----|-----|------|------|----|----------------|-----|------|------|-----|----|-----|----------------|
| | NC | NE | NV | NJ | NM | NY | ND | OH | OK | OR | PA | RI | SC | TN | TX | VA | WA | WV | WI | DC |
| Eligibility: Interveners | X | X | X | X | | | X | X | X | X | X | | X | X | X | X | X | X | X | X |
| Dependents | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Third Parties ¹ | X | X | X | X | X | | | X | X | | X | X | | X | X | X | X | X | X | |
| Family Exclusion ² | X ³ | X | X | X | X | X | X ³ | X | | X | X | X | X ³ | X | X | | X | X | X | |
| Residents Only | X | | X | | | | | | | | | | X ⁷ | | | | | | | X ⁷ |
| Motor Vehicles Excluded | X | X | X | X | X | X | X | X | X | | X | X | | X | | X | X | X | | |
| Residence MV Included | X | | | | | | | | | X | | | X | | | | | X | X | |
| Means Test | | | X | | | X | | | | | | | | | X | X | | | X | |
| Recovery: Counseling | | X | X | X | | | | X | X | X | X | X | ? | X | X | X | X | X | X | |
| Disability | | | | | | | | | X | | | | ? | | X | | X | | | |
| Rehabilitation | X | X | X | | | X | X | X | X | X | X | | ? | | | | X | X | X | |
| Loss/Earnings | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Loss/Support | X | | | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Funeral | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Replacement Services | X | | | | | | X | X | X | | | | | | | X | | X | X | |
| Pain/Suffering | | | | | | | | | | | | X | | X | | | | X | | |
| Other Expenses | | X | | X | X | | X | | X | X | X | | | | X | | | X | X | |
| Benefits: Maximum (in thousands) | 20 | 10 | 5 | 10 | 12 | 20 | 25 | 25 | 10 | 23 | 25 | 25 | 10 | 10 | 50 | 10 | 15 | 20 | 10 | 25 |
| Minimum Loss | 100 | 0 | 100 | 100 | 0 | 0 | 100 | 0 | 0 | 250 | 100 | 0 | 300 | 100 | 0 | 100 | 200 | 0 | 0 | 100 |
| Deductible | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 250 | 0 | 0 | | 0 | 0 | 100 | 0 | 0 | 0 | |
| Attorney Fees | X | X | X | X | | X | X | X | | | X | X | | X | X | | | X | X | |
| Emerg. Award | 0 | 0 | 0 | 1500 | X | 1500 | 1000 | X | 500 | 1000 | 1000 | 0 | 1500 | 500 | 1500 | 1000 | 0 | 0 | 500 | 1000 |
| Reduced by Contribution | X | | | X | X | X | | | X | | X | | X | | X | X | | X | | |
| Denied by Contribution | X | X | | X | | X | X | X | X | X | | | X | | X | X | | X | X | |
| Source of Funds: General Rev. | X | X | | X | X | X | X | | X | X | | | | | | | X | X | | |
| Penalty Assess. | | | | X | | | | X | X | | X | X | X | X | X | X | X | X | | |
| Fines | | | | X | | | | X | | | X | X | X | X | X | X | | X | | |

FOOTNOTES

⁴A victim residing with the accused is ineligible to receive an award in Michigan; however, the victim's out-of-pocket expenses may be paid directly to a medical care provider.

⁵The ineligibility-of-a-relative provision can be waived if there is formal or permanent separation in cases involving a spouse and the spouse prosecutes the offender; if it is an incest case; and in cases involving mental derangement.

⁶These programs may waive the family exclusion "in the interests of justice."

⁷These programs restrict recovery to residents but allow non-residents to recover if the state in which they reside have reciprocity with the state in which the crime took place.

⁸Injuries caused by motor vehicles are excluded in these states unless there was intent on the part of the accused to use the vehicle to commit the crime.

⁹Nevada's compensation fund is generated by bond forfeitures and "Son of Sam" monies.

¹⁰Louisiana compensates for catastrophic property loss. There is also the implication that victims of such crimes may receive compensation for counseling.

FUNDING FOR VICTIM SERVICES

California was the first state to enact statewide funding for victim services. Since 1980, 18 states have made some provision for ensuring that victim or witness services be provided at the local level. In some states these services are limited to court-related assistance, special victims (e.g., sexual assault and domestic violence), or counseling. The more progressive states have sought to develop a funding base which provides adequate support for comprehensive services to all crime victims.

Funding legislation is often difficult to pass since states face increasingly critical economic decisions. However, the trend has been to fund victim services through penalty assessments or fines on all convicted offenders. This funding source is increasingly used for victim services and victim compensation. This means that such victim funding is generated primarily by imposing burdens on those convicted of crimes, and not from state government funds.

| STATE | SOURCE OF FUNDING |
|---------------|---|
| Alaska | General revenues |
| Arkansas | No funding, but legislation makes it mandatory for prosecutors to provide victim services as a part of their statutory duties |
| California | Penalty assessment |
| Connecticut | Fines (statutory authority but not implemented) |
| Florida | Fines and penalties (witness coordinator in courts) |
| Illinois | Penalty assessment |
| Kentucky | General revenues, fines, penalties |
| Massachusetts | Fines |
| Minnesota | General revenue, restitution, refunds and fines and penalties |
| Missouri | Fines and penalties (statutory authority but not implemented) |
| Nebraska | General revenue |
| New Jersey | General revenue, fines, and penalties (funding for centralized state hotline and counseling) |
| New York | General revenue |
| Oklahoma | Fines and penalties |
| Oregon | Penalty assessment |
| Pennsylvania | Fines and penalties (domestic violence shelters and rape crisis centers) |
| Washington | General revenue, fines, and penalties |
| Wisconsin | General revenue |

VICTIM BILLS OF RIGHTS

Bills of Rights for crime victims focus primarily on certain rights relating to criminal justice system procedures. Although many states have passed individual pieces of legislation on one or more victim rights issue, and in 2 cases packages of single issue statutes combine to provide protection analogous to typical Bills of Rights, the development of a Bill of Rights in many states reflects a more comprehensive approach.

The types of issues included in Bills of Rights usually include some combination of, or all of, the following:

- Victim/witness notification
- protecting witnesses from intimidation
- Property return
- Witness information
- Counsel for the victim
- Separate waiting areas
- Victim participation in criminal justice proceedings
- Information about available financial aid and social services
- Employer intervention
- Creditor intervention

States where legislation has been enacted:

| | |
|---------------|--|
| California | (Proposition 8 - passed by citizen initiative) |
| Delaware | (Resolution) |
| Massachusetts | |
| Maine | |
| Minnesota | |
| New York | (Although New York's "Bill of Rights" was vetoed by the Governor a substantial number of single issue protections passed.) |
| Nebraska | |
| Nevada | |
| Oklahoma | (A package of five pieces of legislation which includes most of the above issues.) |
| Rhode Island | |
| Washington | |
| Wisconsin | |

States where legislation has been considered:

| | |
|--------------|---|
| Florida | |
| Hawaii | |
| Illinois | |
| Kentucky | |
| Maryland | |
| New Jersey | |
| New York | (Vetoed provisions to be reintroduced.) |
| Ohio | |
| Oregon | (A draft of an initiative relating to victim and offender issues is being circulated for this year's election.) |
| Pennsylvania | |
| Texas | |

VICTIM INVOLVEMENT IN SENTENCING

Modern legislation affords crime victims two basic ways to be involved in the sentencing of their offenders. These are not mutually exclusive. Indeed, in a growing number of jurisdictions, judges are routinely getting both forms of communication from victims.

The *Victim Impact Statement* (VIS) is the most common of the two. It involves a written, "objective" description of the medical, financial, and emotional injuries caused by the soon-to-be-sentenced offender. Usually the VIS is prepared by a probation officer and it is often included in the probation department's "pre-sentence investigation" report (PSI) describing the background and circumstances of the offender. However, the practice in some jurisdictions is to have the VIS prepared by others, including victim/witness advocates or even the victims themselves (even though the latter practice may detract from the perceived objectivity of the statement). The following states have legislation mandating the use of VIS's (but not the second method of involvement described below):

- Illinois
- Indiana
- Kansas
- Maryland
- Minnesota
- Nebraska (see also participation section)
- Nevada (see also participation section)
- New Jersey
- New Mexico*
- New York
- Ohio
- Oregon
- Virginia
- Wisconsin

VIS legislation has been considered in:

- Delaware
- Hawaii
- Pennsylvania (in BOR)

(*Victim Impact Statement is now a state judicial policy in New Mexico, hence there is no reason to pursue it legislatively.)

The second method of involvement is what we term a *Victim Statement of Opinion* (VSO). Here the sentencing judge gets the victim's opinion as to the appropriate sentence to be ordered. Note the distinction between the "facts" presented in a VIS and the "opinion" given in a VSO—even though, in practice, victims often buttress their views with facts. The most common legislatively mandated VSO is a "right of allocution" whereby victims are permitted to express their opinions orally—to "allocute"—at the sentencing hearing itself (in just the same way that offenders have traditionally been allowed to address the sentencing judge in most jurisdictions). Other methods of presenting a VSO is by a written statement or letter to the judge. In the state-by-state charts, legislation that makes allocution a technique of presenting a VSO is noted as "VSO (allocution)." The following states mandate victim allocution or other ways of directly presenting a victim's opinion (but do not mandate a VIS).

- California (allocution, also in BOR)
- Rhode Island (in BOR)
- Maine (allocution in BOR)

VSO legislation has been considered in:

- Maryland (allocution)

Some states, listed below, mandate a presentation of both the objective impact and the victim's opinion, noted in the charts as "VIS/VSO" or "VIS/VSO" (allocution). Note, however, that in a number of the VIS-only states, the practice in some local jurisdictions is to include a separate victim statement of opinion regarding sentencing along with the material dealing with the impact of the crime on the victim's life. Check with the courts in your locality to see if the VIS in practice includes VSO materials—or whether local judges permit allocution without a statute requiring it.

- Arizona (allocution)
- Connecticut (allocution)
- New Hampshire (allocution)

VIS/VSO legislation has been considered in:

- Alabama

VICTIM PARTICIPATION

Three states have extended the victim involvement requirements discussed above to areas other than sentencing and we have listed these requirements under the rubric of victim participation. For example Nevada mandates that victims be given an opportunity of involvement in presentence investigations and plea bargaining agreements. Arizona involves the victim in parole, discharge, and supervised release hearings as well as all mitigation hearings. Nebraska requires a "good faith" effort by DAs to consult with victims regarding plea negotiations and decisions.

The following states have enacted some limited participation measures either as separate statutes or as part of their bill of rights:

Plea Bargain Participation:

- Arizona (by statutory inference confirmed by litigation)
- Nebraska
- Indiana

Parole Participation:

- Arizona
- Arkansas
- California

The following states have introduced participation legislation of some kind:

- Colorado
- Kansas (pre-trial release)
- Kentucky (consultation on charges)
- Maryland (parole)
- Massachusetts (parole)
- Ohio (parole)
- Oregon (bail and sentencing)

RESTITUTION

Restitution is a method of victim reparation predicated on the apprehension and conviction of the criminal. Judges have always had common law authority to order restitution. However, judges have often been reluctant to do so or have simply forgotten to use it. Restitution legislation provides statutory reinforcement for this common law authority. In some states, such legislation goes even further and requires a judge to order restitution unless he provides a written statement indicating the reasons for not making such an order. The following summarizes restitution legislation in the U.S.:"

Alabama (permitted)
 Alaska (permitted)
 California (permitted)
 Delaware (permitted)
 Florida (permitted)
 Georgia (permitted)
 Idaho (permitted)
 Iowa (required in felony cases, and for parole, probation, or work release)
 Kansas (required, also by parole boards)
 Missouri (permitted)
 New York (requires judicial consideration)
 New Jersey (permitted)
 Nevada (permitted)
 Oregon (permitted, DA is required to report damages if no VIS)
 Rhode Island (permits as a condition of probation)
 Texas (permitted)
 Utah (required unless reason is specified)
 West Virginia (allows for juvenile cases)
 Wisconsin (requires judicial consideration)
 Wyoming

The following states have considered restitution legislation:

Michigan (requires judicial consideration)
 Nebraska (permitted)
 Ohio (permitted)
 Texas (juvenile restitution and restitution centers)

*This list constitutes a preliminary catalogue of restitution statutes. A comprehensive roster will be available in future updates.

VICTIM/WITNESS NOTIFICATION

A number of states have begun to respond to the natural desire of victims to be kept informed about the progress of their case investigations, about other important events in the criminal justice process, and about the status of incarcerated offenders. A number of states give advance notice of critical proceedings while others notify victims after an important event occurs. In jurisdictions where parole remains intact, victims have sought and won more direct involvement in, and notification of, parole hearings and decisions. Also, other methods of release—such as work furloughs—have been the targets of victim involvement and notification efforts. It should be noted that notification of an event does not imply that participation is also mandated. These are two separate issues.

The following is a breakdown of notification statutes, some of which were enacted as part of a bill of rights (BOR):

Parole

Enacted:

Alabama
 Arizona
 Arkansas
 California (BOR)
 Hawaii
 Massachusetts
 Nevada
 Oklahoma
 Texas
 Wisconsin (BOR)

| | |
|---|--|
| | <i>Introduced:</i> New Mexico Ohio Oregon (BOR) |
| <i>Sentencing</i> | <i>Enacted:</i> Hawaii |
| | <i>Introduced:</i> Oregon (BOR) |
| <i>Final Disposition</i> | <i>Enacted:</i> Delaware (BOR) Massachusetts (BOR) Nebraska (BOR) Ohio Rhode Island (BOR) Washington (BOR) |
| <i>Case Progress</i> | <i>Enacted:</i> Nebraska Massachusetts Minnesota Wisconsin |
| <i>Plea Negotiations</i> | <i>Enacted:</i> Indiana Minnesota (BOR) Ohio |
| | <i>Introduced:</i> Alabama Nebraska |
| <i>Escape</i> | <i>Enacted:</i> California New Mexico Rhode Island |
| <i>Pre-Trial Release</i> | <i>Introduced:</i> Kansas (in cases of rape, murder and bodily injury) |
| <i>Other Notification</i> | <i>Enacted:</i> Hawaii (placement in half-way house) Delaware (work release) Minnesota (general release) Rhode Island (informs victim of name address of accused) |
| <i>Schedules of Proceedings and Changes</i> | <i>Enacted:</i> Delaware (BOR) Nebraska (BOR) Rhode Island (BOR) Massachusetts (BOR) Washington (BOR) Wisconsin (BOR) |

PROTECTION FROM INTIMIDATION

There has been a growing effort to develop more effective laws for controlling pre-trial intimidation of, and post-trial retaliation against, victims and witnesses. New legislation is being enacted in some states to broaden the definition of witness

to include non-subpoenaed witnesses and third parties. Some legislation makes intimidation a felony where threats or conspiracy are involved. Judges have been given increasing scope in issuing "protective orders." Many laws treat attempted intimidation as seriously as successful intimidation. One aspect of protection is the confidentiality of witnesses' addresses in order to reduce defendants' access to them. This topic is reviewed below in the "Legislative Issues for 1984" section.

States where legislation has been enacted:

- California
- Delaware (also in BOR)
- Maine (in BOR)
- Massachusetts (in BOR)
- Minnesota (in BOR)
- Nebraska (in BOR)
- Nevada (also in BOR)
- New York
- Oklahoma
- Pennsylvania
- Rhode Island (also in BOR)
- Wisconsin (also in BOR)
- Washington (in BOR)

States where legislation has been considered:

- Alabama
- Hawaii (in BOR)
- Kansas
- Massachusetts (separate from BOR)
- New Jersey

OTHER SIGNIFICANT LEGISLATION

The 1983 edition of *Victim Rights and Services: A Legislative Directory*, described legislation on the issues of drunken driving, counselor confidentiality, and the insanity defense. These three issues continue to be high on the agenda of victim rights advocates, and additional legislation will be brought before a number of state legislative bodies during their 1984 sessions.

Counselor Confidentiality

Counseling is a significant aspect of comprehensive victim services. While some service programs refer to psychiatrists or psychologists, the majority of programs do in-house counseling with a counseling corps composed of social workers, nurses, volunteers, and people who have been victims themselves. Counseling often involves helping victims speak about their anxieties, anger, frustration and other feelings arising out of the crime and out of any confrontations with the criminal justice system. Such personal feelings may be difficult to elicit or discuss where confidentiality is not guaranteed. Further, some defense attorneys have attempted to use statements made by the victim under extreme stress immediately following a crime to discredit the victim.

The National Organization for Victim Assistance has been on record since 1979 as supporting counseling confidentiality for victims of sexual assault. It participated in an *amicus curiae* brief in the *Matter of Pittsburgh Action Against Rape*, (423 A.2d 126) in Pennsylvania, and has sent testimony to states considering the issue for legislation. NOVA's sexual assault committee has made this concern a priority matter for 1983-84.

The issue has recently been brought dramatically to a head in Rhode Island where a rape crisis center burned its records on the courthouse steps to avoid having them

opened to the defense and the director of the center went to jail rather than disclosing records. In Connecticut, on the other hand, a battered women's shelter won a protective order in which names and addresses were to be removed from the shelter's records and they were to be sealed separately within the grand jury file. Other courts which have acknowledged and upheld a privilege have been a New Mexico court in an unreported opinion and the Pennsylvania Supreme Court in the decision cited above.

The President's Task Force on Crime Victims recommended that legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena. This recommendation takes confidentiality a step farther by including all counselors. That recommendation has raised a number of issues. First, for example, is there a conflict when a counselor who is working in a prosecutor's office is legally privileged? Is the counselor a representative of the prosecutor? Second, are there limits on the privilege which would mandate an exception for exculpatory evidence confided to a counselor? Third, do counselors who claim the privilege need certification or special training to qualify them as "counselors?"

The ramifications of counselor confidentiality have yet to be explored. While it has initially been an issue raised by rape and domestic violence counselors, it is an issue that should concern all of us in the victim's movement.

Pennsylvania and Minnesota have passed legislation to insure that confidentiality of rape victims' communication with counselors is legally privileged. A copy of the Pennsylvania statute is included in the Appendix. Partial privileges exist in New York and California which allows shelters and crisis centers to withhold their workers' names and addresses. Other confidentiality bills have been enacted in Florida, and Utah, and have been proposed in Massachusetts (for domestic violence), Ohio (for both rape crisis and domestic violence), and Wisconsin. In addition the following states make domestic violence shelter records confidential in their domestic violence services funding bills: Connecticut, Florida, Idaho, Maryland, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, and Texas.

Insanity Defense

NOVA adopted a policy in September, 1982 that reflected a growing legislative trend to limit, revise, or abolish the insanity defense. NOVA's policy supported the general idea of providing for "a guilty but mentally ill" verdict

The American Psychiatric Association, the American Bar Association House of Delegates, and the U.S. Justice Department have supported modifications which would redefine insanity so that the party seeking to assert the defense of insanity would have to show that he did not have the capacity to know the nature of the act in which he was engaged. Currently, the rule in federal courts and in most states allows acquittal of a defendant found "to lack substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law." The latter clause is the one now opposed in the new modifications

Montana and Idaho have abolished the insanity defense. Idaho's abolition of it on July 1, 1982 made it the first state in over 50 years to take that approach. The Idaho statute requires the court to consider a number of factors when sentencing a defendant who has some degree of mental illness, including: (1) the extent of the defendant's condition; (2) the degree of mental illness and the level of impairment; (3) the possibility of rehabilitation; (4) the availability of treatment; (5) the danger posed by the defendant to society if released, and; (6) the ability of the defendant to appreciate the wrongfulness of his or her conduct and conform it to law

Eight states have enacted legislation providing for guilty but mentally ill verdict. These statutes require that if a defendant is found guilty but mentally ill he should be provided with treatment in a mental institution but that subsequent to the treatment, he must complete the remainder of his sentence in prison

Those eight states are:

Alaska (June, 1982), Delaware (June, 1982), Georgia (June, 1982), Illinois (1981), Indiana (1980), Kentucky (June, 1982), Michigan (1975), and New Mexico (March, 1982).

California's new Constitutional amendment passed by voter initiative in 1982 voids judicial decisions granting acquittal to defendants for "diminished capacity" and eliminates the defense. It also establishes stricter procedures for the use of the insanity plea. Hawaii also has established stricter procedures for the use of the plea.

Connecticut has enacted a law which would preclude the use of the insanity plea if the defendant has voluntarily consumed alcohol or drugs. Eighteen other states have introduced amendments to insanity defense legislation in 1981 and 1982.

Drunk Driving Laws

Drunk driving laws have come under increasing attack by the public. Organizations such as Reduce Intoxicated Drivers (R.I.D.), Mothers Against Drunk Driving (M.A.D.D.) and Students Against Drunk Driving (S.A.D.D.) have contributed to the increasing awareness of the damage done by drunk driving and the public outcry against leniency in sentencing.

Laws have been changed in 34 states: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, Wyoming, and the District of Columbia. Changes have included mandatory jail time for first convictions (Arizona, Kansas, Nebraska, Tennessee, and Utah), increasing other penalties, tightening enforcement, and lowering the blood-alcohol content need for a legal presumption of driving-while-intoxicated. In addition drinking ages have been raised in Connecticut (20) and New York (19), New Jersey (21), and Maryland (beer and wine/21), and several other states are considering such changes. (*See next page.*)

Drunk Driving Legislation*

| State | Drinking Age | Pre-Arrest Breath Test | Illegal Per Se and Level (%) | Presumptive and Level (%) | Administrative Per Se | Crash Shop [†] |
|----------------------|-----------------------------------|---------------------------|---|---|--------------------------|---------------------------|
| ALABAMA | 19 | | 0.10 | 0.10 | | Crash Shop |
| ALASKA | 21 | | 0.10 | | | Statute |
| ARIZONA | 19 | | 0.10 | 0.10 | X | Statute |
| ARKANSAS | 21 | | 0.10 | 0.10 | | No |
| CALIFORNIA | 21 | | 0.10 | | | No |
| COLORADO | 18 ⁹ , 21 ³ | | 0.15 | > 0.5, 0.10 ⁹ | X | No |
| CONNECTICUT | 20 | | 0.10 | 0.07, 0.10 ⁹ | | Statute |
| DELAWARE | 21 | X ⁷ | 0.10 | 0.10 | X | Statute |
| DISTRICT OF COLUMBIA | 18 ⁹ , 21 ³ | | 0.10 | 0.08 | X | No |
| FLORIDA | 19 | X | 0.10 | 0.10 | | Case Law |
| GEORGIA | 19 | | 0.12 | 0.10 | | Case Law |
| HAWAII | 18 | | 0.10 | 0.10 | | Statute |
| IDAHO | 19 | | 0.10 | > 0.08 | | Case Law |
| ILLINOIS | 21 | | 0.10 | 0.10 | | Statute |
| INDIANA | 21 | X | 0.10 | 0.10 | X | Case Law |
| IOWA | 19 | X | 0.13 | 0.10 | X | Statute |
| KANSAS | 18 ⁹ , 21 ³ | | | 0.10 | | No |
| KENTUCKY | 21 | | | 0.10 | | Case Law |
| LOUISIANA | 18 | | 0.10 | 0.10 | | No |
| MAINE | 20 | | 0.10 | 0.10 | | Statute |
| MARYLAND | 21 | X | | 0.08, 0.13 ⁹ | | No |
| MASSACHUSETTS | 20 | | | 0.10 | | Statute |
| MICHIGAN | 21 | X | 0.10 | 0.10 ⁹ | | Statute |
| MINNESOTA | 19 | X | 0.10 | | X | Statute |
| MISSISSIPPI | 18 ⁹ , 21 ³ | X | 0.10 | 0.10 | X | Case Law |
| MISSOURI | 21 | | 0.10 | 0.10 ⁹ | X | Case Law |
| MONTANA | 19 | | 0.10 | 0.10 | | No |
| NEBRASKA | 20 | X | 0.10 | | | No |
| NEVADA | 21 | X | 0.10 | 0.10 | X | No |
| NEW HAMPSHIRE | 20 | X | 0.10 | 0.10 | | No |
| NEW JERSEY | 21 | | 0.10 | 0.10 | | Case Law |
| NEW MEXICO | 21 | | 0.10 | 0.10 | | Case Law |
| NEW YORK | 19 | X ⁹ | 0.10 | 0.07, 0.10 ⁹ | | Statute |
| NORTH CAROLINA | 18 ⁹ , 21 ³ | X | 0.10 | | X | No |
| NORTH DAKOTA | 21 | X | 0.10 | 0.10 | | Statute |
| OHIO | 19 ⁹ , 21 ³ | | 0.10 | 0.10 | | Statute |
| OKLAHOMA | 21 ³ | | 0.10 | 0.10 | X | No |
| OREGON | 21 | | 0.08 | | X | Statute |
| PENNSYLVANIA | 21 | X | 0.10 | 0.10 | | Statute |
| RHODE ISLAND | 20 | X | 0.10 | 0.10 | | Statute |
| SOUTH CAROLINA | 18 ⁹ , 21 ³ | | | 0.10 | | No |
| SOUTH DAKOTA | 18 ⁹ , 21 ³ | X | 0.10 | 0.10 | | No |
| TENNESSEE | 19 | | | 0.10 | | Case Law |
| TEXAS | 19 | | 0.10 | 0.10 | | No |
| UTAH | 21 | | 0.08 | 0.08 | X | Statute |
| VERMONT | 18 | X | 0.10 | 0.10 | | Statute |
| VIRGINIA | 19 ⁹ , 21 ³ | X | | 0.10 | | No |
| WASHINGTON | 21 | | 0.10 | 0.10 | X | Case Law |
| WEST VIRGINIA | 19 | X | | 0.10 | X | No |
| WISCONSIN | 18 | X | 0.10 | | | No |
| WYOMING | 19 | | | 0.10 ⁹ | | Statute |
| TOTAL | 18-19 19-20 20-21 21-26 | 21 | 0.08-2 0.10-37 0.12-1 0.13-1 0.15-1 | 0.05-2 0.10-40 0.07-2 0.10-40 0.08-3 0.13-1 | 16 | Case Law-12 Statute-20 |

Footnotes:

1. On premises sale of beer
2. Off premises sale of beer
3. Fortified wine and distilled spirits
4. Beer (alcohol content percentages range from 3.2% to 4% by weight to 6% by volume) and unfortified wine

5. 0.3-3.2% for females
6. All cases and above 3.2% for females
7. Intoxicated
8. Limited to drivers involved in accidents
9. Lower or two numbers is driving while impaired (DWI); higher is driving under the influence or (DUI)

*In Missouri and Wyoming, a BAC of .10 is prima facie evidence of intoxication and not just a presumption.

†Crash shop laws refer to third-party liability; specifically, they allow recovery of civil damages against one who sells or dispenses (or gives away) liquor to a person who is later injured or causes injury.

Drunk Driving Legislation (Continued)

| State | Open Container | Community Service | Mandatory Jail—1st Offense | Mandatory Jail—2nd or Other Offense | License Suspension* | PSI Conductivity |
|----------------------|----------------|-------------------|----------------------------|-------------------------------------|---------------------|------------------|
| ALABAMA | | | | | 2nd | |
| ALASKA | | | | | | yes |
| ARIZONA | | X | X | X | 2nd | yes |
| ARKANSAS | | | | | 1st & 2nd | for 2nd DWI |
| CALIFORNIA | X | | | X | | |
| COLORADO | | X | | | | yes |
| CONNECTICUT | | | | X | | yes |
| DELAWARE | | | | | 1st & 2nd | |
| DISTRICT OF COLUMBIA | | | | | | yes |
| FLORIDA | | X | | | | |
| GEORGIA | | | | | 1st & 2nd | |
| HAWAII | X | X | | | | yes |
| IDAHO | X | | | | 1st & 2nd | for 2nd DWI |
| ILLINOIS | X | | | | | |
| INDIANA | | | | X | 2nd | |
| IOWA | | | | X | | |
| KANSAS | X | | | | 2nd | yes |
| KENTUCKY | | | | X | 2nd | |
| LOUISIANA | | X | X | X | 2nd | yes |
| MAINE | | | X | X | 1st & 2nd | |
| MARYLAND | X | | | | | |
| MASSACHUSETTS | | | | | 1st & 2nd | yes |
| MICHIGAN | X | X | | | 2nd | yes |
| MINNESOTA | X | | | | 1st & 2nd | yes |
| MISSISSIPPI | | | | | 2nd | |
| MISSOURI | | | | | 1st & 2nd | |
| MONTANA | X | | | X | 1st & 2nd | |
| NEBRASKA | | | | X | | yes |
| NEVADA | | | | X | | |
| NEW HAMPSHIRE | | | | X | 1st & 2nd | |
| NEW JERSEY | | X | | | | |
| NEW MEXICO | | | | X | | yes |
| NEW YORK | | | | | | |
| NORTH CAROLINA | X | | | X | 1st & 2nd | yes |
| NORTH DAKOTA | X | | | | | |
| OHIO | X | | | | | |
| OKLAHOMA | X | | | | 2nd | for 2nd DWI |
| OREGON | X | | | | | yes |
| PENNSYLVANIA | | X | X | X | 1st & 2nd | yes |
| RHODE ISLAND | | | | | 2nd | |
| SOUTH CAROLINA | X | | | | 2nd | |
| SOUTH DAKOTA | X | | | | 2nd | yes |
| TENNESSEE | | X | X | X | 2nd | |
| TEXAS | | | | | 1st & 2nd | |
| UTAH | X | X | | | | |
| VERMONT | | | | | 1st & 2nd | |
| VIRGINIA | | | | X | 1st & 2nd | |
| WASHINGTON | X | | X | X | | for 2nd DWI |
| WEST VIRGINIA | | X | X | X | 1st & 2nd | |
| WISCONSIN | X | | | | 2nd | yes |
| WYOMING | | | X | X | 1st & 2nd | |
| TOTAL | 19 | 11 | 8 | 20 | 1st=17 both=31 | 23 |

*Mandatory license suspension following a conviction for OWI offense, where no restricted or hardship license is available.

*State has a specific law concerning PSI and OWI convictions.

**This chart was supplied courtesy of MAAG, it was updated in September 1983.

LEGISLATIVE ISSUES FOR 1984

At least three additional concerns are gaining wide spread public attention. Bills will be introduced in 1984 relating the victim's right to privacy, compensation for counseling, and offender notoriety-for-profit. Some legislation in these areas presently exists in a few states. During 1984, efforts will be made to broaden and clarify existing statutes and to introduce new legislation into states where a need exists.

Victim Privacy Protection

Crime victims' privacy interests are under increasing attention. In one particularly troublesome area—the way news media often publicize victims' names, addresses and other information all tending to publicize the victim's misfortunes—victim advocates have no clear legislative agenda. Since the U.S. Supreme Court has ruled unconstitutional laws which make it a crime to publish victim identifying information when it has previously appeared in public documents, the advocates' only remedy seems to be to protect such documents (such as crime reports) under state privacy statutes. Many are reluctant to pursue this remedy, however, since crime reports are used by many grass roots and non-police-based victim services agencies as a tool to reach out to the victimized. Thus, in some communities, the effort has been to get the news media to adopt a policy of self-restraint whereby, victim's street address is not used.

A second privacy concern arises out of fear of harrassment or intimidation by the defendant or his/her associates. The President's Task Force on Victims of Crime recommended that prosecutors not divulge the victim's address to the defense except in extraordinary circumstances, and that this policy idea be carefully formulated into draft legislation. Address protection legislation has been proposed in Rhode Island, Texas and Maryland.

Many states have also recognized the need to protect the identity of juvenile offenders involved in court procedures. In California and New Jersey this kind of protection has recently been extended to include victims of sexual assault. Such legislation is currently pending in New Jersey. However, the need remains for legislation to protect all categories of crime victims. Legislation of this type has been introduced in the states of Rhode Island and Texas.

Compensation for Counseling

Victims of serious and violent crimes are most often left in some degree of emotional distress. The families of homicide victims also continue to suffer from depression, grief, anger, and other forms of emotional pain long after the crime has been forgotten by the media and processed by the courts. The long-term effects of this distress can be debilitating to both victims and their families.

Victims, family members and survivors are often in need of some form of counseling. The victim of rape, for example, may need the opportunity to talk with a counselor or therapist familiar with methods for prevention of some of the more devastating psychological effects of rape. Children who have been subjected to sexual abuse frequently require counseling in order to avoid developmental problems. The parents and siblings of abused children need assistance with helping the child to recover, and with rebuilding the family structure. Other victims may require long term, in-depth therapy in order to avoid or ameliorate the symptoms of post-traumatic stress. The costs involved in getting these services are typically well beyond the budgets of most victims. Without supplemental funds these services may be unavailable.

At present, about thirty states have some provision for "trauma counseling" included in their compensation statutes. Most of these provisions are extremely limited in that they provide for only short-term, individual, crisis counseling. These laws need to be broadened so that victims who need help can receive financial assistance for longer-term psychological and family counseling services. Such expenditures may actually represent a wise investment for states since these services often prevent some of the more serious and costly problems which can result when individuals are not provided with the skills necessary to help them cope with traumatic events.

Notoriety-for-Profit

Recently there have been several instances where offenders who have committed particularly sensational crimes have received substantial sums of money as a result of their notoriety. Books, magazine articles, and movies describing heinous crimes have resulted in significant royalties for criminals while their victims languished without any form of restitution.

The most notorious case of this type occurred in New York, where the "Son of Sam" murders occurred. David Berkowitz, the convicted murderer in those cases was besieged by the media with lucrative offers to tell his story. In response, the New York State Legislature passed a law in 1977 which prevents convicted criminals from receiving such financial remuneration. As a result, this type of legislation has come to be known by the name of the "Son of Sam" statutes. This is unfortunate because such a title works against one purpose of such legislation: to avoid glorifying criminal acts.

Thirteen states have since enacted similar laws. In six states this legislation is part of the victims compensation legislation, and the accounts are administered by the agency which administers the compensation fund. Most require the establishment of an escrow account for all such proceeds. The first claim on such accounts is usually for restitution or civil damages awarded to victims. Remaining funds, or funds from accounts where no victim claims are made usually go to pay court costs, and attorney fees, or are deposited in the victim compensation fund.

IMPORTANT INNOVATIONS

Several victim/witness rights have recently gained much attention. They are the victim's right to attend court proceedings involving their case, and sometimes to participate in them, the victim's right to a speedy trial (and appeal), and the recognition of some special rights and protections for children victims and witnesses. Progress on these issues reflects the current, heightened interest in securing a wide range of protections for all victims and witnesses, and an acknowledgement of the special needs of certain groups of victims.

Court Attendance

Victims have a natural interest in all proceedings relevant to their cases. However, it is often the case that this interest is overlooked or simply denied. The law provides for a right to confrontation for the defendant and also authorize that—with the exception of the defendant—all witnesses are subject to sequestration (exclusion from court observation) if they might testify since what they hear may change their testimony. Victims find this rule unfair.

Alabama has recently enacted a law giving victims the following rights: (1) to be present in the court with jurisdiction over the offense and to be seated at the prosecutor's table, (2) not to be excluded from that court or counsel table during any pertinent hearing or trial or portion thereof (except for reasons that would also justify a defendant's removal), and (3) to exemption from rules and regulations or other laws that separate or exclude witnesses from court in criminal trials or hearings (e.g., sequestration).

The Alabama statute was developed in response to two factors. First, the President's Task Force on Victim's of Crime Report recommended a U.S. constitutional amendment that would ensure a victim's right "to be present and to be heard at all critical stages of judicial proceedings." While the statute does not contain a clause relating to "the right to be heard," it is the first effort to codify the proposed amendment at the state level. Second, some jurisdictions in Alabama already had such a practice in their courts. This statute simply codified it for the whole state.

Speedy Disposition

Defendants in our criminal justice system have certain "due process" rights including the right to a prompt and expeditious trial. Crime victims are not typically accorded the same right to have their cases hastened through the system to a just disposition. When victims have no recourse to speed up proceedings, defense tactics can often delay judgement for months and years. Victims and their advocates are working to secure this basic right.

Nevada Legislators, for example, have introduced a bill that would give prosecutors the right to demand a speedy trial on behalf of a victim. Unless judges exercise one of the strict postponement clauses, the state can demand a trial within 60 days after the defendant has been arraigned on charges. This proposed legislation has no enforcement provision.

In Wisconsin the state has the right to call for a trial within 90 days. Although Wisconsin also has no clear enforcement provision, it has been suggested that the presiding judge be given no civil cases whatsoever after the 90 days to encourage him/her to set aside time to devote to the trial. Oklahoma has introduced a speedy trial amendment to their criminal procedures making explicit the victim's right to a prompt court date and trial. Again, the amendment has no enforcement provision.

Children's Rights

Due to their unique developmental requirements, children need special protection when involved in the justice system. The first step is to extend typical Bill of Rights protections to minors. In addition, children need age-specific (i.e., appropriate vocabulary and reasoning) explanations of the criminal justice process; guardians to mediate among court, parents, and child; services for themselves and their family aimed at helping them recover from the crime's effects; the right to a speedy disposition, or, at the very least, specific limits on the length of time they are allowed to be involved in these stressful proceedings; and prohibition of publicizing names and addresses by the media. Also, child victim/witness testimony should be taken privately (e.g., in judge's chambers) and taped for court presentation, if necessary. Three states, Wisconsin, Illinois and Texas have taken initial action to provide such protections.

Wisconsin has introduced a "Children's Bill of Rights" that would begin by explicitly extending their adult rights to children and also by assuring them of certain additional rights. These protections are to be provided by a court appointed guardian who is to: (1) to explain, in language understandable to the child, all legal proceedings in which the child will be involved, (2) to act, as a friend of the court, to

advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings, (3) to assist the child and the child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved, (4) to advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and the prosecution and the potential effects of the proceedings on the child, and (5) to advise the judges who would be involved in determinations concerning the taking of videotaped depositions.

Illinois has introduced an "Abused Child Shield Law." This bill, if enacted, would protect children who have been victim to, or are complaining witnesses in any prosecution of, sexual exploitation, or any other case of child abuse. These protections would include: (1) in-chamber videotaping of the child's deposition, (2) the right of the child to counsel, (3) exclusion from proceedings, and (4) videotaping of any follow-up questioning. This law would be a major step toward protecting the children involved in the Illinois justice system from any form of participation that may be harmful to them.

In addition Texas legislators are now considering two bills that would: (1) allow the electronic taping of a child's testimony for admission in court; and (2) exempt children from third party corroboration requirements to support sexual offense convictions. Both Texas bills apply to children who are fourteen years old and younger. In New Mexico, children under the age of sixteen are already given the right to videotaped taking of depositions in-chambers for admission into trial.

PART TWO: LEGISLATION BY STATE

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|----------------------------------|---|--|--------------------------------|--|
| ALABAMA <i>Enacted</i> | Restitution | Act # 83-508 | 1983 | Makes restitution a civil judgment. Allows victims to seek remedies for non-payment of restitution orders. |
| | Parole Hearings | Act # 83-750 | 1983 | Requires parole board to provide advance notice of hearings and right to comment by victims. |
| | Court Attendance | Act # 83-622 | 1983 | Grants victim the right to attend trials and hearings, and to sit at counsel table with prosecutor, during entire proceedings. Excludes victim from rules requiring separation of witnesses. |
| <i>Introduced</i> | Compensation | SB 352 & HB 544 | 1983 | Creates a compensation program for victims of crime. Maximum Award: \$10,000. |
| | Victim Involvement/Sentencing | HB 608 & SB 317 | 1983 | Makes VIS a required part of PSI. Includes VSO (allocution). |
| | Restitution | SB 312 & HB 478 | 1983 | Allows offender's income to be attached in order to enforce restitution orders. |
| | Restitution | SB 315 & HB 618 | 1983 | Requires offenders to disclose assets and income where there is an outstanding restitution order. |
| | Restitution | SB 161 & HB 249 | 1983 | Prohibits pardons in cases where there is an outstanding restitution order. |
| | Intimidation | SB 162 & HB 412 | 1983 | Makes intimidation of victims and witnesses a felony. |
| | Plea Bargain Notification | HB 99 | 1983 | Requires prosecutor to notify victims of recommendation for plea bargaining. Prohibits court from accepting plea bargain arrangements where such notice was not given. |
| | Notoriety-for-Profit | SB 316 & HB 543 | 1983 | Prohibits offenders from benefiting from profits gained from notoriety due to crime. Profits may be seized by Governor and held in trust for use and benefit of indigent crime victims for 5 years. |
| ALASKA <i>Enacted</i> | Compensation/ Notoriety-for-Profit | AK Stat. Secs. 18.67.010 to 18.67.180 | 1971 Amended 1974 & 1979 | Max. Award: \$25,000; Emerg. Award: \$1,500. Source: gen. rev., restitution, & supp. appropriation. Includes Notoriety-for-Profit provision. Profits must be held in escrow for victims of the convicted offenders who obtain a civil judgment within 5 years. |
| | Restitution | AK Stat. Sec. 12.55.045 | 1980 | Permits courts to make restitution order part of sentencing. |
| | Domestic Viol. Funding for Services | AK Stat. Sec. 18.66.010 to 18.66.900 | 1981 | Funds basic shelter and other dom. viol. services with \$4.2 M state approp. Also exempts shelter from multiple dwelling licenses. Creates Domestic Violence Council. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|------------------------------|---|--|---|---|
| ARIZONA <i>Enacted</i> | Domestic Viol. Funding for Services | AZ Rev. Stat. Sec. 36-3001 to 36-3007 | 1982 | Funds basic shelter and other services through \$10 marriage and \$6 divorce surcharges. \$240,000 expected in FY 83-84. |
| | Victim Participation | AZ Rev. Stat. Sec. 12-253 | 1982 | Requires VIS/VSO and, in felony cases, allows victim to be represented personally or by counsel in any aggravation or mitigation proceedings. Provides for notification of victims. |
| | Parole Notification/ Participation | AZ Rev. Stat. Sec. 31-411 | 1982 | Requires notification of parole hearing and provides for right of victim to appear personally or submit written report of opinion on release of prisoner. |
| <i>Introduced</i> | Compensation | HB 2322 & SB 1036 | 1983 | Max. Award: \$10,000.; Emerg. Award provision. Source: felony fines & bail surcharge. |
| ARKANSAS <i>Enacted</i> | Compensation/ Funding | SB 55 | 1983 | Permits Circuit Court Judges to collect pen. assmt. for compensation fund. Does not provide mechanisms or guidelines for distribution. |
| | Service Programs | HB 282 | 1983 | Requires Prosecutors to establish victim/ witness programs to provide services and property return. Does not provide funding. |
| | Parole Involvement | Act 8 Acts of 1983 | 1983 | Requires recommendation from Court, Prosecutor, Sheriff, and victim/survivors be considered in parole hearings. |
| | Parole Hearings | Act 525 Acts of 1983 | 1983 | Prohibits victims from being required to attend hearings in prisons. Allows for 2 hearings, one in and one out of prison, if needed. |
| CALIFORNIA <i>Enacted</i> | Compensation | CA Govt. Code Ann. Sec. 13959-74 | 1965 Amended 1974, 1978-79, 1981, 1983 | Max. Award: \$25,000; Emerg. Award: \$1,000. Source: pen. assmt. |
| | Compensation Amendment | CA Stat. of 1983 Chpt. 1378 AB 656 | 1983 | Removes "serious financial hardship" provision of state compensation. |
| | Funding | Adds to CA Penal Code Sec. 13830 & 13835 | 1977 | Establishes pilot project centers for victim/witness assistance. |
| | Funding Service Programs/ Compensation | CA Govt. Code Sec. 13967 Amends, adds, & repeals | 1979 | Provides for new pen. assmt. from convicted felons to indemnify victims & provides funds for comprehensive victim witness services. |
| | Funding Service Programs/ Compensation Amendments | CA Stat. of 1980 Chpt. 530, AB 698 | 1980 | Consolidates different pen. assmts. into one assmt. fund as revenue for victim services and compensation. |
| | Funding/ Compensation Amendments | CA Stat. of 1980 Chpt. 166, AB 698 | 1981 | Increases size of assmt. fund. |

| STATE | LEGISLATION | CITATION | DATE | SUMMARY |
|---------------------------------------|-------------------------------------|---|---------------------------|--|
| CALIFORNIA <i>Continued</i> | Funding for Services | AB 1485 (Package of ten bills all numbers not available at this printing.) | 1984 | Establishes three funding sources: (1) \$15 pen. assmt; (2) 1st \$20 of drunk driving fines; (3) \$10-\$10,000 fees for violent crimes. Funds shared by sexual assault and restitution funds. Requires restitution to all victims whenever possible. Funds Prop. 8 rights and services provisions. Allows civil redress in adult and juvenile cases and garnishing income from offenders. Felony fines: \$100 to \$10,000; misdemeanor: \$100 to 10,000. |
| | Domestic Viol. Funding for Services | CA Govt. Code 26840.7-.8 & 26841; CA Welfare & Inst. Code Sec. 18291 to 18307 | 1983 | Funds basic shelter and other services with \$13 marriage surcharge. Counties may authorize additional \$5 fee for abuser in protection order action. Expect \$2.8 M in FY 83-84. Funds are county administered. |
| | Victim Bill of Rights (Prop. 8) | Repeals Sec. 12 of Article I of the Constitution; adds Sec. 28 to Art. I; adds Secs. 25, 667, 1191.1, 3043, 1767, 1192.7, 1732.5, 6331. | 1982 | Victim related initiative provides: (1) Restitution—to be ordered in all cases where loss is incurred; (2) Public Safety Bail—public safety to be primary consideration in all cases where bail is considered; (3) VIS/VSO/allocation: rights of victims to have input at time of sentencing; (4) Parole—right of victims to be notified of & have input at parole hearings; (5) Safe Schools; (6) Truth in Evidence; (7) Use of prior convictions at sentencing; (8) Limits plea bargaining; (9) Abolishment of insanity defense; & (10) Resentencing of mentally disordered sex offenders. This Bill of Rights was passed through a citizen initiative rather than by the legislature. |
| | Restitution | CA Stat. of 1982. Chpt. 1414 AB 2940 | 1983 | Requires that restitution payments received by Probation Dept. be sent to victim in a prescribed period of time. |
| | Restitution | Secs. 1205.5 & 1202.6 of CA Penal Code. | 1983 | Establishes a support program to provide legal assistance to victims. |
| | Intimidation | CA Stat. of 1982. Chpt. 1097 AB 2685 | 1983 | Authorizes jurisdictions to establish & maintain a facility to provide security for victims & witnesses subjected to (or who may be subjected to) threats & intimidation. |
| | Escape Notification | CA Stat. of 1982. Chpt. 1048 AB 2845 | 1983 | Requires Dept. of Corrections to notify specific law enforcement officials, & upon request victims, when any inmate is placed on work furlough, escapes or is subsequently recaptured. |
| | | | | |
| COLORADO <i>Enacted</i> | Compensation | CO Rev. Stat. Sec. 17 | 1981 Eff. 1982 1983 | Max. Award: \$10,000; Emerg. Award: \$500. Source: pen. assmt. Special: \$250 award for windows, doors and locks. |
| | Domestic Viol. Funding for Services | HB 1050 1983 CO Session laws | 1983 | Funds from voluntary income tax donations (\$1-10) goes to dom. viol. fund for shelter, counseling, advocacy and education services. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|--|---------------------------------------|--|------|---|
| COLORADO <i>Continued</i> <i>Introduced</i> | Victim Bill of Rights | HB 1212 | 1984 | Includes right to: (1) Notification; (2) Information about VIS, VIS cannot be excluded even if offender waives PSI; (3) Notoriety-for-Profit; (4) Notification of schedule of proceedings, and charges; (5) Property Return; (6) Information about compensation, legal, medical, mental health, and financial aid, entitlements, protection from intimidation, release and case disposition information; (7) Notification and participation in sentencing, restitution; (8) Secure Waiting areas; and (9) Victim is free from civil action by offender. |
| CONNECTICUT <i>Enacted</i> | Compensation | CT Stats. Secs. 54.201 to 54.217 | 1979 | Max. Award: \$10,000; Emerg. Award: \$500. Source: pen. assmt. |
| | Compensation Amendment | PA 80-90 (repeals Secs. 54-208, 209 of CT. Stats.) | 1980 | Expanded eligibility to include estate of any victim/survivor for expenses incurred as result of death. |
| | Compensation Funding Service Programs | PA 80-390 (repeals Sec. 54-202 of CT Stats.) | 1980 | Permits Comp. Board to allocate funds to implement such programs to assist witnesses & victims of crime as the Board deems appropriate within the resources available." Expands pen. assmt. |
| | Compensation Amendment | PA 81-23 | 1981 | Provides reciprocity for claimants from other states. |
| | Domestic Viol. Funding for Services | CT Gen Stat. Sec. 17-31K and SB 206 1983 CT Acts | 1982 | State approp. of \$570,000—FY 82-83 and \$645,000—FY 83-84 for all dom. viol. services. Shelter records made confidential. |
| | Victim Involvement/Sentencing | PA 81-324 | 1981 | Requires VIS/VSO/allocation. |
| | Notoriety-for-Profit | PA 82-328 | 1982 | Requires profits from notoriety due to crime to be held in escrow for victims with civil judgments awarded within 5 years. Remaining monies go to compensation fund. |
| <i>Introduced</i> | Notification | CB 5108 | 1983 | Requires that homicide survivors be notified of all court proceedings. |
| DELAWARE <i>Enacted</i> | Compensation | DE Code Ann. Sec. 9001-9017 | 1975 | Max. Award: \$10,000; Emerg. Award: None. Source: pen. assmt. |
| | Compensation Amendment | Amends DE Code Ann. Chpt. 90 Title II | 1982 | Raises pen. assmt. from 10% to 15%. |
| | Compensation Amendment | Amends DE Code Ann. Chpt. 41 Title II | 1982 | Courts may hold an operator's license as security for payment of fines, costs & restitution. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|-------------------------------------|-------------------------------------|--|------|---|
| DELAWARE <i>Continued</i> | Victim Bill of Rights | House Joint Resolution 26 | 1983 | Lists standards for fair treatment of victims: (1) Information on sentencing or release, financial assistance, social services, and witness fees; (2) Secure Waiting areas; (3) Property Return; (4) Employer Intercession; (5) Speedy Disposition; and (6) Notoriety-for-Profit funds go to victims. |
| | Restitution | DE Code Ann. Sec. 4101-4106 Title II | 1982 | Police required to prepare "loss statement" for sentencing judge, who must order restitution or, if not, explain reasons on the record. Payments received by court first pay offenders pen. assmt., then restitution, then to any court costs and fines. |
| | Intimidation | DE Code Ann. Chpt. 5 and Chpt. 35. Title II | 1982 | Expands definition of witnesses and acts of intimidation. Defines penalties. Allows judges to issue protective orders and to make compliance a part of pre-trial release and bail. |
| | Notification/Work Release | SB 151 | 1983 | Requires that victims of crime against the person be notified prior to work release or supervised custody. |
| | Notoriety-for-Profit | SB 170 | 1983 | Requires the establishment of escrow accounts in the name of the victim for profits from notoriety due to crime. |
| <i>Introduced</i> | Victim/Witness Programs | SB 55 | 1982 | Establishes Victim/Witness Assistance Units in Attorney General's (i.e., DA's) offices. |
| | Victim Involvement/Sentencing. | SB 210 & HB 122 | 1982 | Includes VIS in sentencing guidelines. |
| FLORIDA <i>Enacted</i> | Compensation | Fl Stat. Chpt. 960, Sec. 960.01-960.25 | 1978 | Max. Award \$10,000; Emerg. Award: \$500. Source: Fines & pen.assmt. |
| | Compensation Amendment | FL Stat. Chpt. 82, Sec. 222 | 1982 | Additional pen. assmt. extended to include convicted criminal traffic offenders. |
| | Funding/Witness Coordinator | FL Stat. Chpt. 81, Sec. 176 | 1982 | Requires court administrator to establish a witness coordinating office in each county within his/her judicial circuit. |
| | Domestic Viol. Funding for Services | FL Stat. Ann. Sec. 409.602 to 409.605 & 741.01 | 1983 | Funds shelters up to 75% with state approp. \$10 surcharge on marriage license, fines may be imposed on abuser in protection order action. Shelter record are confidential. |
| | Restitution | FL Stat. Chpt. 947, Sec. 181 | 1982 | Parole & Probation Commission may require restitution as condition of parole. |
| | Notoriety-for-Profit | FL Stat. Chpt. 82, Sec. 71 | 1982 | Prohibits criminal from benefiting from victim's death. |
| | Confidentiality | SB 0568 & HB 0768 | 1983 | Allows privileged communication for victims and sexual assault counselors. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---|---|--|------------------------------|---|
| FLORIDA <i>Continued</i> <i>Introduced</i> | Compensation/ Funding | HB 1199 | 1983 | Increases amount of pen. assmt. for comp. program, permits funding of service programs. |
| | Compensation Amendment | Amends Sec. 960.03 Fla. Stats. & creates Sec. 960.03(5) | 1983 | Creates procedure for state review of locally denied compensation claims. Amends procedure and structure of compensation program. |
| | Victim Bill of Rights | HB 212 | 1983 | Includes (1) Protection from Intimidation; (2) Information; (3) Restitution; (4) Advocacy during investigation; (5) Secure Waiting areas; (6) Notification; (7) Property Return; and (8) Employer Intercession. |
| GEORGIA <i>Enacted</i> | Restitution | GA Ann. Code Title 17, Chpt. 14, Art. 1 | 1980 | Court permitted to order restitution as additional remedy. |
| | Domestic Viol. Funding for Services | GA Ann. Code Sec. 19 -13-20 to 19-13-22 as Amend. by HB 142 of 1982 GA Laws | 1982 & 1983 | Funds all dom. viol. services up to 75%. Note legislation without approp. |
| | Notoriety-for-Profit | GA Ann. Code Title 17 Chpt. 14, Art. 30 | 1982 | Prohibits criminal from benefiting from crime. Profits are held in escrow for 5 years for victim with civil judgment. After that time monies may be returned to offender. |
| HAWAII <i>Enacted</i> | Compensation | HI Rev. Stat. Secs. 351-1 to 351-70 | 1978 Amended 1979-1980 | Max. Award \$10,000; Emerg. Award: \$500. Source: gen. rev. |
| | Notification | Act 184 Amends Chpt. 706, Sec. 2 HI Rev. Stats. | 1983 | Requires notification of victims of personal crimes prior to parole, probation, suspension of sentence or placement in half-way house. |
| <i>Introduced</i> | Victim Bill of Rights | Renumbers Sec. 22 of Art. I of State Const. to 23 & adopts new Sec. as part of Art. I | 1982 | Requires: (1) Court Ordered Restitution in every approp. case; (2) Public Safety Bail. Court must consider public safety; (3) VIS at time of sentencing & parole hearing; (4) Abolishes insanity defense; (5) Assures Truth in Evidence; and (6) Requires use of prior convictions in sentence decisions. |
| IDAHO <i>Enacted</i> | Restitution | ID Code Chpt. 22, Sec. 19-2601 | N/A | Unable to trace statute at this printing. |
| | Domestic Viol. Funding for Services | ID Code Secs. 39-5201 to 39-5213 | 1982 | Funds basic shelter and additional dom. viol. services with \$15 marriage surcharge. Requires 25% local funding. Expect \$200,000 in FY 83-84. Shelter records are confidential. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|----------------------------|---|---|---|---|
| ILLINOIS <i>Enacted</i> | Compensation | IL Stat. Ann. Chpt. 70 Secs. 70-84 | 1973 Amended 1979-1980 Amended | Max. Award: \$15,000; Emerg. Award: None. Source: gen. rev. & supp. approp. |
| | Funding Service Programs | PA 83-908 | 1983 | Funds service programs. Establishes V/W centers. Establishes study commission. Requires DA to disseminate information, and coordinate grants for services. Cen- ters must provide assistance to victims and families regarding services and finan- cial aid, meet special needs of elderly and dom. viol. victims, provide transporta- tion, hot-line, counseling, public educa- tion and training. Funding: pen. assmt. of \$25 to \$30. |
| | Domestic Viol. Funding for Services | IL Stat. Ann. Chpt. 40 Secs. 2401 to 2403 as Amend. by 1982 IL Law 2021; Chpt. 25 Secs. 27.1(a)(3), to 27.2(1)(c-d); Chpt. 53 Secs. 35-18;73-3 | 1982 | Funds basic shelter and other services with a \$10 marriage and a \$5 divorce surcharge. Expect \$1.2 M in 1983 and \$1.7 M in 1984 with some local funding re- quired. State appropriation. |
| | Victim Involvement/ Sentencing | IL Stat. Ann. Chpt. 38 Secs. 1053-2 | 1978 | Requires VIS or allocution. |
| | Employee Intercession | PA 81-0808 | 1981 | Provides that no employee should lose a job to participate as a witness. Explicitly states that employers do not have to pay workers for days lost in court. |
| | Notoriety-for-Profit | PA 81-0906 | 1981 | Unable to trace statute at this printing. |
| INDIANA <i>Enacted</i> | Compensation | IN Code Secs. 16-7-3.6 | Eff. 1977 Amend. 1982 | Max. Award \$10,000; Emerg. Award: \$500. Source: gen. rev. |
| | Victim Involvement/ Sentencing | IN Stat. Ann. 35-50-1 (A-10), 35-5-6-1.5 | 1981 | Requires VIS in PSI. |
| | Domestic Viol. Funding for Services | IN Code Ann. Secs. 4-23-17.5 to 4-23-17.9 | 1982 | Funds shelter and other dom. viol. services with \$10 divorce surcharge. Stat provides up to 75% of costs. |
| | Plea Bargaining | IN Code Secs. 35-35-3-2 | 1981 | Victim must be notified of pending plea arrangements & permitted to comment. |
| IOWA <i>Enacted</i> | Compensation | Code of Iowa Chpt 912 | 1982 | Max. Award: \$2,000; Emerg. Award: \$500. Source: fines & pen. assmts. |
| | Restitution | Code of Iowa Chpt. 910 | 1982 | Requires restitution in all felony cases. Restitution plans are required as part of parole, probation, or work release. |
| | Notoriety-for-Profit | Code of Iowa Chpt. 910.15 | 1982 | Allows victims to file judgements against escrow accounts established for profits from notoriety. After five years funds may be used by offender for legal fees o appeal costs. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|-----------------------------|---|--|--------------------------------|--|
| KANSAS <i>Enacted</i> | Compensation | KS Stat. Ann. Art. 73 Secs. 74-730 to 74-7318 | 1976 Amended 1978 & 1980 | Max. Award \$10,000; Emerg. Award: None. Source: gen. rev. |
| | Victim Involvement/ Sentencing | KS Stat. Ann. Title 62 Sec. 21-4604 | 1981 | Court may order PSI for misdemeanor, and must order PSI for felony. VIS is required in all PSIs. |
| | Domestic Viol. Funding for Services | KS Stat. Ann. Secs. 23-108 to 23-110 | 1982 | \$5.60 marriage surcharge for "Family and Child Trust Fund" with portion to fund shelter and other dom. viol. services. |
| | Restitution | SB 406 | 1981 | Requires judges and parole boards to mandate restitution unless reasons are stated otherwise. |
| | Property Return | KS Stat. Ann. 1979, Sec. I, Supp. 60-472 | 1981 | Permits use of photographs as evidence when possible to expedite return of property. |
| <i>Introduced</i> | Intimidation | HB 2009 | 1983 | Provides procedures & court orders to prevent intimidation. Defines intimidation & provides punishment for violation of court orders. Defines certain acts as felonies. |
| | Pre-trial Release | SB 25 | 1983 | Requires notification of and input from victim (or survivors) in cases of murder, rape, or bodily injury when pre-trial release hearings are scheduled. |
| KENTUCKY <i>Enacted</i> | Compensation | KY Rev. Stat. Secs. 346-010 to 346-190 | 1976 | Max. Award: \$15,000; Emerg. Award: \$500. Source: gen. rev. |
| | Compensation/ Funding Service Program | KY Rev. Stat. Chpt. 346 | 1982 | New pen. assmt. (to supplement existing comp. fund provided through gen. rev.). Provides funding mechanism for victim programs. |
| | Domestic Viol. Funding for Services | KY Rev. Stat. Sec. 64.012 | 1982 | \$10 marriage surcharge expected to yield \$686,000 in FY 82-83 and \$694,000 in FY 83-84 for basic and additional dom. viol. services. The initial 50% state funding is reduced 5% annually until 25% state funding level is reached. |
| <i>Introduced</i> | Victim Bill of Rights | SB 26 | 1982 | Includes right to: (1) Information on Protection from Intimidation; (2) Secure Waiting areas; (3) Notification of intent to plea bargain. |
| | Consultation on Charging | BR 114 to provide new Sec. to KRS Chpt. 455 | 1982 | Requires prosecutor to consult with victim before making a recommendation on a felony charge. |
| LOUISIANA <i>Enacted</i> | Compensation | Chpt. 21 of Title 46 of LA Rev. Stat. 46:1801-46:1823 & LA Rev. Stat. RS 36:259 (F) | 1982 Eff. 1983 | Max. Award \$10,000; Emerg. Award: None. Source: gen. rev. Special Award: for loss of home. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|--|-------------------------------------|--|--------------------|---|
| LOUISIANA <i>Continued</i> | Domestic Viol. Funding for | LA Rev Stat. Ann. Secs. 46.2121 to 46.2128 as Amend by HB 24, & HB 30 of 1983 Extra Sess. Acts | 1982 | State approp. of approx. \$100,000 in FY 83-84 to fund all dom. viol. services. |
| | Notoriety-for-Profit | LA Rev. Stat. Chpt. 21-A 1831-1839 | 1982 | Creates Criminal Victims Escrow Account for funds derived from benefits of crime. 75% of fund available to victim, 25% goes to compensation fund. After 5 years all remaining money goes to compensation fund. |
| MAINE <i>Enacted</i> | Victim Bill of Rights | Amends Sec. 17-A ME Rev. Stats. Ann. | 1983 | Includes: (1) VIS; (2) Intimidation; (3) Property Return; (4) Notification; (5) Service Programs; (6) Mandatory Restitution or explanation for failure to order restitution, 25% of work release or other pay must go to restitution; (7) Counties are encouraged to start victim/witness programs. |
| | Domestic Viol. Funding for Services | ME Rev. Stat. Title 22, Sec. 8501 | 1964 | Funds basic shelter and other dom viol. services with an expected \$276,000 FY 82-83 and \$316,000 FY 83-84 revenues. |
| MARYLAND <i>Enacted</i> | Compensation | MD Ann. Code Art. 26A Sec. 1-17 | 1978 | Max. Award: \$45,000; Emerg. Award: \$1000. Source: gen. rev. & court costs. |
| | Domestic Viol. Funding for Services | MD Ann. Code Art. 88A Secs 101-105 | 1979 & 1982 | Funds basic shelter and other dom. viol. services. Allows counties to authorize a \$15 marriage license surcharge—7 counties have done this. Makes shelter record confidential. |
| | Victim Involvement/ Sentencing | Repeals & Re-enacts Art. 41 Sec. 124C, MD Ann. Code | 1982, Amended 1983 | Requires VIS as part of PSI. Permits VSO and allocution at time of sentencing. If VSO is not provided for sentence may be declared invalid, and a new hearing required. |
| <i>Introduced</i> | Victim Bill of Rights | SB 520 | 1982 | Includes: (1) Notification & explanation of procedures & results; (2) Right to phone calls and medical assistance during police questioning; (3) Victim may not be questioned in presence of perpetrator; (4) Property Return; (5) Notification to victim about rights & services. |
| | Funding/Service Programs | HB 1036 & HB 1267 | 1983 | Pen. asmt. for certain crimes. Requires comptroller to maintain a fund from this source for use of new & existing victim/witness programs, administered by Criminal Justice Coordinating Council. |
| MASSACHUSETTS <i>Enacted</i> | Compensation | MA Gen. Laws Ann. Chpt. 258A Secs. 1-17 | 1968 Amended 1982 | Max. Award: \$10,000; Emerg. Award: None. Source: gen. rev. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|--|---|--|-------------|--|
| MASSACHUSETTS <i>Continued</i> | Victim Bill of Rights /Funding Service Programs | Amends MA Gen Laws Ann. Chpt. 258A & Chpt. 279 | 1983 | Lists rights of victims, survivors & witnesses when crime has been reported within 5 days (with exceptions). Includes: (1) Notification of all court proceedings, and disposition; (2) Information on financial asst. & fees, VIS, & restitution (3) Secure Waiting areas; (4) Property Return; (5) Employer-Creditor Intercession; (6) Speedy Disposition; (7) Child Care; (8) Intimidation; (9) Prompt processing of case. Funding through fines of offenders to be placed in special Victim Assistance Fund. Creates Board to review funding requests & administer funds. For felony cases DA must give notice of sentencing and right of allocution. |
| | Parole Notification | No cite for this printing. | (1982) 1983 | Requires 4 weeks advance notice to victims of opportunity to be heard at parole hearings. |
| | Witness Reporting | MA General Laws Chpt. 258A, Sec. 8 | 1983 | Requires that certain crimes be reported and limits liability of certain good samaritans. |
| | | | | |
| <i>Introduced</i> | Compensation Amendment | HB 1141 | 1983 | Excludes rape victims from \$100 min. loss requirement for compensation eligibility. |
| | Parole Hearings | HB 5989 Amends Chpt. 127 | 1982 | Authorizes victims & survivors to make recommendations at parole hearings. Requires 30 day notice to victims. |
| | Intimidation | HB 3481 | 1981 | Requires that victims and witnesses be protected from intimidation. |
| | Confidentiality Dom. violence | HB 143 | 1983 | Permits privileged communication between domestic violence counselors and their clients. |
| MICHIGAN <i>Enacted</i> | Compensation | MI Stat. Ann. Secs. 3.372(1) et. seq. | 1971 | Max. Award: \$15,000; Emerg. Award: \$500. Source: gen. rev. & supp. approp. |
| | Domestic Viol. Funding for Services | MI Comp. Laws 400.1501 400.1510 as Amend. by HB 5992 or 1982 (81st) Legis. Session & Secs. 551.103, 551.331 & 551.344 | 1982 | Funds basic shelter and other dom. viol. services with a marriage license surcharge of \$15, and expected approp. of \$1.66 M in FY 82-83. Programs are administered at the county level with a maximum of 40% state funding. |
| <i>Introduced</i> | Restitution | Amends Chpt. II Act #175 PA of MI adds Sec. 1(a) to Sec. 769.1 (SB 836) | 1983 | Requires sentencing court to consider restitution as part of the of the defendant's sentence. |
| MINNESOTA <i>Enacted</i> | Compensation | MN Stat. Ann. Secs. 299B.01 to 299B.17 & Sec. 609.101 | 1974 | Max. Award: \$10,000; Emerg. Award: lost wages only. Source: gen. rev., restitution, refunds & fines. |
| | Domestic Viol. Funding for | MI Comp. Laws Ann. Secs. 400.1501 to 400.1510 as Amend. by HB 5992 of 81st Leg. Session 1982 MI PA & Secs. 551.103, 551.331 to 551.344 | | Funds basic shelter and other dom. viol. services with a \$3.3 M state approp. and \$15 marriage and and divorce surcharges expected to yield \$1.2 M in FY 84-85. Also mandates a minimum of 4 shelters and limits the civil liability of shelters. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|-------------------------------|---|---|--|--|
| MINNESOTA <i>Continued</i> | Victim Bill of Rights | MN Stat 1983 Chpt. 262 | 1983 | Includes: (1) Restitution; (2) Notification; (3) Protection from harm and intimidation; (4) VIS; (5) Right to restitution; (6) Right to object to sentence in writing; (7) Use of work release pay and other earnings for restitution; (8) Right to notice of change in charges/juvenile petition. |
| | Confidentiality | Laws of MN 1982 Chpt. 558 S.F. no. 1809 | 1981 | Provides for confidentiality for rape victims. |
| | Witness Reporting | Amends MN Stat. 1982, Sec. 604.05 | 1983 | Requires assistance to people in emergencies and gives general immunity from liability. |
| MISSISSIPPI <i>Enacted</i> | Domestic Viol. Funding for Services | HB 670 | 1983 | Funds basic shelter services. Authorizes counties to spend \$10,000 from county treasury annually. Up to 75% state funding, records are confidential but abuse must be reported to the authorities. Discrimination is prohibited. |
| MISSOURI <i>Enacted</i> | Compensation/ Funding Service Programs | MO Rev. Stats. Chpt. 595.010 to 595.070 | 1981 Amended 1982 and 1983 eff: 1983 | Max. Award: \$10,000; Emerg. Award: \$100. Source: pen. assmt. (\$26, of which \$25 is applied to fund.) Funding provided for direct services, emergency services crisis intervention, counseling, and victim advocacy. Only provided to new services. Limited to \$90,000 each fiscal year. |
| | Restitution | MO Rev. Stats. 546.630 & 546.640 | 1878 | Provides for restitution in damages or for restoration of stolen or damaged property. Restitution may be part of final judgement. Jury trial may be held if agreement can not be reached. Victim can file civil claim against offender's property and wages. |
| | Domestic Viol. Funding for Services | MO Rev Stat. Secs. 455.200 to 455.230 | 1983 | Funds basic shelter services with up to 75% state funds. County may adopt a \$5 marriage and \$10 divorce surcharge. Shelter records are confidential. |
| <i>Introduced</i> | Restitution | HB 42 | 1983 | Makes restitution a condition of parole in certain circumstances. |
| MONTANA <i>Enacted</i> | Compensation | MT Code Ann. Title 53 Chpt. 9 Secs. 101-133 | 1978 Amended 1979 & 1981 | Max. Award: \$25,000; Emerg. Award: None. Source: fines, pen. assmts., & restitution. |
| | Restitution | MT Code Ann. Title 53 Chpt., 560, HB 301 | N/A | Unable to trace statute at this printing. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|------------------------------------|-------------------------------------|---|-------------|--|
| MONTANA <i>Continued</i> | Domestic Viol. Funding for Services | MT Code Ann. Title 53 Secs. 40-2-401 to 40-2-405 & 40-1-202 as Amend. by HB 45 (48th Leg., 2nd Sess.) 1983 MT Laws | 1981 & 1983 | Funds basic shelter and other services. Expected \$40,500 in FY 83. A \$14 marriage surcharge is deposited in general fund with no specific amount for dom. viol. funding although the state approp. in 1983 was \$40,500. Services can receive up to 80% state funding. Anticipated appropriations are \$122,000 in 1984 and \$130,000 in 1985. |
| NEBRASKA <i>Enacted</i> | Compensation | NB Rev. Stat. Art. 18 Sec. 81-1801 to 81-1842. Art. 73 Secs. 74-7301 | 1979 | Max. Award: \$10,000; Emerg. Award: \$500. Source: gen. rev. & supp. approp. |
| | Funding/Service Programs | Amends Sec. 81-1423 NB Rev. Stat. Supp. 1980 | 1981 | Creates Crime Victim & Witness Assistance Fund with special appropriation fund primarily for local programs. |
| | Victim Bill of Rights | NB Rev. Stat. Art. 18 Sec. 81-1801 to 81-1842 | 1981 | Includes: (1) Right to property return; (2) Notification; (3) Information on disposition; (4) Freedom from intimidation; (5) Information on aid; and (6) Information on criminal justice procedures; (7) Secure Waiting areas; (8) Information on financial aid and social services. |
| | Victim Participation | Amends Sec. 29-2261, NB Rev. Stat. 1943, & Sec. 23-1201 NB Rev. Stat. Supp. | 1983 | Makes VIS part of PSI. DA must make good faith effort to consult victim prior to plea agreement. |
| | Domestic Viol. Funding for Services | NB Rev. Stat. Secs. 42-904 to 42-923 | 1978 & 1982 | Funds basic shelter and other dom. viol. services. Shelter records are confidential. State approp are \$428,000 in 1983 and 1984. |
| <i>Introduced</i> | Compensation Amendment | (LB 328) Amends Sec. 81-1423, 81-1801 & 1802, 1806, 1813, & 1833 NB Rev. Stat. Supp. 1980 | 1981 | Administrative change. |
| | Restitution, Parole, Probation | Amends Sec. 29-2219, 2262, 3603, 47-402, 83-1116 NB Rev. Stat. 1943 & Sec. 81-1835, NB Rev. Stat. Supp. 1980 (LB 818) | 1982 | Requires restitution as a condition of probation, & a condition in any pretrial diversion plan as well as condition during incarceration (on work-release) & a condition of Parole. In all instances, levies a 10% pen. assmt. |
| | Restitution | Amends Sec. 29-2206 NB Rev. Stat., 1943 (LB 53) | 1981 | Permits court to make restitution a condition of sentencing. |
| NEVADA <i>Enacted</i> | Compensation | NV Rev. Stat. 217.010-217.270 | 1981 | Max. Award: \$5,000; Emerg. Award: None. Source: pen. assmt., & Notoriety-for-Profit. |
| | Compensation Amendment | Amends NV Rev. Stat. Chpt 217 | 1983 | Provides for psychological counseling. Provides emergency award and increases income ceiling. Increases forfeiture and bail fund. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|----------------------------|---|---|---------------------------------|--|
| NEVADA <i>Continued</i> | Compensation | Amends NV Rev. Stat. Chpt. 217 | 1983 | Provides preliminary award (different from emergency award) of up to \$400 for loss of cash and \$1000 for essential personal property. |
| | Compensation/ Funding | NV Rev. Stat. 200.760, & 178.518 | 1983 | Provides for forfeiture of personal property of offenders in certain cases. Up to \$350,000 of such funds go to compensation program. |
| | Domestic Viol. Funding for Services | NV Rev. Stat. Secs. 217.400 to 217.470, & 122.060 | 1981 | Funds basic shelter and other dom. viol. services. Marriage surcharge of \$5 is administered by counties. State funding up to 85% of costs. |
| | Funding/Sexual Assault Programs | AB 557 | 1983 | Provides funding for rape crisis centers through matching funds provided through marriage license surcharge. |
| | Victim Bill of Rights | SB 145 | 1983 | Includes: (1) Protection from Intimidation; (2) Notification; (3) Secure Waiting areas; (4) Property Return, or information on impounded property; and (5) Information on case processing and disposition, or defendant's release. |
| | Victim Involvement/ Sentencing | Amends Sec. I, NV Stat. 176.145 | 1981 | Allows victim concerns to be considered at sentencing. |
| | Restitution | NV Rev. Stat. 176.189 | Amended 1977, 1981 & 1983 | Permits restitution as condition of sentencing, mandates failure to comply with condition as a violation of probation. If recipient of restitution is not located within 3 years, monies collected will be deposited in Violent Crime Compensation Fund. Court must order restitution as a condition of probation or suspended sentence. |
| | Restitution | NV Rev. Stat. 209.4827-4843 | 1981 Amended, 1983 | Permits offenders to be assigned to community work release centers to pay restitution, funds may be deducted from wages. Broadens definition of damages to include indirect damages. Requires court to order restitution or state reasons for failing to do so. Restitution may include monies for psychological counseling. |
| | Restitution | NV Rev. Stats. 213.126 | 1983 | Permits court to order restitution as a condition of parole. Makes failure to comply with restitution order a violation of parole. |
| | Intimidation | Amends Chpt. 199 NV Rev. Stat. | 1983 | Provides criminal penalties for intimidation of victims and witnesses. |
| | Clemency Notification/ Involvement | NV Rev. Stats. 213.095 & 213.040 | 1983 | Requires advance notification of victim in cases of application for pardon, commutation of sentence, or for fines to be remitted. Victim must be notified when such action is taken. |
| | Speedy Trial | NV Rev. Stat. 174.511 | 1982 | Grants the prosecution the right to demand a trial within 60 days of arraignment. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---------------------------------|-------------------------------------|---|--------------------|--|
| NEVADA <i>Continued</i> | Court Attendant | NV Rev. Stat. 178.571 | 1983 | Provides for attendant of victim's choice to remain with the witnesses in court-room. |
| NEW HAMPSHIRE <i>Enacted</i> | Domestic Viol. Funding for Services | NH Laws of 1981 226 | 1981 | Funds basic shelter and other dom. viol. services with a \$13 marriage liscence surcharge expected to yield \$149,000 in 1983-84. State funding up to 50% of costs. Shelter records are confidential. |
| | Victim Involvement/ Sentencing | NH Rev. Stat. Ann. 651.4 | 1981 | VIS/VSO/allocation. |
| NEW JERSEY <i>Enacted</i> | Compensation | NJ Ann. Stat. Secs. 52: 4B-1 to 21 | 1971, Amended 1981 | Max. Award: \$25,000; Emerg. Award: \$1500. Source: gen. rev., fines, and penalties. Requires applications for Violent Crimes Comp. Board be made available to victims in police stations & hospital emergency rooms. |
| | Compensation | Chpt. 193, NJ Laws 1982 Amends PL 1971 Chpt. 317 | 1982 | Eliminates minimum loss requirements. |
| | Compensation | Chpt. 164 NJ Laws 1982 Supp. 2C of NJ Stat. | 1982 | Expands pen. assmt. to include crimes of disorderly persons, juveniles, and drug offenses. |
| | Compensation | NJ Laws 1982 Chpt. 192, amends PL 1971, Chpt. 317 | 1982 | Increased maximum award to \$25,000. |
| | Funding/Counseling | Adds Sec. 2 to NJ Laws Chpt. 192, PL 1971 | 1982 | Provides funds for counseling through Compensation Board. |
| | Domestic Viol. Funding for Services | NJ Stat. Ann. Secs. 37: 1-12.1 to 1-12.3; 30:14-1 to 14-13; & NJ Admin. Reg. 97 | 1968, 1981 & 1982 | \$1.5 M state approp. in FY 83-84. \$5 marriage surcharge expected to yield \$200,000 in 1983 to fund all dom. viol. services. Requires bilingual services, prohibits release of minor to anyone other than one who sought shelter. Shelter legislation without appropriation. Shelter records are confidential. |
| | Victim Involvement/ Sentencing | Amends NJ Laws Title 2C, Chpts 44-6 | 1980 | Permits VIS as part of the PSI. |
| | Restituion | NJ Code of Crim. Justice 2C: 43-1 | N/A | Unable to trace statute at printing. |
| Introduced | Compensation | AB 208 Amends PL 1971, Chpt. 317 | 1983 | Expands coverage to include victims of of drunk drivers. |
| | Compensation | AB 452 Amends PL 1971, Chpt. 317 | 1983 | Expands coverage to include relatives of offender provided victim does not live with offender at time claim is filed. |
| | Compensation | AB 1802 Amends PL 1971 Chpt. 317 | 1983 | Insures victim or dependents receive at least 50% of any award, prevents creditor of applicant from attaching more than half of award. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|--------------------------------|--|---|-------------------|---|
| NEW JERSEY <i>Continued</i> | Victim Bill of Rights | AB 445 | 1982 | Includes right to: (1) Medical Assist.; (2) Information on investigation and disposition; (3) Right to make phone calls. |
| | Intimidation | Amends Supplements Title 2C of Nj Stat. | 1983 | Strengthens already existing intimidation statute by providing for protective orders to be issued when intimidation or retaliation is suspected or threatened. Also provides for revocation of pre-trial release when order is violated. |
| | Notoriety-for-Profit | SB 434 adds to PL 1971, Chpt. 317, Sec. 52-48-1 | 1983 | Offenders not permitted to benefit from financial proceeds resulting from media coverage of crime. Profits held in escrow for 5 years. Victim may receive funds through civil judgements or restitution order. Remaining funds are returned to compensation fund. |
| NEW MEXICO <i>Enacted</i> | Compensation | NM Laws of 1981 Chapter 325 Secs. 1-26 | 1981 | Max. Award: \$12,500; Emerg. Award: permitted, no set amount. Source: gen. rev. |
| | Compensation | SB 40 | 1983 | Expands compensation to include victims of homicide by vehicle and great bodily injury by vehicle. |
| | Parole Notification | SB 41 | 1983 | Requires DA's to notify victim of parole hearing and decision. |
| | Escape Notification | SB 240 | 1983 | Requires DA to notify victims when prisoner escapes. |
| | Notoriety-for-Profit | SB 42 | 1983 | Prohibits offenders from receiving financial benefits as a result of crime, for 5 years. Victims may receive funds through civil judgments. Remaining funds are returned to offender. |
| | Child Victim/ Witness Protection | NM Stat. Ann. 30-9-17 | 1983 | Provides for the videotaping of depositions of children under 16 in judges chambers for use at trial. |
| NEW YORK <i>Enacted</i> | Compensation | NY Exec. Laws Ann. Sec. 620-635 Art. 22 | 1969 Amended 1979 | Max. Award: \$20,000; Emerg. Award: \$15,000 Source: gen. rev. |
| | Compensation Amendment | Chpt. 811, Laws of 1983** | 1983 | Extends eligibility for compensation to anyone who incurs burial expenses of victim. |
| | Compensation/ Good Samaritan | Chpt. 85, Laws of 1983** | 1983 | Provides compensation for families of murdered "good samaritans." |
| | Compensation/ Counseling | Chpt. 198, Laws of 1983** | 1983 | Expands covered medical expenses to include "trauma counseling" for surviving family members in murder cases. |
| | Compensation/ Property & Transportation/ Elderly victims | Chpt. 197, Laws of 1983** | 1983 | Expands compensation coverage to essential personal property loss & reasonable transportation expenses for all victims. Provides special considerations for elderly victims. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---|---|--|----------------------|--|
| NEW YORK <i>Continued</i> | Compensation/ Amendment | Chpt. 810, Laws of 1983 | 1983 | Expands definition of "financial hardship" requirement for eligibility. |
| | Compensation/ Amendment | Chpt. 805 Laws of 1983 | 1983 | Amends eligibility requirements to allow family members of offender to collect in some cases. Intent is to provide for some violence situations. |
| | Domestic Viol. Funding for Services | NY Soc. Serv. Law Sec. 2-31(a-b); 9 NYCRR 3.90, (1979); 18 NYCRR 492.1 to 492.28; & NY Exec. Order. No. 19 | 1979 1982 1983 | State approp. of \$1 M in 1984. \$20 marriage surcharge to fund all services; shelters without approp. Shelter records are confidential. |
| | Victim Involvement/ Sentencing | Amends Sec. 1.05 NY Penal Law and Sec. 390.30 of the NY Criminal Procedure law. | 1982 | Requires VIS as part of PSI. |
| | Restitution/ Civil Suits | AB 3475** | 1983 | Expands right of victim/survivors to sue offenders for damage. |
| | Restitution | Chpt. 468, Laws of 1983 | 1983 | Increases limits on dollar amounts of restitution which may be ordered. |
| | Restitution | Chpt. 397, Laws of 1983 | 1983 | Requires judges to consider restitution as part of sentencing procedure. |
| | Intimidation | Chpt. 77, Laws of 1983** | 1983 | Would require notification of victims that they are protected from intimidation, and eligible to apply for compensation. |
| | Employer Penalties | Chpt. 101, Laws of 1983** | 1983 | Protects victims who testify voluntarily from being fired for time off for court appearance. |
| Introduced | Victim Bill of Rights | AB 6681 | 1983 | Establishes guide lines for fair treatment of victim/witness including: (1) Notification; (2) Secure Waiting areas; (3) Property. and (4) Return, & Employer Intervention. |
| **Note: Bill of Rights vetoed by Governor. However, the statutes that did pass, (see 1983 bills listed above) have been considered by some as a "package" of victim rights. | | | | |
| NORTH CAROLINA <i>Enacted</i> | Compensation | Chpt. 15B NC Gen. Stats. | 1983 | Max. award: \$20,000; Emerg. award: None. Source: Gen. Rev. \$1 million provided (not yet distributed). |
| | Compensation/ Sexual Assault | Chpt. 143B NC Gen. Stats. | 1983 | Expands Rape Victim Assistance Program to cover ambulance, and mental health counseling. Provides for purchase and distribution of kits for rape exam. |
| | Domestic Viol. Funding for Services | HB 1148 | 1982 | Funds dom. viol. services with state appropriations of \$250,000 in FY 1983-84 and in 1984-83. |
| Introduced | Victim Bill of Rights | HB 511 | 1983 | Includes: (1) Witness Assistance Coordinators, in prosecutors' offices; (2) Property Return; (3) Notification; (4) Intimidation; (5) Secure Waiting areas. and; (6) Employer Intercession. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---|--|---|---|--|
| NORTH DAKOTA <i>Continued</i> <i>Enacted</i> | Compensation | ND U.C.C.C. Chpt 65-13 Secs. 01-20 Chpt 92, Secs. 01 to 11 | 1975 | Max. Award: \$25,000; Emerg. Award: \$100. Source: gen. rev. |
| | Domestic Viol. Funding for Services | ND Cent. Code Secs. 14- 03-21, 14-03-22; & 14- 07-07.2-01 to 14-07.2-05 | 1981 | Funds dom. viol. programs with a \$19 marriage surcharge and allows 75% state funding. |
| OHIO <i>Enacted</i> | Compensation | OH Rev. Code Secs. 2743.51 to 2743.72 | 1976 Amended 1977, 1978 1980, 1981 | Max. Award: \$25,000; Emerg. Award: No max. Source: fines, pen. assmts., & supp. approp. |
| | Compensation | Amends OH Rev. Code 2743.51 to 2743.72 | 1982 | Expands & clarifies existing comp. pro- gram. Increases court fines for special reparations account. |
| | Victim Involvement/ Sentencing | Amends Sec. 2929.12 Enacts Sec. 2947.05, OH Rev. Code | 1980 | Requires VIS as part of PSI. |
| | Domestic Viol. Funding for Services | OH Rev Code Ann. Secs. 3113.33 to 3113.39 | 1981 | Funds basic and other shelter services through a \$10 marriage surcharge ex- pected to yield \$990,000 and is adminis- tered by each county. Discrimination is prohibited, and confidentiality is assures for both shelter and "battered spouse counselors." State may fund up to 75% of costs. |
| <i>Introduced</i> | Funding Service Programs/Victim Rights | HB 1001 (1982) HB 259 (1983) SB 195 (1983) | 1982 & 1983 | Creates statewide victim/witness advisory board. Provides funding for programs in prosecutors' offices. Outlines basic victim rights. |
| | Restitution | HB 8 & HB 320 | 1983 | Requires court to order restitution in lieu of fine or prison in property cases, allows for restitution in other cases. |
| | Parole Involvement | SB 172 | 1983 | Permits felony victims and their families to attend and present evidence at sen- tencing, dispositional, parole, and early release hearings. |
| | Notoriety-for-Profit | HB 748 | 1982 | Prohibits offenders from benefiting from crime through books, interviews, etc. Funds go to victims, then to offender's creditors, and compensation fund. After years all funds go to compensation program. |
| | Case Notification | SB 76 | 1983 | Requires DA to notify victim of court pro- ceedings and disposition of the case. |
| | Plea Notification | HB 99 | 1983 | Requires DA to notify victims of recom- mendation for plea bargain. Prohibits court from accepting plea bargain if notice was not given. |
| | Right to Counsel | SB 96 | 1983 | Permits neighborhood groups to employ attorneys for victims. Requires DA to cooperate with these attorneys. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|-----------------------------------|-------------------------------------|--------------------------------------|------|--|
| OHIO <i>Continued</i> | Confidentiality | SB 230 | 1983 | Makes records of rape crisis and domestic violence counselors confidential. |
| OKLAHOMA <i>Enacted</i> | Compensation | HB 1118 | 1981 | Max. Award: \$10,000; Emerg. Award: \$500. Source: pen. assmt. |
| | Funding Service Program | Amends 19 OK Stats. 1971 Sec. 215.15 | 1981 | Permits each DA's office to have one victim/witness coordinator (applies to districts whose population is in excess of 60,000) to ensure victim rights: to be informed, protected, receive financial assistance where appropriate etc. - also includes provision for these rights to be extended to families of homicide victims. |
| | Domestic Viol. Funding for Services | HB 1148 | 1982 | Funds basic shelter and other dom. viol. services. State approp. of \$896,000 expected for FY 84. |
| | Parole Notification | Amends 57 OK Stats., 1971 Sec. 332.2 | 1981 | Requires Pardon and Parole Board to notify DAs at least 20 days in advance of regular meetings or 10 days for special meetings, by sending a copy of the docket with notification of recommendations for commutations or paroles, so victim can be informed. |
| | Intimidation | Amends 21 OK Stats. 971, Sec. 455 | 1981 | Increases penalty for intimidating witnesses & preventing them from testifying from 3 to 10 years. |
| | Notoriety-for-Profit | 22 OK Stats. Sec. 17 | 1981 | Requires all monies paid to convicted persons as a result of contracts made regarding the crime committed for movies, books, newspapers, magazine articles, radio or television presentations, live entertainment, or from any such crime be paid to the court and deposited in escrow account payable to victim - any money remaining in account after 5 years will be turned over to state Victim Compensation Fund. |

Note: Although Oklahoma does not have a single victim bill of rights the legislature has passed what is considered a "package" of victim rights.

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|---------------------------------|---------------------------|--|------|---|
| <i>Introduced</i> | Speedy Trial | Amends 22 Ok. Stats. Sec. 13 | 1982 | Establishes victims' right to speedy trial. |
| OREGON <i>Enacted</i> | Compensation | OR Rev. Stat. Secs. 147.005-147.365 | 1978 | Max. Award: \$23,000; Emerg. Award: \$1,000. Source: gen. rev. |
| | Compensation/ Restitution | Amends OR Rev. Stat., Chpt. 637 Sec. 137.103 | 1981 | Permits court to order compensatory fines (in addition to restitution) for special and general damages such as pain and suffering. |
| | Funding/Services | HB 2482 Amends ORS. Secs. 147.055 to 147.365 | 1983 | Establishes new pen. assmt. to fund victim/witness programs, establishes standards for victim/witness programs, and guarantees certain victim rights. |

| STATE | LEGISLATION | CITATION | DATE | SUMMARY |
|-----------------------------------|-------------------------------------|--|------|---|
| OREGON <i>Continued</i> | Domestic Viol. Funding for Services | OR Rev. Stat. Secs. 106.45, 108.610, & 108.660 | 1981 | Funds basic shelter and other dom. viol. services with a \$20 marriage surcharge used to fund up to 75% of costs. Shelter records are confidential and shelter addresses are kept secret. |
| | Victim Involvement/Sentencing | SB 386 Amends ORS 137.530 & 144.790 | 1983 | Requires VIS as part of PSI. Victim must be advised that VIS will be made available to the defense. Consent of parent must be obtained prior to contacting victim under age 18 for VIS. |
| | Restitution | SB 520 Amends ORS 137.106 | 1983 | Requires D.A. to make a report of pecuniary damages, if the information is not available in VIS. Restitution order may not be reduced later unless there has been an error. |
| <i>Introduced</i> | Victim Bill of Rights* | Constitutional Amendment #3 | 1983 | Includes rights to: (1) Restitution for injuries, and wages lost through court attendance; (2) Appearance at trials; (3) VIS with PSI; (4) Public Safety Bail; (5) Participation in bail hearings and parole decisions; (6) sentencing participation provisions; and (7) right to try defendant on charges filed. |

*This is being circulated as a citizen initiative similar to the effort made in California with respect to "Proposition 8". The provisions are not, however, the same as Proposition 8.

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| PENNSYLVANIA <i>Enacted</i> | Compensation | PA Stat. Ann. Title 71, Secs. 180-7 to 180-7.15; Title 37 Secs. 191.1 to 191.15 | 1976 | Max. Award: \$25,000; Emerg. Award: \$1,000. Source: pen. assmt. |
| | Compensation | Amends Sec. 477 of PA Admin. Code as amended 1976 | 1979 & 1980 | Requires law enforcement agencies to inform victims of availability of compensation and requires all law enforcement personnel to be trained about compensation board and eligibility requirements. |
| | Domestic Viol. and Rape Crisis Funding for Services | SB 79 Amends PL 31, N. 21, & 1982 PA Leg. Serv. 851 | 1981 & 1982 | Amount: \$1.5 M. Source: \$10 pen. assmt. Eligible recipients: domestic violence shelters and rape crisis centers. |
| | Intimidation | Amends Title 18 of PA Consol. Stat. Chpt. 49 | 1980 | Intimidation of victims/witnesses become a 3rd degree felony. |
| | Counselor Confidentiality | Amends Title 42 of PA Consol. Stat. Chpt. 49 | 1981 | Allows communication between victims and sexual assault counselors to remain privileged. Counselors may not be required to testify or reveal notes without consent of victim. Covered counselors must have 40 hours of training. |
| <i>Introduced</i> | Compensation | SB 1650 | 1982 | Expands victims eligible for awards to members of offenders' families who were not accomplices and not residing with offender at close of criminal proceedings; raise ceiling on maximum award from \$25,000 to \$35,000; and provides for compensation for non-economic detriment i.e., pain and suffering not to exceed \$5000; provision for elderly on Social Security. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|----------------------------------|---|---|----------------------|---|
| PENNSYLVANIA <i>Continued</i> | Victim Bill of Rights/Victim Involvement/Sentencing & Funding | SB 68, 69 & 70 HB 1672, 824, & 825 | 1983 | Includes: (1) Information; (2) Protection; (3) Notification; (4) Restitution as a condition of probation whenever feasible; (5) Requires VIS as part of PSI. Mandates counties to provide these rights through victim/witness programs. Counties must pay for rights/services provision and are eligible for not more than 90% state reimbursement. Compensation: reauthorizes board, expands eligibility, raises awards, increases pen. assmt. |
| | Funding | SB 1648 | 1982 | Additional penalty assesment of \$10 to fund expanded benefits in Victim Bill of Rights. |
| | Notoriety-for-Profit | SB 473 | 1983 | Requires the creation of escrow accounts for profits from notoriety due to crime. Victims have 5 years in which to recieve funds through civil judgements. Any remaining funds may be used by offender for legal fees. |
| RHODE ISLAND <i>Enacted</i> | Compensation | RI Gen. Laws Ann. Secs. 12-25-1 to 12-25-14 | 1972 Amended 1978 | Max. Award: \$25,000; Emerg. Award: None. Source: fines and pen. assmt. |
| | Victim Bill of Rights | HB 5997 | 1983 | Requires prosecutor to notify victim of disposition of case, name and address of person charged with the crime, investigative process bail release. Provides: (1) Protection from Intimidation, (2) Property Return, (3) Employer Intercession, (4) VIS/VSO/Allocution, (5) Parole Involvement, (6) Secure Waiting areas, and (7) Automatic Civil Judgement/Liability. Allows court to make restitution a condition of probation. |
| | Restitution | RI Gen. Laws Ann. Secs. 12-19-32 | 1978 | Unable to trace this statute at printing. |
| | Intimidation | HB 7510 Amends Secs. 11-32-34, General Laws | 1980 | |
| | Parole Involvement | RI Gen. Laws Ann. Secs. 13-8-26 | 1956 | Allows interested persons to make a statement "with respect to a particular applicant for parole" must be submitted in writing. |
| | Witness Reporting | SB 0858 Sub A | 1983 | Requires reporting of sexual assault crimes. |
| <i>Introduced</i> | Compensation | SB 744 | 1983 | Provides for retroactive application of compensation claims prior to May 1978 provided claims adhere to 2-year statute of limitations. |
| | Victim's privacy protected | SB 472 | 1983 | Prohibits publication of name and address of victim unless victim has given permission. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---|--|---|--|---|
| SOUTH CAROLINA <i>Enacted</i> | Compensation Notoriety-for-Profit | Stat. at Large of SC Title 16, Chpt. 3, Art. 13 Stat. at Large of SC Title 15, Chpt. 59, Art. 40 | 1982 1981 | Max. Award: \$10,000; Emerg. Award: \$500. Source: fines and pen. assmt. Profits of convicted held in escrow for 5 years for victim with civil judgment. |
| SOUTH DAKOTA <i>Enacted</i> | Domestic Viol. Funding for Services | SB 1086 | 1983 | Funds basic shelter and other dom. viol. services. A \$15 marriage surcharge is collected and administered at the county level. Shelters can receive up to 80% stat funding. |
| TENNESSEE <i>Enacted</i> | Compensation Notoriety-for-Profit | TN Code Ann. Chpt. 13 Secs. 29-13-101 to 208, Secs. 40-3207 SB 63, Chpt. 264 L. 1979 | 1976 Amended 1978-81 1979 | Max. Award: \$50,000; Emerg. Award: \$1,500. Source: fines and pen. assmt. Unable to trace statute at printing. |
| TEXAS <i>Enacted</i> | Compensation Domestic Viol. Funding for Services Restitution & Parole | TX Laws, Vernon's Civil Stat. Art. 8309-1 Vernon Supp. 82-83 TX Hum. Res. Code Ann. Secs. 51.001 to 51.011; & TX S. Con. Res. 82 to 86, 89; 68th Leg. Sess., 1983 TX Gen Laws. TX Laws, Vernon's Civil Stat. Art. 6166x-3 | 1980 1982 & 1983 1981 | Max. Award: \$50,000; Emerg. Award: \$1,500. Source: fines and pen. assmt. Funding for all dom. viol. services with state appropriation of \$1.48 M (FY 84) and \$1.59 M (FY 85). State may fund up to 75% of shelter costs and shelter records are confidential. Authorizes Dept. of Corrections to establish a "Work Furlough Plan" for prisoners which may include procedures to contribute restitution to victims. |
| <i>Introduced</i> | Compensation Compensation Compensation Victim Bill of Rights Victim Privacy Protection | HB 8, Amends Vernon's TX Civil Stat. Ann. Sec. 13, Chpt. 550 SB 138 HB 411 HB 420 HB 81, Amends Vernon's TX Civil Stat. Ann. Art. 6252-17a | 1981 1984 1984 1983 1982 | Enhances Crime Victims Compensation Fund through bail bond and forfeitures. Raises pen assmt. for felony to \$20, for misdemeanor (with fine of more than \$200) to \$15, and for misdemeanor (with fine of less than \$200) establishes a \$12. pen. assmt. to fund compensation program. Creates auxiliary compensation fund for administration of court ordered probationer monies received for payment to victims. Includes right to: (1) Information; (2) Employer Intercession; (3) Protection from Intimidation; (4) Creates statewide coordinator for victim services. Removes name and address of victim from being required public information. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|----------------------------|-------------------------------------|--|------------------------------|---|
| TEXAS <i>Continued</i> | Restitution | HB 658 | 1984 | Establishes restitution center program as an alternative to sentencing where convicted must secure employment to pay restitution and may also be required to perform community service. |
| | Juvenile Restitution | SB 669 | 1984 | Allows voluntary and community service restitution for juveniles and authorizes localities to set up certain administrative procedures. |
| | Child Testimony Exemptions | SB 838 | 1984 | Exempts those 14 years old or younger from 3rd party corroboration of testimony to support sexual offense testimony. |
| | Child Victim Protections | SB 836 | 1984 | Allows for the electronic recording of testimony of minor 14 years old or younger for admission into court to avoid trauma of testifying in court. |
| | Victim Privacy Protection | HB 81, amends Vernon's TX Civil Stat. Ann. Art. 6252-17a | 1982 | Removes name and address of victim from being required public information. |
| UTAH <i>Enacted</i> | Domestic Viol. Funding for Services | UT Code Ann. Secs. 30-69 | 1981 | State approp. of \$350,000 in FY 84-85. \$13 marriage surcharge for basic shelter and other dom. viol. services. |
| | Restitution | Amends Sec. 76-3-201 as Amended by Chpt. 69, Laws of UT 1979 Enacts 75-3-204.3 and Amends 77-18-1 & 77-27-3 Chpt. 15, Laws of UT, 1980 | 1982 | If restitution is not ordered, requires a statement in writing to explain why not. Requires that restitution be a condition of probation and parole. |
| | Confidentiality | Utah Judicial Code, 78-3c-1 | 1983 | Establishes privileged communications for sexual assault counselors and victims. |
| VERMONT <i>Enacted</i> | Domestic Viol. Funding for Services | VT Stat. Ann. Title 32, Sec. 1712(1) as Amend. 1982 VT Acts 33 | 1981 | Funds basic shelter and other dom. viol. services with a \$19 Marriage surcharge expected to yield \$65,000 in FY 83, and \$74,000 in FY 84. |
| <i>Introduced</i> | Compensation | Amends 13 VT Stats. Ann. Chpt. 165 & 28 VT Stats. Ann. (H. 89) | 1983 | Establishes compensation from restitution monies; has Notoriety-for-Profit provision; permits restitution as a condition of parole or probation. |
| | Compensation/Restitution | Amends 13 VT Stats. Ann. Chpt. 165 (H. 201) | 1983 | To Establish Victim Compensation Board and Fund. |
| VIRGINIA <i>Enacted</i> | Compensation | VA Code Ann. Chpt. 21.1 Secs. 19.2-368-1 to 368-18 | 1968 Amended 1978-1981 | Max. Award: \$10,000; Emerg. Award: \$1,000. Source: fines and pen. assmt. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|--|-------------------------------------|---|-------------------------------|--|
| VIRGINIA <i>Continued</i> | Domestic Viol. Funding for Services | VA H.J. Res 31 of 1978; VA Code Secs. 63.1-315 to 63.1-319, & 20-15 | 1978 & 1983 | Funds basic shelter and other dom. viol. services with an expected state approp. of \$800,000 in FY 83-84. A \$7 marriage surcharge is enacted with accompanying legislation to appropriate monies to dom. viol. programs. |
| | Victim Involvement/Sentencing | VA Code Ann. Sec. 19.2-299 | 1983 | Requires VIS as part of PSI; if no PSI ordered, VIS may be prepared if victim desires. Commonwealth Attorney may provide details about PSI ordered. |
| <i>Introduced</i> | Victim Involment/Sentencing | HB 1 | 1984 | Corrects wording of 1983 Act. |
| WASHINGTON <i>Enacted</i> | Compensation | Rev. Code of WA Ann. Secs. 7.68.010 to 7.68.910 1982 | 1974 Amended 1977, 1981 | Max. Award: \$15,000; Emerg. Award: \$200. Sources: fines, pen. assmt. & gen. rev. |
| | Funding | Rev. Code of WA 7.68.035 | 1982 | 20% of pen. assmt. may be used for comprehensive victim/witness programs in County Prosecutors' offices if approved by comp. program. |
| | Domestic Viol. Funding for Services | WA Rev. Code Ann. Secs. 70.123.010 to 70.123.900 | 1982 | Funds basic shelter and other dom. viol. services with a state approp. of \$1.4 M in 1981 to 1983. State can fund up to 50% of costs. Also, shelter's civil liability if limited and its address is kept secret. |
| | Victim Bill of Rights | Rev. Code of WA 7.69.010 | 1981 | Lists Rights of Victims including: (1) Information on final disposition; (2) Information on court schedules; (3) Protection (4) Information on fees available; (5) Secure Waiting areas; (6) Property Return; (7) Employer Intercession; (8) Medical Assistance; (9) Rights of Family Members. |
| WEST VIRGINIA <i>Enacted</i> | Compensation | WV Code Chpt. 14 Art. 2A Secs. 14-2A-1 to 27 | 1981 | Max. Award: \$20,000; Emerg. Award: None. Source: pen. assmt. |
| | Domestic Viol. Funding for Services | WV Code Secs. 48-2C-1 to 48-2C-9, & 48-1-24 | 1981 | Establishes family protection Sub-Committee. Provides methods to fund shelter with a \$15 marriage surcharge. State may fund up to 35% of costs of services. Shelter records are confidential. |
| | Restitution Juvenile | WV Code Chpt. 49 Art. 5 | 1982 | Allows Juvenile Court to order children to make restitution. |
| WISCONSIN <i>Enacted</i> | Compensation | WI Stat. Ann. Chpt. 949.001-949.18 | 1977 | Max. Award: \$12,000; Emerg. Award: \$1,000. Source: gen. rev. |
| | Funding/Victim Service Programs | Attached to Victim Bill of Rights. (see below) | 1980 | Funded initially at a rate of \$100,000 per month. Source: gen. rev. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|-------------------------------|-------------------------------------|---|-------------|--|
| WISCONSIN <i>Continued</i> | Victim Service Funding/Pen. Assmt. | Amends 20-455 Creates 20-455 (5) (g) | 1983 | Creates new pen. assmts. as a condition of sentencing/probation. Proceeds to be used for victim services. |
| | Funding/Services | WI Stat. Ann. Chpt. 973.045 | 1983 | Additional pen. assmt. of \$20 per misdemeanor count and \$30 per felony count. Inmate wages may be garnished. Funds used for service programs. |
| | Domestic Viol. Funding for Services | WI Stat. Ann. Secs. 15.197(16), 20.435(8)(c), 46.95, 50.01(1)(1), 973.05, 973.055 | 1982 & 1983 | Provides state approp. of \$1.45 M FY 83-84 and \$1.48 M FY 84-85. State may fund 70% of costs. Shelters are exempt from multiple dwelling license requirement. |
| | Victim Bill of Rights | WI Stat. Ann. Chpt. 950 | 1980 | First in country. Includes following rights: (1) Information; (2) Notification; (3) Protection; (4) Separate and Secure Waiting area; (5) Return of Property; (6) Employer Intercession; and (7) Speedy Disposition of case. All rights are extended to families of homicide victims. |
| | Victim Involvement/Sentencing | (AB 25) WI Act 102 | 1983 | Requires VIS to be used with consent of victim and if the offense is a felony, or property damage, or threat of bodily injury. Also provisions of Bill of Rights. |
| | Restitution | SB 621 (repeals 97309(3), (6) (c), (8), Chpt. 352 of WI Stat. Ann.) | 1981 | Requires court to consider restitution for the victim when determining whether to order payment of costs. Must combine in a single order restitution and all other payments required as a condition of probation. |
| | Intimidation | WI Stat. Ann. Chpt. 118 | 1981 | Stiffens and more clearly defines penalties for victim witness intimidation including stipulation that pre-trial release of defendant includes a condition that prohibits intimidation. Provides for enforcement. |
| | Employer Intercession | WI Stat. Ann. 103.87 | N/A | Prohibits penalizing victim for testifying. |
| <i>Introduced</i> | Children's Bill of Rights | AB 115 | 1983 | Extends rights of adult victims to children. In addition judges may order videotaped depositions of witnesses younger than 18 years of age. Prosecutors to designate a person who will explain to child witnesses legal proceedings; act as friend of the court as to the child's understanding of court procedures; advise prosecutor on child's ability to cooperate and on the potential effects of the proceedings on the child; to encourage expedited proceedings when appropriate; and to bar the use of children's names and addresses in the press. |
| | Restitution | SB 183 | 1983 | Broadens judicial discretion to order restitution. |
| | Intimidation | AB 353 | 1983 | Prohibits harassment of anyone by anyone else. Allows for temporary restraining orders. |
| | Notoriety-for-Profit | AB 24 | 1983 | Requires profits from notoriety be held in escrow for 5 years. Money not claimed by victims through civil judgements is returned to offender. |

| STATE | TYPE OF LEGISLATION | CITATION | DATE | SUMMARY |
|---|-------------------------------------|-----------------------------------|------|---|
| WISCONSIN <i>Continued</i> | Victim Aid | AB 515 | 1983 | Creates the duty to assist an endangered crime victim. |
| | Counselor Confidentiality | AB 566 | 1983 | Allows for privileged communication between victims and sexual assault counselors. |
| | Pardon Notification | AB 860 | 1983 | Requires notification to survivor of homicide victim when there is an application for pardon. |
| WYOMING <i>Enacted</i> | Restitution | WY Stat. Secs. 7-13-307, 7-13-315 | N/A | Unable to trace statute at printing. |
| | Domestic Viol. Funding for Services | WY Stat. Secs. 9-3-104 to 9-3-105 | 1982 | State approp. of \$1.8 M in 82-83 for basic shelter services. |
| DISTRICT OF COLUMBIA <i>Enacted</i> | Compensation | DC Law 4-100 | 1982 | Max. Award: \$25,000 Emerg. Award: \$1,000 Source: pen. assmts. |

PART THREE: SAMPLE STATUTES

Victim Compensation Sample Statute New Mexico Chapter 325, Laws of 1981 An Act

RELATING TO CRIMES; PROVIDING FOR THE AWARD OF AND ADMINISTRATION OF REPARATIONS TO CERTAIN PERSONS; PROVIDING A PENALTY; CREATING A FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE—This act may be cited as the "Crime Victims Reparation Act".

SECTION 2. PURPOSE—The purpose of the Crime Victims Reparation Act is to protect the citizens of New Mexico from the impact of crime and to promote a stronger criminal justice system through the encouragement of all citizens to cooperate with law enforcement efforts. Implementation of the Crime Victims Reparation Act will promote the public health, welfare and safety of the citizens of New Mexico.

SECTION 3. DEFINITIONS—As used in the Crime Victims Reparation Act:

A. "child" means an unmarried person who is under the age of majority and includes a stepchild and an adopted child;

B. "collateral source" includes benefits for economic loss otherwise reparable under the Crime Victims Reparation Act which the victim or claimant has received, or which is readily available to him, from:

- (1) the offender;
- (2) social security, medicare and medicaid;
- (3) workmen's compensation;
- (4) wage continuation programs of any employer;
- (5) proceeds of a contract of insurance payable to the victim; or
- (6) a contract providing prepaid hospital and other health care services, or benefits for disability;

C. "commission" means the crime victims reparation commission;

D. "dependants" means those relatives of the deceased or disabled victim who are more than fifty percent dependent upon the victim's income at the time of his death or disability and includes the child of a victim born after his death or disability;

E. "family relationship group" means any person related to another person within the fourth degree of consanguinity or affinity;

F. "injury" means actual bodily harm or disfigurement and includes pregnancy and extreme mental distress. For the purposes of this subsection "extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition which impairs judgment, behavior or ability to cope with the ordinary demand of life;

G. "relative" means a person's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, minor brother, minor sister, minor half-brother, minor half-sister or spouse's parents; and

H. "victim" means a person domiciled in New Mexico who is injured or killed by any act or omission of any other person which is a crime enumerated in Section 9 of the Crime Victims Reparation Act.

SECTION 4. CRIME VICTIMS REPARATION COMMISSION CREATED—MEMBERSHIP—REIMBURSEMENT.—

A. "There is created in the executive branch of government a "crime victims reparation commission", which shall consist of five members appointed by the governor for staggered terms of four years each. Not more than three of the members shall belong to the same political party. One of the members shall be a attorney licensed to practice law in the state, and one of the members shall be a physician licensed to practice medicine in the state. In making the initial appointments, the governor shall appoint three members for a term of two years each and two members for a term of four years each. Thereafter, appointments shall be for a term of four years. The governor may appoint a person to fill a vacancy for the balance of the unexpired term.

B. The members of the commission shall annually elect from their membership a chairman and vice chairman.

C. Members of the commission, while in the actual performance of their duties pursuant to the Crime Victims Reparation Act, shall be reimbursed as provided in the Per Diem and Mileage Act.

D. The commission may employ such staff as is necessary to perform its function.

SECTION 5. CLAIMS—REVIEW—HEARINGS AND EVIDENCE.—

A. Where an application is made to the commission pursuant to the Crime Victims Reparation Act, the chairman of the commission shall assign the claim to himself or to another member of the commission. All claims arising from the injury or death of a person as a direct result of a single crime shall be considered together by a single commission member.

B. The commission member to whom such claim is assigned shall examine the papers filed in support of the claim and shall cause an investigation to be conducted into the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury or death upon which the claim is based and other benefits received or to be received.

C. The commission member to whom a claim is assigned may make his recommendation regarding the claim on the basis of the papers filed in support thereof and the report of the investigation of the claim. If the commission member is unable to decide his recommendation upon the basis of the papers and report, he shall order a hearing.

D. At the hearing, the claimant and the commission's legal advisor shall be entitled to appear and be heard, and any other person may appear and be heard who has satisfied the commission member that he has a substantial interest in the proceedings. In any case in which the claimant is a child or is mentally incompetent, the application may be made on behalf of such claimant by his parent, guardian, custodian or any other person authorized to administer his estate.

E. Where any person is entitled to appear and be heard, that person may appear in person or by his attorney. All hearings shall be open to the public unless in a particular case the member of the commission assigned to the claim determines that the hearing or a portion thereof shall be held in private, having regard to the fact that the offender has not been convicted or in the interest of the victim of an alleged sexual offense.

F. Every person appearing under the provisions of this section shall have the right to produce evidence and to cross-examine witnesses. The commission member may receive in evidence any statement, document, information or matter that may, in his opinion, contribute to the functions of the hearing under the Crime Victims Reparation Act, whether or not such statement, document, information or other matter would be admissible in a court of law.

G. After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the commission member to whom the claim was assigned shall make a recommendation to the entire commission either granting an award or denying the claim.

H. The entire commission shall act upon the recommendation of the commission member. The commission, by majority vote, may affirm, increase, decrease or deny the award. No decision shall be valid unless a majority of the commission members are in agreement on the decision.

SECTION 6. MEDICAL EXAMINATION—ATTORNEYS' FEES—PENALTY—

A. The commission may appoint an impartial physician, licensed in New Mexico, to examine any person making an application for reparation under the Crime Victims Reparation Act, and the fees for the examination shall be paid from funds appropriated for the commission's administrative expenses.

B. None of the appropriation in this act shall be used to pay attorney fees either as part of or in addition to awards of reparation. In cases where no reparation is awarded, attorney fees shall not be paid.

SECTION 7. ELIGIBILITY FOR REPARATION.—

A. In the event any person is injured or killed by an act or omission of any other person coming within the criminal jurisdiction of the state after the effective date of the Crime Victims Reparation Act, which act or omission includes a crime enumerated in Section 9 of that act, and upon application for reparation, the commission may award reparation in accordance with the Crime Victims Reparation Act:

- (1) to the victim;
- (2) in the case of the victim's death, to or for the benefit of any one or more of the deceased victim's dependents; or
- (3) any individual who voluntarily assumes funeral or medical expenses of the victim.

B. For the purpose of the Crime Victims Reparation Act, a person shall be deemed to have intentionally committed an act or omission notwithstanding that by reason of age, insanity, drunkenness or otherwise he was legally incapable of forming a criminal intent.

C. In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant. The commission shall consider the behavior of the victim and whether, because of provocation, or otherwise the victim bears responsibility for the crime that caused his injury or death and shall reduce the amount of reparation in accordance with its assessment of the degree of responsibility attributable to the victim.

D. Any order may be made under this section whether or not any person is prosecuted for or convicted of a crime enumerated in Section 9 of the Crime Victims Reparation Act, provided an arrest has been made or the act or omission constituting such a crime has been reported to the police in a reasonable time. No order may be made under this section unless the commission finds that:

- (1) the crime did occur;
- (2) the injury or death of the victim resulted from the crime; and
- (3) the claimant or victim fully cooperated with the appropriate law enforcement agencies.

E. Upon application from the district attorney of the appropriate district, the commission may suspend proceedings under the Crime Victims Reparation Act for such period as it deems desirable on the ground that a prosecution for the crime has been commenced or is imminent.

SECTION 8. CRIMES ENUMERATED. —

A. The crimes to which the Crime Victims Reparation Act applies and for which reparation to victims may be made are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:

- (1) arson resulting in bodily injury;
- (2) aggravated arson;
- (3) aggravated assault or aggravated battery;
- (4) dangerous use of explosives;
- (5) negligent use of a deadly weapon;
- (6) murder;
- (7) voluntary manslaughter;
- (8) involuntary manslaughter;
- (9) kidnapping;
- (10) criminal sexual penetration; and
- (11) criminal sexual contact of a minor.

B. No award shall be made for any loss or damage to property.

SECTION 9. AWARD OF REPARATION. —The commission may order payment of reparation for:

- A. expenses actually and reasonably incurred as a result of the victim's injury or death;
- B. loss to the victim of earning power as a result of total or partial incapacity; and
- C. any other pecuniary loss directly resulting from the victim's injury or death which the commission determines to be reasonable and proper.

SECTION 10. RELATIONSHIP TO OFFENDER. —No reparation shall be awarded if the victim:

- A. is a relative of the offender;
- B. was a member of the offender's family relationship group; or
- C. was an accomplice of the offender.

SECTION 11. NO AWARD TO CERTAIN CONFINED PERSONS. —No award shall be made pursuant to the provisions of the Crime Victims Reparation Act to a victim injured while confined in a county or municipal jail, penitentiary or other correctional facility.

SECTION 12. RECOVERY FROM OFFENDER. —Whenever an award of reparation is made pursuant to the Crime Victims Reparation Act, the state is, upon payment of the award, subrogated to the right of action of the victim or his dependants against the person responsible for the injury or death and may bring an action against such person for the amount of the reparation paid.

SECTION 13. TERMS OF ORDER. —Any order for the payment of reparation under the Crime Victims Reparation Act may be made on such terms as the commission deems appropriate. The order may provide for apportionment of reparation or for the holding of reparation or any part thereof in trust and for the payment of reparation in a lump sum or periodic installments. All such orders shall contain words clearly informing the claimant that all awards and orders for reparation under the Crime Victims Reparation Act are subject to making of an appropriation by legislature to pay the claim.

SECTION 14. LIMITATIONS ON AWARD—COLLATERAL RECOVERY —

A. No order for the payment of reparation shall be made unless application has been made within one year after the date of the injury or death and the injury or death was the result of a crime enumerated in Section 9 of the Crime Victims Reparation Act which had been reported to the police within thirty days after its occurrence.

B. No award of reparation shall be in excess of twelve thousand five hundred dollars (\$12,500) per victim.

C. The commission shall deduct from any reparation awarded any payments received from a collateral source or from the United States, the state or any of its political subdivisions for injury or death subject to reparation under the Crime Victims Reparation Act. Where the claimant receives an award of reparation from the commission and also receives payment as set forth in the preceding sentence for which no deduction was made, the claimant shall refund to the state the lesser of the amount of reparation paid or the sums not so deducted.

SECTION 15. EXEMPTION FROM EXECUTION. —No reparation payable under the Crime Victims Reparation Act shall be, prior to its actual receipt by the victim or dependents entitled thereto or their legal representatives, assignable or subject to garnishment, execution, attachment or other process whatsoever, including process to satisfy an order or judgment for support or alimony.

SECTION 16. SURVIVAL OR ABATEMENT. —The rights to reparation created by the Crime Victims Reparation Act are personal and shall not survive the death of the victim or dependents entitled thereto; provided that if such death occurs after an application for reparation has been filed with the commission, the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate.

SECTION 17. RULE-MAKING POWERS.—In performance of its functions the commission may adopt, amend and repeal rules and regulations in accordance with the State Rules Act, not inconsistent with the Crime Victims Reparation Act, prescribing procedures to be followed in the filing of applications and the proceedings under the Crime Victims Reparation Act and such other matters as the commission deems appropriate. Unless otherwise provided by law, no regulation affecting any person or agency outside the commission shall be adopted, amended or repealed without a public hearing on the proposed action before the commission or a hearing officer designated by them. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be filed in accordance with the State Rules Act. In filing the rule or regulation with the state records center, the commission shall certify that the record contains arguments presented both for and against each rule or regulation promulgated.

SECTION 18. CONFIDENTIALITY OF RECORDS AND REPORTS.—Any record or report acquired by the commission, the confidentiality of which is protected by law, rule or regulation, shall be disclosed only under the same terms and conditions which protected its confidentiality prior to such acquisition.

SECTION 19. ANNUAL REPORT.—At least thirty days prior to the convening of each regular session of the legislature, the commission shall transmit to the governor, the department of finance and administration and the legislature a report of its activities under the Crime Victims Reparation Act, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of reparation awarded. The department of finance and administration shall, within five days after the opening of the legislative session, transmit the report, together with a tabulation of the total amount awarded and the amount of any judgments collected, to the senate finance committee and to the house appropriations and finance committee, or any successor committees.

SECTION 20. PENALTY.—Any person who knowingly makes a false claim or a false statement in connection with a claim filed pursuant to the Crime Victims Reparation act shall be guilty of a fourth degree felony and for conviction thereof shall:

A. be punished by imprisonment in the state penitentiary for a determinate term of not less than one year nor more than five years, or by the payment of a fine not to exceed five thousand dollars (\$5,000) or both such imprisonment and fine in the discretion of the court; and

B. forfeit any reparation paid pursuant to the Crime Victims Reparation Act.

SECTION 21. CRIME VICTIMS REPARATION FUND CREATED—PURPOSES.—

A. There is created the "crime victims reparation fund". The fund and any income from the fund shall be held in trust, deposited in a segregated account and invested by the department of finance and administration with the prior approval of the state board of finance.

B. Money in the crime victims reparation fund may be expended by the commission to:

(1) pay any award of reparation to victims made pursuant to the Crime Victims Reparation Act;

(2) pay costs and expenses including staff salaries and expenses incurred in carrying out the provisions of the Crime Victims Reparation Act; and

(3) contract with one or more attorneys or law firms on per hour basis to provide legal services to the commission.

SECTION 22. APPROPRIATION.—

A. One million eight hundred thousand dollars (\$1,800,000) is appropriated from the general fund to the crime victims reparation fund for the purposes of carrying out the provisions of the Crime Victims Reparation Act. No more than ten percent of the appropriation shall be used for the administration of this act.

B. Balances in the crime victims reparation fund shall not revert to the general fund at the end of any fiscal year.

SECTION 23. SEVERABILITY.—If any part of application of the Crime Victims Reparation Act is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

SECTION 24. APPLICABILITY.—The Crime Victims Reparation Act applies to victims of crimes enumerated in Section 9 of that act committed on or after the effective date of this act.

SECTION 25. EFFECTIVE DATE.—The effective date of the provisions of this act is July 1, 1981.

SECTION 26. REPEAL.—The provisions of this act are repealed on July 1, 1985.

Victim Service Funding Sample Statute

California Chapter 166

The people of the State of California do enact as follows:

SECTION 1. Section 12018 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 2. Section 12019 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 3. Section 13967 of the Government Code, as amended by Section 3 of Chapter 530 of the Statutes of 1980, is amended to read: 13967. (a) Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars (\$10), but not to exceed ten thousand dollars (\$10,000).

(b) The fine imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article and to provide assistance to established local comprehensive programs for victims and witnesses, including but not limited to, pilot local assistance centers for victims and witnesses established pursuant to the provisions of Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4 of the Penal Code, and to provide funding for the programs provided pursuant to Article 3 (commencing with Section 13836) of Chapter 4 of Title 6 of Part 4 of the Penal Code and Article 4 (commencing with Section 13837 of Chapter 4 of Title 6 of Part 4 of the Penal Code.

(c) It is the intent of the Legislature that funds appropriated pursuant to this section for local assistance centers for victims and witnesses shall be in addition to any funds appropriated as provided in Section 13835.8 of the Penal Code.

(d) Funds appropriated pursuant to this section shall be made available through the Office of Criminal Justice Planning to those public or private nonprofit programs for the assistance of victims and witness which:

(1) Provide comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs which do not restrict services to victims and witnesses of a particular type or types of crimes.

(2) Are recognized by the county board of supervisors as the major provider of comprehensive services to such victims and witnesses.

(3) Are selected by the county board of supervisors as the eligible program to receive such funds.

(4) Assist victims of violent crimes in the preparation and presentation of their claims to the State Board of Control for indemnification pursuant to this article.

(5) Cooperate with the State Board of Control in obtaining and verifying data required by this article.

SECTION 4. Section 13967 of the Government Code, as amended by Section 3.1 of Chapter 530 of the Statutes of 1980, is repealed.

SECTION 5. Section 13967 of the Government Code, as added by Section 3.5 of Chapter 530 of the Statutes of 1980, is repealed.

SECTION 6. Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposit of bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in

the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.50 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 37.36 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall remain effect only until January 1, 1982, and as of that date is repealed.

SECTION 7. Section 1464 of the Penal Code, as amended by Section 2 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclist, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect until July 1, 1982, and as of that date is repealed.

SECTION 8. Section 1464 of the Penal Code, as added by Section 3 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the

courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The money so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1982.

SECTION 9. Section 13521 of the Penal Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 10. Section 13835.9 is added to the Penal Code, to read:

13835.9. By January 1, 1985, the Office of Criminal Justice Planning shall prepare and submit to the Legislature a report summarizing the effectiveness of victim and witness assistance centers established pursuant to this article. That report shall include, but not be limited to, the effectiveness in achieving the design functions enumerated in Section 13835.4 and the provision of services enumerated in Section 13835.6.

The Office of Criminal Justice Planning is specifically authorized and encouraged to seek the assistance of an organization or organizations which may be able to utilize funding sources other than the state to prepare this report for the Office of Criminal Justice Planning.

SECTION 11. Section 42050 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 12. Section 42051 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 13. Section 42052 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 14. Section 42053 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

SECTION 15. Section 258 of the Welfare and Institutions Code as amended by Section 12 of Chapter 530 of the Statutes of 1980 is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, upon an admission by the minor of the commission of a traffic violation charged, or upon a finding that the minor did in fact commit such traffic violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action;

(2) Direct the probation officer to file a petition as provided for in Article 8 (commencing with Section 325); or

(3) Make any or all of the following orders:

(i) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

- (ii) That the minor attend traffic school over a period not to exceed 60 days.
- (iii) That the minor pay to the general fund of the county a sum, not to exceed fifty dollars (\$50), and to the Assessment Fund an assessment in the amount provided in Section 1464 of the Penal Code. Any judge, referee, or traffic hearing officer may waive an assessment if the amount the minor is ordered to pay to the general fund of the county is less than ten dollars (\$10).
- (iv) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.
- (v) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.
- (vi) That the minor work in a city park or recreational facility or county or regional park for not to exceed 25 hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.
- (b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

SECTION 16. Section 258 of the Welfare and Institutions Code, as added by Section 12.3 of Chapter 530 of the Statutes of 1980, is repealed.

SECTION 17. Section 3 of Chapter 713 of the Statutes of 1979 is repealed.

SECTION 18. Section 13 of Chapter 530 of the Statutes of 1980 is repealed.

SECTION 19. The sum of two million seven hundred thousand dollars (\$2,700,000) is hereby appropriated from the General Fund in augmentation of Item 472, Budget Act of 1980, for the payment of claims under the Victims of Violent Crimes Program, as a loan, which shall be repaid, without interest, during the 1981-82 fiscal year from the first two million seven hundred thousand dollars (\$2,700,000) in revenues that are deposited in the Indemnity Fund during the 1981-82 fiscal year.

SECTION 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act will affect the Budget Act of 1980, funding provisions relative to the 1981-82 fiscal year, and certain activities of the Office of Criminal Justice Planning. In order that it may achieve its intended results, it is necessary that this act take effect immediately.

Victim Rights Sample Statute

Massachusetts

Chapter 258B.

Rights of Victims and Witnesses of Crime.

AN ACT ESTABLISHING CERTAIN RIGHTS OF VICTIMS OF CRIMES.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES IN GENERAL COURT ASSEMBLED, AND BY THE AUTHORITY OF THE SAME, AS FOLLOWS:

SECTION 1. The General Laws are hereby amended by inserting after chapter 258A the following chapter:

Section 1. The following words as used in this chapter shall have the following meanings, unless the context otherwise requires: -

"Board", the victim and witness assistance board as established in section four;

"Court", a forum established under the general laws for the adjudication of criminal complaints or indictments;

"Crime", an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency;

"Disposition", the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;

"Family member", a spouse, child, sibling, parent, or legal guardian of a victim;

"Restitution", money or services which a court orders a defendant to pay or render to a victim as part of the disposition;

"Victim", a natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. The term "victim" also includes the family members of a minor, incompetent or a homicide victim.

"Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

Section 2. A victim has the rights and is eligible of [sic] the services set forth under this chapter only if such victim reported the crime to law enforcement authorities within five days of its occurrence or discovery, unless the district attorney finds that a good cause existed [for] not having done so.

Section 3. To the extent reasonably possible and subject to the available resources, victims and witnesses of crime, or in the case of a homicide, the family members of the victim whether or not such members are witnesses in any criminal proceeding, shall be afforded the following rights where applicable:

(a) for victims, family members, and witnesses to be informed by the prosecutor of the final disposition of the case. Victims, family members, and witnesses shall, at their request, be informed by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody or whenever the defendant escapes from custody. Those persons requesting such notice must provide the appropriate authority with current information as to address and telephone number.

(b) for victims, family members, and witnesses, to be notified by the district attorney, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled;

(c) for victims and witnesses, to be provided with information by the district attorney as to the level of protection available and to receive protection for [sic] the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(d) for victims and witnesses, to be informed by the district attorney of financial assistance and other social services available to victims or witnesses of a crime, including information relative to applying for such assistance or services;

(e) for victims, to be informed by the district attorney of the right to request that restitution be an element of the final disposition of a case and to obtain assistance in the documentation of the victim's losses;

(f) for victims and witnesses, to be informed by the court and the district attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(g) for victims, family members, and witnesses, to be provided a secure waiting area or room during court proceedings by the district attorney;

(h) for victims or family members to have the opportunity to inform the court of the impact of the crime pursuant to section four A of chapter two hundred and seventy-nine of the General Laws as created by section two of this act;

(i) for victims to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by [the] court, the district attorney, or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;

(j) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the district attorney to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration for [sic] creditors if the victim is unable, temporarily, to continue payments;

(k) for victims, family members, and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness.

Section 4. There is hereby established a victim and witness assistance board, to consist of five members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A of the General Laws to the contrary, the board shall be composed of the attorney general or his designee who shall be chairman; two district attorneys who shall be appointed by the governor; and two members of the public who shall be appointed by the governor, of whom one shall be a victim. The members of the board first appointed shall serve as follows: of the district attorneys appointed by the governor, one shall serve for three years, and one shall serve for one year; of the members of the public appointed by the governor, one shall serve for three years and one shall serve for two years. The successor of each such member shall serve for a term of three years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the board shall be eligible for reappointment.

The board shall by majority vote of its members, appoint an executive director who shall serve at such rate of compensation as the board directs for a term of three years unless removed for cause by a vote of four members of the board.

The executive director shall have the power to hire such staff, subject to the approval of the board, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him.

The provisions of chapter thirty-one of the General Laws shall not apply to the executive director or any employee of the board.

The board shall review and approve program plans, annual reports, and the implementation and operation of programs as described in this chapter. The board shall, subject to appropriation, and from the funds made available from the Victim and Witness Assistance Fund, as established in section nine of this chapter or from funds made available from any other public or private source, provide funding for the preparation, submission and approval of plans required under section six and for the operation of approved comprehensive victim and witness assistance programs pursuant to section five, as the board deems appropriate. Administrative costs related to the operation of the board including compensation for the executive director and staff shall be paid from the Victim and Witness Assistance Fund.

The board shall promulgate rules for the preparation, review, approval, and the implementation of program plans and annual reports, and for the administration and operation of programs approved under this section. Said rules shall include criteria to guide district attorneys in determining, for purposes of this chapter, whether a particular crime has a victim and who is the victim of such crime.

In addition to the foregoing, the board shall:

(a) have printed and shall make available to social service agencies, medical facilities, and law enforcement agencies, cards, posters, brochures or other materials explaining the victim and witness rights and services established under this chapter and the victim compensation program as provided under chapter two hundred and fifty-eight A of the General Laws;

(b) assist hospitals, clinics and other medical facilities, whether public or private, in disseminating information giving notice of the rights established under this chapter and the availability of compensation to victims of crime pursuant to chapter two hundred and fifty-eight A of the General Laws. This assistance may include providing informational materials including posters suitable to be displayed in emergency and waiting rooms;

(c) assist law enforcement agencies in familiarizing all of its [sic] officers and employees with the crime victims' rights as provided under this chapter, as well as victim compensation available under chapter two hundred and fifty-eight A of the General Laws. This assistance may include supplying informational literature on this subject to be utilized as part of the training curriculum for all trainee officers; and

(d) assist all local law enforcement agencies in establishing procedures whereby expedient notification is given to victims and witnesses, as defined under this chapter, of the rights provided under this chapter, as well as the compensation services provided under chapter two hundred and fifty-eight A of the General Laws. In municipalities which do not have a local law enforcement agency, the board shall establish procedures whereby it, in cooperation with the state police, shall give notice to victims of crimes as provided in this section.

Section 5. Each district attorney shall create and maintain, to the extent reasonably possible and subject to the available resources, a program to afford victims and witnesses of crimes the rights and services described in this chapter. Those services shall include but not be limited to the following:

(a) court appearance notification services, including cancellations of appearances;

(b) informational services relative to the availability and collection of witness fees, victim compensation and restitution;

(c) escort and other transportation services related to the investigation or prosecution of the case, if necessary;

(d) case process notification services;

(e) employer intercession services;

- (f) expedited return of property services;
- (g) protection services;
- (h) family support services including child and other dependent care services;
- (i) waiting facilities; and
- (j) social service referrals.

Section 6. Each district attorney shall submit to the board a program plan for [the judicial district] within the district attorney's jurisdiction not later than six months after the effective date of this chapter and annually thereafter during the month of August. The program plan shall include but not be limited to: a description of the services to be provided to victims and witnesses in each judicial district within the district attorney's jurisdiction; the personnel or agencies responsible for providing individual services and related administrative programs; proposed staffing for the program; proposed education, training and experience requirements for program staff and, where appropriate, the staff of agencies providing individual services and related administrative services; and a proposed budget for implementing the program. The district attorney shall include in the annual program plan a detailed report on the operation of the program during the preceding year.

Section 7. The district attorney, local law enforcement agencies, local social services agencies, and court shall cooperate to afford victims and witnesses of crimes, the rights and services described in this chapter.

Section 8. The court shall impose an assessment of twenty-five dollars against any person who has attained the age of seventeen years and who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony. The court shall impose an assessment of fifteen dollars against any person who has attained the age of seventeen and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor. The court shall impose an assessment of fifteen dollars against any person who has attained the age of fourteen years and who is adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made. When multiple offenses from a single incident are charged, the total assessment shall not exceed twenty-five dollars, provided however, that the total assessment against a person who has not attained seventeen years shall not exceed fifteen dollars. Where, in the discretion of the court, any assessment imposed pursuant to this section would cause the person against whom the assessment is imposed severe financial hardship, the court may reduce or waive said assessment.

All assessments made under the preceding paragraph shall be collected by the court and shall be transmitted monthly to the treasurer. The assessment from any conviction or adjudication of delinquency which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction or adjudication of delinquency is overturned. Said court shall deduct such funds from the assessments transmitted to the treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

Section 9. There is hereby created the Victim and Witness Assistance Fund to be established on the books of the commonwealth in the state treasury. Any assessment imposed pursuant to section eight shall be made available, subject to appropriation, to the board which shall determine the amounts to be disbursed to the public programs described in section five and approved by the board which provides comprehensive services to victims and witnesses of all types of crimes and do not restrict services to victims and witnesses of a particular crime.

Section 10. Nothing in this chapter shall be construed as creating a cause of action on behalf of any person against any public employee, public agency, the commonwealth or any agency responsible for the enforcement of rights and provisions of services set forth in this chapter.

SECTION 2. Chapter 279 of the General Laws is hereby further amended by inserting after section four the following new section: -

Section 4A. (a) the provisions of this section shall govern the disposition for any violation of the provisions of paragraph (b) of section twenty-four G of chapter ninety of the General Laws and for any felony, excluding any crime for which a sentence of death may be imposed, in any case which involves an identified victim whose whereabouts are known.

(b) Before disposition in any case governed by this section, the district attorney shall give the victim an actual notice of the time and place of sentencing and of the victim's right to make a statement to the court, orally or in writing at the victim's option, as to the impact of the crime and as to a recommended sentence. Before disposition, the court shall allow any victim who elects to make such an oral statement the opportunity to do so in the presence of the defendant. Before disposition, the district attorney shall file any such written statement with the court and shall make it available to the defendant.

If the victim is unable to make an oral or written statement because of his mental, emotional, or physical incapacity or his age, his attorney or a designated family member shall be provided the notice and the opportunity to make a statement prescribed in this paragraph.

(c) Before disposition in any case governed by this section, the office of the district attorney shall cause to be prepared a written statement as to the impact of the crime on the victim, which shall be filed with the court as part of the pre-sentence report and made available to the defendant. The statement shall include the following: (1) the name of the victim; (2) documentation of any net financial loss suffered by the victim or a family member as a result of the crime; (3) in cases where the crime has had an impact on the victim's personal welfare or family relationship or has had a psychological impact on the victim or his family, a statement of such impact.

(d) The court shall, in the manner prescribed by rule of court, allow the defendant to have the opportunity to rebut the victim's oral or written statements and the district attorney's written statement if the court decides to rely upon such statements or parts thereof in imposing sentence.

(e) No sentence shall be invalidated because of failure to comply with the provisions of this section. This section shall not be construed to create any cause of action or any right to appeal on behalf of any person.

SECTION 3. If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. A special commission, to consist of five members of the House of Representatives to be appointed by the Speaker thereof, three members of the Senate to [be] appointed by the President thereof, a justice of the District Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Boston Municipal Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Superior Court Department of the Trial Court to be appointed by the Chief Justice thereof and five members to be appointed by the Governor, one of whom shall be a District Attorney, one of whom shall be a law enforcement officer, and one of whom shall be a person who has been a victim of a violent crime is hereby established for the purpose of making an investigation and study of the affects of crime on the victims there. Said investigation shall include but not be limited to the adequacy and efficiency of: the programs of services to the victims and witnesses of crimes, as provided under this act; the programs of public information relative to victims' and witnesses' rights; the programs for victim restitution and compensation and the availability and sufficiency of funding mechanisms for said programs. The Chairman of the special commission shall be elected by a majority vote of the members thereof. Said commission shall report to the General Court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations into effect by filing the same with the Clerk of the House of Representatives on or before the last Friday in December, nineteen hundred and eighty-four.

**Victim Impact Statement
Sample Statute
Maryland**

Section 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 41 - Governor - Executive and Administrative Departments

SENATE BILL No. 145

124.

(a) Whenever any court shall suspend the sentence of any person convicted of crime, and shall direct such person, to continue, for a certain time, or until otherwise ordered, under the supervision of the Division, it shall be the duty of the said Division to supervise, when so requested by said court, the conduct of such person and to ascertain and report to said court whether or not the conditions of such probation or suspension of sentence are being faithfully complied with by such person.

(b) The parole and probation agents of the Division shall provide the judge of the court with presentence reports or other investigations in all cases when requested by any judge. The presentence reports are confidential and not available for public inspection except upon court order. However, presentence reports shall be made available, upon request, to the defendant's attorney, the State's Attorney, a correctional institution, a parole or probation, or pretrial release official of this State, any other state, the United States, or the District of Columbia, and a public or private mental health facility in any of those jurisdictions, if the individual who is the subject of the report has been committed or is being evaluated for commitment to the facility for treatment as a condition of probation. The agents shall also perform any other probationary services the judges may from time to time request.

(c) (1) Prior to the sentence by the circuit court of any county to the jurisdiction of the Division of Correction of any defendant convicted of a felony, or a misdemeanor which resulted in serious physical injury or death to the victim, or the referral of any defendant to the Pautuxent Institution, a presentence investigation shall be completed by the Division of Parole and Probation and considered by the court, unless the court specifically orders to the contrary in a particular case.

(2) (i) The presentence investigation shall include a victim impact statement, if:

1. The defendant, in committing a felony, caused physical, psychological, or economic injury to the victim; or

2. The defendant, in committing a misdemeanor, caused serious physical injury or death to the victim.

(ii) If the court does not order a presentence investigation, the State's attorney may prepare a victim impact statement to be submitted to the court and the defendant in accordance with the Maryland Rules of Procedure pertaining to presentence investigations.

(iii) The court shall consider the victim impact statement in determining the appropriate sentence, and in entering any order of restitution to the victim under Article 27, sec. 640 (c) of the Code.

(3) A victim impact statement shall:

(i) Identify the victim of the offense;

(ii) Itemize any economic loss suffered by the victim as a result of the offense;

(iii) Identify any physical injury suffered by the victim as a result of the offense; along with its seriousness and permanence;

(iv) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(v) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and

(vi) Contain any other information related to the impact of the offense upon the victim that the court requires.

VICTIM IMPACT STATEMENT

STATE VS. _____

CASE # _____

SENTENCING DATE _____

TO ASSIST THE COURT IN ITS EFFORT TO WEIGH ALL FACTORS PRIOR TO IMPOSING SENTENCE, WE REQUEST YOUR VOLUNTARY COOPERATION IN COMPLETING THIS FORM. THIS STATEMENT IS INTENDED TO BE SUBMITTED TO THE JUDGE IMPOSING SENTENCE HEREIN.

NAME OF VICTIM: _____

ADDRESS: _____

DATE OF BIRTH: _____

STREET

CITY

STATE

ZIP CODE

1. Please describe the nature of the incident in which you were involved.

2. As a result of this incident, were you physically injured? _____

If yes, please describe the extent of your injuries.

3. Did you require medical treatment for the injuries sustained? _____

If yes, please describe the treatment received and the length of time treatment was or is required.

4. Amount of expenses incurred to date as a result of medical treatment received: _____

\$ _____

Anticipated expenses:

\$ _____

5. Were you psychologically injured as a result of this incident? _____

If yes, please describe the psychological impact which the incident has had on you.

6. Have you received any counselling or therapy as a result of this incident? _____

If yes, please describe the length of time you have been or will be undergoing counselling or therapy, and the type of treatment you have received.

7. Amount of expenses incurred to date as a result of counselling or therapy received:

\$ _____

8. Has this incident affected your ability to earn a living? _____

If yes, please describe your employment, and specify how and to what extent your ability to earn a living has been affected, days lost from work, etc.

9. Have you incurred any other expenses or losses as a result of this incident? _____

If yes, please describe.

10. Did insurance cover any of the expenses you have incurred as a result of this incident?

If yes, please specify the amount and nature of any reimbursement.

11. Has this incident in any way affected your lifestyle or your family's lifestyle? _____

If yes, please explain.

12. Are there any other residual effects of this incident which are now being experienced by you or members of your family?

13. Please describe what being the victim of crime has meant to you and to your family.

14. What are your feelings about the criminal justice system? Have your feelings changed as a result of this incident? Please explain.

15. Do you have any thoughts or suggestions on the sentence which the Court should impose herein? Please explain, indicating whether you favor imprisonment.

THIS FORM IS SUBSCRIBED AND AFFIRMED BY THE VICTIM AS TRUE UNDER THE PENALTIES OF PERJURY. THE INFORMATION AND THOUGHTS YOU HAVE PROVIDED ARE VERY MUCH APPRECIATED.

DATE: _____

SIGNATURE

Restitution Sample Statute Utah

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

Section 1. Section 76-3-201, Utah Code Annotated 1953, as amended by Chapter 69, Laws of Utah 1979 is amended to read:

(1) Within the limits prescribed by this chapter, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or combination of such sentences:

- (a) To pay a fine; or
- (b) To removal from and/or disqualification of public or private office; or
- (c) To probation; or
- (d) To imprisonment; or
- (e) To death.

(2) This chapter shall not derive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend, or cancel a license or permit, removal of a person from office, cite for contempt, or impose any other civil penalty. A civil penalty may be included in a sentence.

(3)(a) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victim, unless the court is applying the criteria in section 3(b) of this chapter, finds that restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision.

(b) In determining whether to order restitution or restitution which is complete, partial or nominal, the court shall take into account:

- (i) The financial resource of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;
- (ii) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and
- (iii) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(c) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall at the time of sentencing allow him a full hearing of such issue.

(4) As used in subsection (3) above

(a) "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant;

(b) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and shall include, but not be limited to, the money equivalent of property taken, destroyed, broken or otherwise harmed, and losses such as medical expenses;

(c) "Restitution" means full, partial or nominal payment of pecuniary damages to a victim;

(d) "Victim" means any person whom the court determines has suffered pecuniary damages as a result of the defendant's criminal activities; "victim" shall not include any coparticipant in the defendant's criminal activities.

Section 2. Section 76-3-201.3, Utah Code Annotated 1953, is enacted to read:

(1) 76-3-201.3 The victim or victims of any criminal activity which has resulted in pecuniary damages shall forward a written report detailing all pecuniary damages suffered by the victim or victims to the investigating law enforcement agency within fifteen days following the initial report of such criminal activity.

(2) The report, to be signed under oath, shall detail all pecuniary loss including estimates of the monetary values of any such loss. The signed report shall be made a part of the official report of any criminal investigation.

(3) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, the court shall use the damage report filed by the victim or victims of such criminal activity in determining appropriate restitution.

(4) The Department of Public Safety shall prepare, and upon request supply to police departments, sheriffs and other suitable agencies, forms for such damage reports. The damage report forms shall be provided to the victim or victims of any criminal activity which has resulted in pecuniary damages by the investigation law enforcement officer.

Section 3. Section 77-13-1, Utah Code Annotated 1953, enacted by chapter 15, Laws of Utah 1980, is amended to read:

Section 77-13-1 (1) On a plea of guilty or no contest or conviction of any crime or offense, if it appears compatible with the public interest, the court may suspend the imposition or execution of sentence and place the defendant on probation for such period of time as it determines. The legal offender and the chief agent of the adult probation and parole section of the state division of corrections. In cases that do not involve an indeterminate sentence, the period of probation may exceed the length of time of the maximum sentence that could be imposed.

(2) Prior to imposing any sentence for an offense for which probation may be granted, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a pre-sentence report of the defendant. The contents of the report shall be confidential. The court may disclose all or parts of the report to the defendant or his counsel as the interest of justice requires. At the time of sentence, the court shall hear any testimony or information the defendant or the prosecuting attorney may wish to present concerning the appropriate sentence. Such testimony or information shall be presented in open court on record and in the presence of the defendant.

(3) After hearing, the court may increase or decrease the probation period and may revoke or modify any condition of probation. While on probation, and as a condition thereof, the defendant may be required to pay, in one or several sums, any fine imposed at the time of being placed on probation. While on probation and as a condition thereof, the defendant shall be required to make restitution or reparation to the aggrieved party or parties for pecuniary damages as provided in section 76-3-201 caused by the offense to which the defendant had pleaded guilty, no contest or for which a conviction was had, unless the court in applying the criteria stated in 76-3-201(3) finds that the restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision. The defendant may be required to pay amounts required under provision of section 77-32a-1 through 77-32a-14. He may also be required to provide for the support of others for whose support he is legally liable, to participate in rehabilitation programs as may be available, and to serve a period of time in the county jail not to exceed one year.

(4)(a) Probation may not be revoked except upon a hearing in a court and a finding that the conditions of probation have been violated.

(b) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court which authorized probation shall determine whether the affidavit establishes probable cause to believe that revocation or modification of probation may be justified. If the court determines that there is probable cause, it shall cause to be served on the defendant a copy of the affidavit and an order to show cause why his probation should not be revoked or modified.

(c) The order to show cause shall specify a time and place for the hearing, which shall be within seven days of the service upon the defendant unless he shows good cause for a continuance, and shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed for him if he is indigent. The order shall also inform the defendant of the right to present evidence as provided in the Utah Rules of Civil Procedure.

(d) At the hearing, the defendant shall admit or deny the allegations of the affidavit. If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations, which need not be evidence admissible in trial. The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders. The defendant may call witnesses, appear and speak in his own behalf, and present evidence.

(e) After hearing, the court shall make findings of fact. Upon determining that the defendant violated the conditions of probation, the court may order the probation revoked, modified or continued. If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

Section 4. Section 77-27-3, Utah Code Annotated 1953, as enacted by Chapter 15, Laws of Utah 1980, is amended to read:

77-27-3.(1). The board of pardons shall determine, by majority decision, when and under what conditions, subject to the provisions of this chapter, persons now or hereafter serving sentences, in all cases except treason or impeachment, or as otherwise limited by law, may be released upon parole, pardoned, or have their fines or forfeitures remitted, or their sentences commuted or terminated. No fines or forfeiture shall be remitted, no parole, pardon or commutation granted or sentence terminated, except after a full hearing before the board in open session and after appropriate prior notice of the time and place of the hearing has been given. The orders and decisions of the board of pardons and any dissent thereto shall be reduced to writing.

(2) The determinations and decisions of the board of pardons in cases involving approval or denial of any action whatsoever, of paroles, pardons, commutations or terminations of sentence, or remission of fines and forfeitures shall be final.

(3) Nothing herein shall be construed as a denial of or limitation on the governor's power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment; however, such respites or reprieves shall not extend beyond the next session of the board of pardons and the board, or it may commute the punishment, or pardon the offense as herein provided. In the case of conviction for treason, the governor has the power to suspend execution of the sentence, until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, or direct its execution.

In determining when and where and under what conditions persons now or hereafter serving sentences may be released upon parole, pardoned or have their fines or forfeitures remitted, or their sentences commuted or terminated, the state board of pardons shall consider whether such persons have made or are prepared to make restitution as defined in section 76-3-201, as a condition of any parole, pardon, remission of fines or forfeitures, commutation or termination of sentence.

If the state board of pardons determines that restitution is inappropriate, the state board of pardons shall state in writing the reasons of the decision.

When the state board of pardons orders the release on parole of an inmate who has been sentenced to make restitution pursuant to section 76-3-201, but with respect to whom payment of all or portion of the restitution was suspended until his release from imprisonment, the board [may] shall establish a schedule and supervising the paroled inmate's performance thereunder the board [may] shall consider the factors specified in section 76-3-201(3). The board [may] shall provide to the sentencing court a copy of the schedule and any modifications thereof.

The Utah Constitution presently grants autonomous powers to the state board of pardons in determining conditions for parole. Therefore, the provisions of subsection (d) would be in violation of the present Utah constitutional language.

Parole Sample Statute Arizona

Sec. 6. section 31-411, Arizona Revised Statutes, is amended to read:

31-411. *Meetings of board; parole or discharge; release under supervision of department of corrections; notice of hearing; exceptions*

A. The board of pardons and paroles shall meet at least monthly at the state prison and at other times or places deemed necessary. At such meetings any prisoner who has been certified as eligible for parole or absolute discharge pursuant to the provisions of section 41-1604.06 or section 31-412, subsection (B) shall be given an opportunity to appear and apply for release upon parole or for an absolute discharge. The board shall not entertain any other form of application or petition or appearance for the release upon parole or absolute discharge of any prisoner.

B. When a prisoner appears before the board and his parole is denied, the board shall within ten days prepare and deliver to the prisoner and director of the department of corrections a written statement specifying the specific individualized reasons for the denial of parole or absolute discharge. Every prisoner, having served not less than one year, shall be temporarily released according to the rules and regulations of the department one hundred eighty days prior to the expiration of the sentence and shall remain under control of the department of corrections until expiration of the term specified in the sentence. If the release violates any condition of his release, he may be returned to custody without further process.

C. The board, when a commutation or parole is to be considered, shall, before HOLDING A HEARING on the commutation or parole, notify the presiding judge of the superior court and the county attorney of the county in which the prisoner requesting a commutation or parole was sentenced AND THE VICTIM OF THE OFFENSE FOR WHICH THE PRISONER IS INCARCERATED OR THE FAMILY OF THE VICTIM IF THE VICTIM DIED AS A RESULT OF THE PRISONER'S CONDUCT. The notice shall state the name of the prisoner requesting the commutation or parole and shall set the date of hearing on the application. THE NOTICE TO THE VICTIM OR THE VICTIM'S IMMEDIATE FAMILY SHALL ALSO INFORM THEM OF THEIR RIGHT TO APPEAR PERSONALLY OR BY COUNSEL AT THE HEARING OR TO SUBMIT A WRITTEN REPORT TO THE BOARD EXPRESSING THEIR OPINION CONCERNING THE RELEASE OF THE PRISONER. No hearing concerning commutations or parole shall be HELD until thirty days after the date of giving the notice.

D. The provisions of this section requiring notice to the officials named in subsection C OF THIS SECTION shall not apply:

1. When there is imminent danger of the death of the person convicted or imprisoned.
2. When the term of imprisonment of the applicant is within two hundred ten days of expiration.

Intimidation Sample Statute

AMERICAN BAR ASSOCIATION MODEL

Section 1. DEFINITIONS

The following words have significance attached to them hereunder throughout this chapter.

(a) "Malice" means an intent to vex, annoy, harm, or injure in any way another person, or to thwart or interfere in any manner with the orderly administration of justice.

(b) "Witness" means any natural person.

(1) having knowledge of the existence or nonexistence of facts relating to any crime or

(2) whose declaration under oath is received or has been received as evidence for any purpose; or

(3) who has reported any crime to any peace officer, prosecutor, probation or parole officer, correctional officer or judicial officer or

(4) who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States, or

(5) who would be believed by an reasonable person to be an individual described in Subsections (1), (2), (3), or (4) hereof.

(c) "Victim" means any natural person against whom any crime as defined under the laws of this state or any state or of the United States is being or has been perpetrated or attempted to be perpetrated.

Section 2. MISDEMEANOR—INTIMIDATION OF WITNESSES AND VICTIMS

Except as provided in Section 3, every person who knowingly and maliciously prevents or dissuades or attempts to so prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding or inquiry authorized by law or who attempts to prevent or dissuade another person who has been the victim of a crime or who is a witness to a crime or a person acting on behalf of the victim of a crime from

(a) making any report of such victimization to any peace officer or state or local or federal law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge;

- (b) causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted and assisting in the prosecution thereof;
- (c) arresting or causing or seeking the arrest of any person in connection with such victimization, is guilty of a misdemeanor.

Section 3. FELONIOUS INTIMIDATION OF WITNESSES AND VICTIMS

Every person doing any of the acts described in the misdemeanor section on intimidation of witnesses and victims in Section 2 knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony:

- (a) Where such act is accompanied by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person,
- (b) Where such act is furtherance of a conspiracy,
- (c) Where such act is committed by any person who has been convicted of any violation of this chapter, any predecessor law hereto or any Federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this chapter, or
- (d) Where such act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

Section 4. ATTEMPTS

Every person attempting the commission of any act described in the foregoing sections is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under the chapter.

Section 5. COURT ORDERS

Any court with jurisdiction over any criminal matter may in its discretion upon good cause (which may include but is not limited to credible hearsay or the declaration of the prosecutor or defense attorney) that intimidation or dissuasion of any person who is a victim or who is a witness has occurred or is reasonably likely to occur, issue orders including, but not limited to the following:

- (a) An order that a defendant not violate any provision of this chapter.
- (b) An order that a person before the court other than defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of said court, not violate any provisions of this chapter.
- (c) An order that any person described in this subsection maintain a prescribed geographic distance from any specified witness or victim.
- (d) An order that any person described in this subsection have no communication whatsoever with any specified witness or any victim, except through an attorney under such reasonable restrictions as the court may impose.
- (e) An order calling for a hearing to determine if an order as described in (a) though (d) should be issued.
- (f) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim and/or witness.

Section 6. VIOLATIONS OF ORDERS

Any person violating any order made pursuant to Section 5 may be punished in any of the following ways:

- (a) For any substantive offense described in this chapter, where such provision of an order is a violation of any provisions of Section 2 through 4
- (b) As a contempt of the court making such order;
 - (1) No finding of contempt shall be a bar to prosecution for a substantive offense under this chapter, but
 - (i) any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of said and substantive offense and
 - (ii) any conviction or acquittal for any substantive offense under Section 2 through 5 shall be a bar to subsequent punishment for contempt arising out of the same act.
 - (c) By revocation of any form of pre-trial release and/or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him into custody, said revocation may, after a hearing and upon a showing by clear and convincing evidence, in the sound discretion of the court, be made whether the violation order complained of has been committed by the defendant, personally, or in any way caused or encouraged to have been committed by said defendant.

Section 7. PRE-TRIAL RELEASE

Any pre-trial release of any defendant, whether on bail or under any other form of recognizance, shall be deemed, as a matter of law, to include a condition that the defendant neither do, nor cause to be done, nor knowingly permit to be done on his behalf, any act proscribed by this chapter hereof and any willful violation of said condition is subject to sanction as prescribed in Section 6(c) whether or not the defendant was the subject of an order under Section 5 (i.e., the section relating to Court Orders).

- (a) From and after the effective date of this chapter, any receipt for any bail or bond given by the clerk of any court, by any court, by any surety or bondsman and/or any written promise to appear one's own recognizance shall contain in a conspicuous location, notice of this Section 7.

Confidentiality Sample Statute

Pennsylvania

Session of 1981 Act 1981-169 585

No. 1981 169

AN ACT

SB 532

AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR CONFIDENTIAL COMMUNICATIONS TO COUNSELORS OF SEXUAL ASSAULT VICTIMS.

THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA HEREBY ENACTS AS FOLLOWS:

SECTION 1. Title 42, act of November 25, 1970 (P.L. 707, No. 230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

§ 5945.1. Confidential communications to sexual assault counselors.

(a) Definitions. — As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Rape crisis center." Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

"Sexual assault counselor." A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

"Victim." A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by a sexual assault.

"Confidential communication." Information transmitted between a victim of sexual assault and a sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than those who are present to further the interests of the victim in the consultation or those to whom disclosure is reasonably necessary to the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information received by the sexual assault counselor in the course of that relationship.

(b) Privilege. — A sexual assault counselor has a privilege not to be examined as a witness in any civil or criminal proceeding without the prior written consent of the victim being counseled by the counselor as to any confidential communication made by the victim to the counselor or as to any advice, report or working paper given or made in the course of the consultation.

SECTION 2. This act shall take effect in 60 days.

Approved—The 23rd day of December, A.D. 1981.

DICK THORNBURGH

Court Attendance Sample Statute

Alabama Act 83-508

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

SECTION 1. This Act shall be known as and may be cited as "The Alabama Crime Victims Court Attendance Act."

SECTION 2. (a) The Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be afforded a reasonable opportunity to attend any trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense. (b) Further, the Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense not be excluded from any hearing or trial or any portion thereof conducted by any court which in any way pertains to such offense, merely because the victim has been or may be subpoenaed to testify at such hearing or trial or because of any arbitrary or invidious reason. (c) The provisions of this Act are to be construed so as to accomplish these purposes and to promote the same which are hereby declared to be the public policy of this state.

SECTION 3. Unless the context clearly requires otherwise or unless different meanings are expressly specified in subsequent provisions of this Act, wherever used in this Act, in the singular or plural case, the term:

(a) "person" shall mean: (1) a human being; (2) a public or private corporation, an unincorporated association, a partnership, or other entity established by law; (3) a government or a governmental instrumentality, including, but not limited to, the State of Alabama or any political subdivision thereof.

(b) "criminal offense" shall mean: (1) conduct which is alleged in any summons, complaint, warrant of arrest, information, presentment, or indictment and for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(c) "victim" shall mean: (1) a person who is a victim of the defendant's criminal offense.

SECTION 4. The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or other attorney representing the government or other persons in whose name such prosecution is brought.

SECTION 5. A victim of a criminal offense shall not be excluded from court or counsel table during the trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense, provided, however, a judge may remove a victim from the trial or hearing or any portion thereof for the same causes and in same manner as the rules of court or law provides for the exclusion or removal of the defendant.

SECTION 6. A victim of a criminal offense shall be exempt from the operation of rule of court, regulation, or statute or other law requiring the separation or exclusion of witnesses from court in criminal trials or hearings.

SECTION 7. (a) Whenever a victim is unable to attend such trial or hearing or any portion thereof by reason of death; disability; hardship; incapacity; physical, mental, or emotional condition; age; or other inability, the victim, the victim's guardian or the victim's family may select a representative who shall be entitled to exercise any right granted to the victim, pursuant to the provisions of this Act. (b) Provided, however, in the event of a dispute, the court in its discretion may designate such representative.

SECTION 8. The failure of a victim or a person designated to represent the victim to exercise any right granted by the provisions of this Act shall not be cause or ground for an appeal of a conviction by a defendant or for any court to set aside, reverse or remand a criminal conviction.

SECTION 9. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SECTION 10. All laws or parts of laws which conflict with this Act are hereby repealed.

SECTION 11. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Children's Bill of Rights

Wisconsin Substitute Amendment to 1983 AB 115

AN ACT to renumber 950.02 (1); to amend 48.31 (2), 57.06 (3), and 970.03 (11); and to create 950.02 (1), 950.08, 950.09, 967.04 (7), 970.03 (11) (b), 971.10 (5) and 973.10 (2m) of the statutes, relating to rights of child victims and witnesses of crimes.

THE PEOPLE OF THE STATE OF WISCONSIN, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

SECTION 1. 48.31 (2) of the statutes is amended to read:

48.31 (2) The hearing shall be to the court unless the child, parent, guardian or legal custodian exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. Chapters 756 and 805 shall govern the selection of jurors except that ss. 972.03 and 972.04 shall apply in cases in which the juvenile is alleged to be delinquent under s. 48.12. If the hearing involves a child victim or witness, the court and the district attorney shall comply with s. 950.09 (2). At the conclusion of the hearing, the court or jury shall make a determination of the facts. If the court finds that the child is not within the jurisdiction of the court or the court or jury finds that the facts alleged in the petition or citation have not been proved, the court shall dismiss the petition or citation with prejudice.

SECTION 2. 57.06 (3) of the statutes is amended to read:

57.06 (3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule has been violated it shall afford the prisoner such administrative hearings as are required by law. The final administrative hearing shall be held before a hearing examiner who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole which order shall be, upon request by either party, reviewed by the secretary. The hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7). If the examiner or the secretary upon review finds that the prisoner has violated the rules or conditions of parole, the examiner, or the secretary upon review, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole, and in either case, may order that the prisoner forfeit good time as provided in s. 53.11 (2a). If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

SECTION 3. 950.02 (1) of the statutes is renumbered 950.02 (1m).

SECTION 4. 950.02 (1) of the statutes is created to read:

950.02 (1) "Child" means a person who is less than 18 years of age.

SECTION 5. 950.08 of the statutes is created to read:

950.08 **CHILD VICTIMS AND WITNESSES: RIGHTS AND SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.05, counties are encouraged to designate one or more persons to provide the following additional services on behalf of children who are involved in criminal proceedings as victims or witnesses.

(1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.

(2) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings.

(3) To assist the child and child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved.

(4) To advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(5) To advise judges who would be involved in determinations concerning the taking of videotaped dispositions.

SECTION 6. 950.09 of the statutes is created to read:

950.09 **CHILD VICTIMS AND WITNESSES: INTENT AND PROCEDURE.**

(1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually required by adults. The legislature intends, in ss. 950.08 and 950.09, to provide these children with additional rights and protections during their involvement with the criminal justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **DUTY TO EXPEDITE PROCEEDINGS.** In all criminal cases and juvenile fact-finding hearings under s. 48.31 involving a child victim or witness, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

(3) **VIDEOTAPED DEPOSITIONS.** If a court in a criminal case determines that a video taped deposition may be taken of a child victim or witness, the procedure under s. 967.04 (7) shall be followed.

(4) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the enforcement of rights and the provision of services under ss. 950.08 and 950.09. If the county board seeks reimbursement for a county program under s. 950.06, the county board may submit a program plan to the department for the provision of services to children under ss. 950.08 and 950.09, and the department shall review, approve, monitor and authorize state reimbursement for the programs as provided in s. 950.06.

SECTION 7. 967.04 (7) of the statutes is created to read:

967.04 (7) (a) In this subsection:

1. "Child" has the meaning specified in s. 950.02 (1).
2. "Victim" has the meaning specified in s. 950.02 (4).
3. "Witness" has the meaning specified in s. 950.02 (5).

(b) In any prosecution involving a child victim or witness, the court, on its own motion or the motion of the district attorney, for good cause shown, may order the taking of a videotaped deposition of the victim or witness. The court may allow the videotaped deposition to be used at any proceeding in lieu of or in addition to the direct testimony of the child. The judge may specify where the deposition is taken and who may be present when the deposition is taken. The court may exclude persons whose presence is not necessary for the taking of the deposition. If at the time of taking the deposition the district attorney anticipates using the deposition of the child at trial, examination and cross-examination of the child shall proceed in the same manner as permitted at trial. In any proceeding under s. 57.06 (3) or 973.10 (2), the hearing examiner may order the taking of a videotaped deposition as provided in this subsection which may be used in lieu of the direct testimony of the child.

SECTION 8. 970.03 (11) of the statutes is amended to read:

970.03 (11) The court may admit a statement which is hearsay and which is not excluded from the hearsay rule under ss. 908.02 to 908.045:

(a) To prove ownership of property or lack of consent to entry to or possession or destruction of property.

SECTION 9. 970.03 (11) (b) of the statutes is created to read:

970.03 (11) (b) If the declarant is alleged to be a victim or witness of a crime and is younger than 18 years old.

SECTION 10. 971.10 (5) of the statutes is created to read:

971.10 (5) If a criminal action involves a child victim or witness, the court and district attorney shall comply with s. 950.09 (2).

SECTION 11. 973.10 (2m) of the statutes is created to read:

973.10 (2m) In any administrative hearing under sub. (2), the hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7).

SECTION 12. CROSS-REFERENCE CHANGES. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross references shown in Column C:

| A | B | C |
|------------------|----------------------|----------------------|
| Statute Sections | Old Cross-References | New Cross-References |
| 103.87 | 950.02 (1) | 950.02 (1m) |

VICTIM AND WITNESS PROTECTION ACT OF 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Victims Protection Act of 1982."

FINDINGS AND PURPOSES

Sec. 2 (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendants, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process.

(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a model for legislation for State and local governments.

VICTIM IMPACT STATEMENT

Sec. 3 Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"Report.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior.

"(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense, and

"(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense."

PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

Sec. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

1512. Tampering with a witness, victim, or an informant.

(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct towards another person with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding.

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding.

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

"(1) attending or testifying in an official proceeding;

"(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

"(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

"(4) causing a criminal prosecution or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding; or attempts to do, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

"(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

"(d) For the purposes of this section—

"(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

"(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of claim of privilege.

"(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency, or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"(f) There is extraterritorial Federal jurisdiction over an offense under this section.

"1513. Retaliating against a witness, victim, or an informant.

"(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceeding given by a person to a law enforcement officer;

or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) There is extraterritorial Federal Jurisdiction over an offense under this section.

"1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) a temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down from the hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within 90 days before the expiration of such order, apply for a new protective order under this section.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such a person; and

"(B) serves no legitimate purpose; and

"(2) the term 'course of conduct' means a series of acts over a period time, however short, indicating a continuity of purpose.

"1515. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial service officer under this title; and

"(5) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary

"(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

"(1) so that the item relating the section 1503 reads as follows:

"1503. Influencing or injuring officer or juror generally."; and

- "(2) by adding at the end of the following:
 - "1512. Tampering with a witness, victim, or an informant.
 - "1513. Retaliating against a witness, victim, or an informant.
 - "1514. Civil action to restrain harassment of a victim or witness.
 - "1515. Definitions for certain provisions."
- "(1) in the heading of such section, by striking out "juror or witness" and inserting in lieu thereof "or juror";
- "(2) by striking out "witness" the first place it appears after "impede any" and all that follows through "or any grand" and inserting "grand" in lieu thereof; and
- "(3) by striking out "injuries any party or witness" and all that follows through "matter pending therein, or".
- "(d) Section 1505 of title 18 of the United States Code is amended by—
 - (1) striking out paragraphs (1) and (2);
 - (2) striking out "such" the first place it appears in the fourth paragraph and inserting in lieu thereof "any pending";
 - (3) striking out "such" the second place it appears in the fourth paragraph and inserting in lieu thereof "any"; and
 - (4) striking out "such inquiry" in the fourth paragraph and inserting in lieu thereof "any inquiry".
- (e) Section 1510(a) of title 18 of the United States Code is amended—
 - (1) by striking out the comma immediately following "bribery" and all that follows through "thereof";
 - (2) by striking out the semicolon immediately following "investigator" the first place it appears and all that follows through "Shall be fined" and inserting "shall be fined" in lieu thereof.

RESTITUTION

Sec. 4 (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

- "3579. Order of restitution
 - "(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.
 - "(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.
 - "(b) The order may require that such defendant—
 - "(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—
 - "(A) return the property to the owner of the property or someone designated by the owner; or
 - "(B) if return of the property, under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—
 - "(i) the value of the property on the date of the damage, loss, or destruction, or
 - "(ii) the value of the property on the date of sentencing,
 - less the value (as of the date the property is returned) of any part of the property that is returned;
 - "(2) in the case of an offense resulting in bodily injury to a victim
 - "(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
 - "(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
 - "(C) reimburse the victim for income lost by such victim as a result of such offense;
 - "(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and
 - "(4) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.
 - "(c) If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.
 - "(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.
 - "(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any state civil proceeding, to the extent provided by the law of that State.

"(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

"(2) The end of such period or the last such installment shall not be later than—

"(A) the end of the period of probation, if probation is ordered;

"(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

"(C) five years after the date of sentencing in any other case.

"(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

"(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

"(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgement in a civil action.

"3580. Procedure for issuing order of restitution

"(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

"(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of the section.

"(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall stop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding to the extent consistent with State law, brought by the victim."

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

"3579. Nature of order of restitution.

"3580. Procedure for issuing order of restitution."

FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

Sec. 5 (a) Within 270 days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) **SERVICES TO VICTIMS OF CRIME**—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

- “(A) availability of crime victim compensation (where applicable);
- “(B) community-based victim treatment programs;
- “(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and
- “(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

“(2) **NOTIFICATION OF AVAILABILITY OF PROTECTION**.—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

“(3) **SCHEDULING CHANGES**.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

“(4) **PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES**.—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

- “(B) the initial appearance of an accused before a judicial officer;
- (C) the release of the accused pending judicial proceedings; and
- (D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) **CONSULTATION WITH VICTIM**.—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

- (A) dismissal;
- (B) release of the accused pending judicial proceedings;
- (C) plea negotiations; and
- (D) pretrial diversion program.

(6) **SEPARATE WAITING AREA**.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) **PROPERTY RETURN**.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) **NOTIFICATION TO EMPLOYER**.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorney for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) **TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES**.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) **GENERAL VICTIM ASSISTANCE**.—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victim in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

(c) The Attorney General shall assure that all federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

Sec. 6. Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derive any profit from the sale of the recollection, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Sec. 7. Section 3146(a) of Chapter 207 of title 18 United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under Section 1503, 1512, or 1513 of this title"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".



National Organization for Victim Assistance

The National Organization for Victim Assistance is a private, non-profit organization of victim and witness assistance practitioners, criminal justice professionals, researchers, former victims, and others committed to the recognition of victim rights. NOVA's activities are guided by four purposes:

1. To serve as the national forum for victim advocacy in support of victim-oriented legislation and public policy.
2. To be of service to victims and witnesses of crime throughout the United States as they seek better treatment from the criminal justice systems and their communities.
3. To be of service to local programs of victim and witness assistance.
4. To be of service to its members.

NOVA's members, who come from 50 states and several foreign countries, elect twenty-two of their numbers to the Board of Directors (up to eleven others are appointed). The Board and staff publish a monthly newsletter, sponsor the annual National Forum on Victim Rights, sponsor the annual Victim Assistance Conference, and join with others to advance the cause of victim rights through NOVA's committee structure.

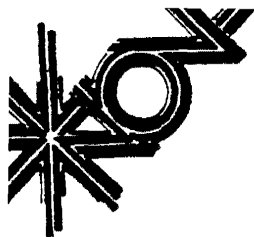
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APPENDIX B

Memorandum and Attachments, Dated January 27, 1984, to
Assemblyman Courtenay C. Swain from Donald A. Rhodes,
Research Director, Legislative Counsel Bureau, Report-
ing on the Results of a Survey of Other States'
Programs for Compensation of Victims of Crime
to Determine the Effect of the Removal of
Ineligibility Criteria Pertaining to
Relatives, Residents of Same
Household, and Continuing
Relationships



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January 27, 1984

M E M O R A N D U M

TO: Assemblyman Courtenay C. Swain
FROM: Donald A. Rhodes, Research Director
SUBJECT: Survey of Other States' Programs for Compensation of Victims of Crimes to Determine the Effect of the Removal of Ineligibility Criteria Pertaining to Relatives, Residents of Same Household and Continuing Relationships (S.C.R. 29)

This is in response to your request that I survey representatives of other states' compensation for victims of crimes programs. You indicated your interest in determining the effect that the removal of ineligibility criteria for payment pertaining to relatives, residents in same household and continuing relationships has had on the administration of the programs in the states that do not have one or more of those eligibility restrictions.

REASONS FOR NONPAYMENT TO VICTIMS IN NEVADA LAW

Nevada Revised Statutes 217.220 lists several reasons for which compensation must not be awarded to the victim of a crime including situations in which the victim:

- (a) Is a relative of the offender;
- (b) Was, at the time of the personal injury or death of the victim, living with the offender in a continuing relationship;
- (c) Violated a penal law of this state, which caused or contributed to his injuries or death;
- (d) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim;
- (e) Was not a resident of the State of Nevada at the time the incident upon which the claim is based occurred; or
- (f) Was a coconspirator, codefendant or accomplice of the offender whose crime caused the victim's injuries.

The law says the above-noted provisions do not apply to a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730. It also provides that the hearing officer may deny an award if he determines that the claimant will not suffer serious financial hardship.

CONCERN HAS BEEN EXPRESSED ABOUT NEVADA'S EXCLUSION
OF CERTAIN VICTIMS FROM PAYMENT

During the subcommittee's meeting on November 5, 1983, in Las Vegas, witnesses expressed concern that Nevada's exclusions for relatives or persons living with the offender in a continuing relationship from compensation from the victims of crime program creates unnecessary hardships. This matter has also been addressed in a publication entitled Compensating Victims of Crime: An Analysis of American Programs* which says, in part:

The most controversial class of individuals typically excluded from potential compensation are relatives of the offender, persons living in the same household as the offender, and/or persons engaged in a continuing (sexual) relationship with the offender. Three basic assumptions underlie this type of policy:

1. that victims related to or residing with the offender are not innocent, i.e., that they contribute significantly to their own victimization;
2. that the relationship enhances the potential for collusion and attempts to defraud the state; and
3. that the offender may benefit directly or indirectly from the award to the victim.

The first of these assumptions is unenlightened, ignoring the painful realities of the prevalence of family violence in modern society. The second assumption is unreasonable, for it is doubtful that individuals would risk the possibility of criminal prosecution (since reporting of the incident to the police is another eligibility requirement), or be willing to endure actual physical injury to recoup only out-of-pocket expenses and lost wages. The last assumption can be circumvented by developing policies that insure that only the victim can obtain the compensation funds.

*See National Institute of Justice, U.S. Department of Justice. Compensating Victims of Crime: An Analysis of American Programs, July 1983, 64-65.

Several alternatives to policies of summary denial in cases of relation or common residence have recently been instituted around the country. One of these is simply to add a clause to the statute allowing the program to waive the provision "in the interest of justice." This allows a program to compensate, for instance, small children left orphaned as a result of their father murdering their mother--a claim that otherwise would have to be denied. Another possibility is to allow for compensation in situations where the victim separates from the offender and cooperates in the prosecution * * * . A third and interesting way of circumventing this rule and thus providing aid to needy victims of familial violence is to allow for payment of expenses only to a service provider * * * . At least this helps to keep victims from going into serious debt as the result of a violent incident. Perhaps the most far-reaching way of ensuring that worthy victims will not be denied on a technicality, that is being used by many states, is to establish a policy that proscribes only those awards that would unjustly benefit the offender, rather than unconditionally disqualifying certain arbitrary classes of victims.

STATES WITHOUT INELIGIBILITY CRITERIA FOR RELATIVES
OR FOR CONTINUING RELATIONSHIPS APPEAR NOT TO BE
BURDENED BY UNDUE ADMINISTRATIVE PROBLEMS OR
FINANCIAL DRAINS ON THE COMPENSATION FUNDS

Appendix A is an extrapolation of Table II, "Coverage and Eligibility," from the Victims of Crime report. As can be seen in the appendix, each of the listed states is shown as not excluding victims of crime for payment for one or more criterion relating to relatives, continuing relationship or same household. I communicated with representatives of all 20 states, and no one with whom I spoke indicated that the lack of his or her state's particular ineligibility criteria has a negative effect on the administration of the victims of crime compensation program or on the fund level for compensating victims.

In certain of the states, as mentioned in the earlier quote, there are factors which tend to give administrative authority to compensate victims who might normally be ineligible. These reasons include (1) the interest of justice, (2) the victim separates from defendant, (3) the victim cooperates with the prosecution, (4) payment is provided directly to a service provider, (5) the offender is not unjustly benefited because of payment to the victim.

Table I shows states which have alternatives to summary denial of compensation to victims even when the victim is a relative, or

lives in the same household as the offender. It also indicates actions which the victim must carry out, in certain instances, to receive compensation.

TABLE I

PROVISIONS IN CERTAIN STATE LAWS WHICH PROVIDE ALTERNATIVES
TO SUMMARY DENIAL OF COMPENSATION TO VICTIMS FOR
RELATIVES OF THE OFFENDER OR TO PERSONS WHO LIVE
IN A COMMON RESIDENCE WITH THE OFFENDER

| <u>Reasons for Waiving Ineligibility or for Requiring Payment to Victim</u> | <u>State</u> |
|--|---|
| No ineligibility criteria relating to relatives, same household residence or continuing relationship | California, Delaware, Hawaii, Oklahoma |
| Victim separates from offender | Illinois, New Jersey, Washington |
| Victim cooperates with prosecution | Illinois, Minnesota, Montana, New Jersey, Ohio, West Virginia |
| Payment may be made to a service provider | Hawaii, Michigan ³ |
| Offender is not unjustly benefited | Illinois, Kansas, Ohio, Oklahoma, ⁴ Tennessee ⁵ |
| Payment may be given in the interest of justice | Indiana, ¹ Kansas, ² Minnesota, Montana, ² North Dakota, Ohio, Washington, West Virginia |

¹If the victim is a legal non-spousal dependent of the person who commits a violent crime, compensation may be awarded in the interest of justice.

²Unless the board determines that the interests of justice otherwise require in a particular case, reparations may not be awarded to the spouse of or a person living in the same household with the offender or the offender's accomplice or to the parent, child, brother or sister of the offender or the offender's accomplice.

COPIES OF APPLICABLE STATUTES AVAILABLE

I have obtained copies of the statutory provisions relating to compensation of victims of crime for all the states shown in the Compensating Victims of Crime: An Analysis of American Programs publication. I will also be writing to the other states to determine if any other states have enacted statutes pertaining to the compensation of victims of crimes.

DAR/en
SCR29-1:MEM013-17

-
- ³Out-of-pocket expenses incurred by a victim who lives in the same household as the offender may be paid directly to a medical care provided by the board.
- ⁴The board, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount.
- ⁵No compensation shall be awarded to a victim who was, at the time of the personal injury or death, a member of the offender's family if the court, at its discretion, determines that any benefit would accrue either directly or indirectly to the offender.

APPENDIX A

STATES NOT EXCLUDING VICTIMS OF CRIME FOR PAYMENT FOR ONE OR MORE CRITERIA RELATING TO RELATIVES, CONTINUING RELATIONSHIP OR SAME HOUSEHOLD

| <u>State</u> | <u>Categories of Victims Eligible for Payment</u> | | |
|---------------|---|--------------------------------|-----------------------|
| | <u>Relative of Offender</u> | <u>Continuing Relationship</u> | <u>Same Household</u> |
| California | X | X | X |
| Delaware | X | X | X |
| Hawaii | x ⁶ | x ⁶ | x ⁶ |
| Illinois | X | X | X |
| Indiana | - | - | X |
| Kansas | -10 | X | - |
| Michigan | X | X | -12 |
| Minnesota | -13 | X | - |
| Montana | -14 | X | - |
| New Jersey | - | X | - |
| New Mexico | - | X | X |
| North Dakota | - | X | -19 |
| Ohio | - | X | -20 |
| Oklahoma | -21 | X | X |
| Pennsylvania | - | X | X |
| Rhode Island | -24 | X | X |
| Tennessee | - | X | X |
| Virginia | - | X | - |
| Washington | - | X | - |
| West Virginia | - | X | -20 |

("X" indicates eligibility)

NOTES

⁶Third parties eligible for benefits in Hawaii include any person responsible for the maintenance of the victim who has suffered pecuniary loss and a parent of an adult victim, or an adult son or daughter of a deceased victim, who have incurred medical, funeral or burial expenses. In addition, relatives of the offender, and persons living in the same household or carrying on a continuing relationship with the offender are eligible for compensation, though only for out-of-pocket medical expenses.

APPENDIX A (continued)

NOTES (continued)

- ¹⁰Under Kansas statutes, any award that would unjustly benefit the offender or an accomplice is proscribed.
- ¹²A victim residing with the accused is ineligible to receive an award in Michigan; however, the victim's actual out-of-pocket expenses may be paid directly to a medical care provider.
- ¹³In Minnesota, the relative ineligibility clause can be waived in the following circumstances: (1) in the case of a spouse if there is a formal or permanent separation and the victim prosecutes the offender; (2) incest cases; (3) cases involving mental derangement.
- ¹⁴Montana statutes allow flexibility with regard to relative and same household exclusions, as long as an award does not unjustly benefit the offender or an accomplice.
- ¹⁹These ineligibility criteria can be waived if the interests of justice would be served. North Dakota also excludes inmates in correctional facilities from eligibility for compensation.
- ²⁰No claim shall be paid in Ohio or West Virginia if the award would unjustly benefit the offender or accomplice. Ineligibility criteria can be waived in the interests of justice in Ohio.
- ²¹Oklahoma does not specifically exclude relatives, etc., but provides that a victim is eligible if compensation would not benefit the offender.
- ²⁴Rhode Island specifies only victims living with offender as spouse at time of injury or death as ineligible. Also included is an unjust enrichment clause.

APPENDIX C

Letter, Dated March 22, 1984, to Donald A. Rhodes, Research
Director, Legislative Counsel Bureau, from William A. Bible,
Director of the Department of Administration,
Concerning Compensation for Medical Expenses
Associated with the Treatment of Venereal
Disease or Pregnancy and the Exclusion
of Minors Who Were Involved in the
Production of Pornography from the
Time Limitations on Applying
for Compensation



DEPARTMENT OF ADMINISTRATION

Capitol Complex
Carson City, Nevada 89710
(702) 881-1065

March 22, 1984

Donald A. Rhodes
Research Director
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Don:

In response to your recent inquiry on behalf of the SCR 29 Subcommittee, the following information is provided:

1. Following the Subcommittee's November 5, 1983, meeting, I requested and obtained an opinion from the Attorney General on whether a victim of sexual assault who is eligible for assistance pursuant to NRS 217.280 to NRS 217.350 may also receive assistance under NRS 217.010 to NRS 217.270 (Aid to Certain Victims of Crime). This opinion, copy enclosed, indicates that "the victim of sexual assault is essentially a victim of a specialized type of battery" and that "physical injuries directly caused by a battery are compensable under the General Victim of Crimes provisions in Chapter 217 of NRS to a limit far exceeding the limit set for victims of sexual assault under those specific provisions." I feel that this opinion gives us the authority to provide compensation for medical expenses pursuant to NRS 217.200 to a rape victim who becomes pregnant or who contracts VD.

Providing compensation to an individual who contracts venereal disease, in the absence of a sexual assault, is a policy matter that would have to be changed through legislative enactment.


2. For the first 8 months of the current fiscal year (FY 1983-84), the average balance in the fund for the compensation of Victims of Crime has been about \$245,000. As of March 1st, the State was receiving a yield on it's investment portfolio of about 9.8%; while as of March 21st, the State was receiving 10.3% on 30-day investment instruments. Based upon an average rate of return of 10%, the \$245,000 average balance would annually produce about \$24,500 income. I spend about 2% of my time on the Victims Program and my secretary spends about 20% of her time on the Program; this equates to about \$7,000 of annual General Fund support. We are currently charging copy, telephone, and other direct program costs to the Victim Program as provided in NRS 217.260.

I would caution that the average balance of \$245,000 is currently somewhat higher than I would anticipate it will be in future fiscal periods. We are updating, and will forward to you when completed, program statistics that show both increased numbers of applications and increased amounts of payments.

3. In addition to the listing that is provided on page 9 of the Subcommittee's minutes for their November 5, 1983, meeting, I would suggest that NRS 217.210 be amended so that a victim who is a minor and is involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730, need not apply within one year after the date of the incident on which the claim is based as required by NRS 217.210. In several instances in claims of this type submitted to this office, the incident was not reported, for various reasons, within the one-year time period required by statute.

Should you have any questions or need any additional information, please do not hesitate to contact me. I will forward the updated workload and compensation chart to your office next week.

Sincerely,



William A. Bible
Director

WAB:js

Enclosure

cc: Courtenay Swain

APPENDIX D

Letter Opinion, Dated November 30, 1983, from Brian McKay,
Attorney General (Prepared by James T. Spencer, Deputy
Attorney General), Addressing Whether a Victim of
Assault Who Is Eligible for Assistance Pursuant
to Nevada Revised Statutes 217.280 to
NRS 217.350, Inclusive, May Also
Receive Assistance Under
NRS 217.010 to
NRS 217.270,
Inclusive



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENTS OF ADMINISTRATION AND GENERAL SERVICES
BLASDEL BUILDING
CARSON CITY 89710

LIAN MCKAY
DEPUTY ATTORNEY GENERAL

JAMES T. SPENCE
DEPUTY ATTORNEY GENERAL

November 30, 1983

William Bible, Director
Department of Administration
Capitol Complex
Carson City, NV 89710

Dear Mr. Bible:

You have asked for an opinion as to whether a victim of sexual assault who is eligible for assistance pursuant to NRS 217.280 to NRS 217.350, inclusive, may also receive assistance under NRS 217.010 to NRS 217.270, inclusive, which relates generally to victims of criminal acts.

It is critical to note that all of the above-mentioned statutory sections are within Chapter 217 of NRS, entitled "Aid to Certain Victims of Crimes". Further, the legislatively declared purpose of that chapter is:

"It is the policy of this state to provide assistance to persons who are victims of violent crimes or the dependents of victims of violent crimes." NRS 217.010.

A "victim" for purposes of the chapter is:

"A person who is physically injured...as the direct result of a criminal act."
NRS 217.070(1).

Those statutory provisions had their origin at the 1969 legislative session. The provisions relating to sexual assault, NRS 217.280 to NRS 217.350, inclusive, were enacted in 1975 and are addressed to a specific type of victim of crime, a "victim of sexual assault". NRS 217.280. For that type of victim the statutes provide that the county provide medical

treatment and that the costs of that treatment be limited to \$1,000. NRS 217.230. Under the earlier enacted and more general "victim of crime" provisions, it is the State which pays compensation to eligible claimants and the maximum amount of that compensation is substantially higher than under the sexual assault provisions, \$15,000. NRS 217.200(3).

The question you raise is, may a victim of sexual assault recover under both the general victims of crime provisions and the specific sexual assault provisions or is that victim limited solely to aid and compensation under the provisions which specifically address sexual assault? There is no doubt that a physically injured victim of sexual assault would otherwise fit the definition of "victim" for the general provisions set forth in NRS 217.010.

A review of Nevada case law relating to statutory construction leads to the conclusion that a victim of sexual assault may be compensated pursuant to both the general and the specific provisions noted above, with certain limiting parameters discussed below.

The purpose of Chapter 217 of NRS is clearly to aid victims of violent crimes. NRS 217.010. As noted above a victim of sexual assault clearly falls within the general chapter-wide definition of victim set out in NRS 217.070. It is a basic tenet of statutory construction that:

"An entire act must be construed in light of its purpose and as a whole." (citations omitted, Acklin v. McCarthy, 96 Nev. 520, 523, 612 P.2d 219 (1980).

Further,

"...statutes relating to the same subject matter which can stand together should be construed so as to make each effective." (citations omitted, Abel v. Eggers, 36 Nev. 372, 381, 136 P. 100 (1913).

and finally, where a statute gives an affirmative remedy such as the county-provided assistance set forth in the sexual assault provisions of Chapter 217 of NRS, without providing for an express or implied negative, for a matter already remedied under

William Bible, Director
Page Three

an existing statute of more general applicability, the remedies should be regarded as cumulative. Cann v. Williams Land and Livestock Co., 56 Nev. 242, 48 P.2d 887 (1935).

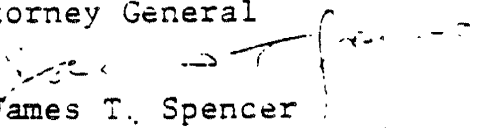
The application of the above principles of statutory construction indicates the following conclusion. A victim of sexual assault may turn to the appropriate county for the kinds of assistance provided in sections .280 and .350, inclusive, of Chapter 217 of NRS. If the \$1,000 limitation on treatment costs in NRS 217.320 is surpassed, the victim is then eligible for consideration as a victim under the general provisions of NRS 217.010 to NRS 217.270, inclusive, and must meet the standards enunciated in those provisions to qualify for an appropriate award of compensation from the State.

In summary, the victim of sexual assault is essentially a victim of a specialized type of battery. Physical injuries directly caused by a battery are compensable under the general victims of crime provisions in Chapter 217 of NRS to a limit far exceeding the limit set for victims of sexual assault under those specific provisions. A victim of sexual assault has no control over what type of battery is chosen and to deny compensation based on the choice of the perpetrator would be to disregard the express legislative purpose and policy of the Nevada legislature to aid victims of crimes.

If I can be of further assistance, please advise.

Very truly yours,

BRIAN McKAY
Attorney General

By 
James T. Spencer
Deputy Attorney General

JTS:rab

APPENDIX E

Letter, Dated February 8, 1984, to Donald A. Rhodes,
Research Director, Legislative Counsel Bureau,
from Bryn Armstrong, Chairman of the State
Board of Parole Commissioners, Concerning
Notification of Temporary Passes
for Prison Inmates to the
Victims of Their Crimes



BOARD OF PAROLE COMMISSIONERS

1150 E. Williams, Suite No. 205
Carson City, Nevada 89710
(702) 885-5049

February 8, 1984

Donald A. Rhodes
Research Director
Legislative Counsel Bureau

Dear Don:

Although it has been on the books since July 1, 1983, the Nevada Board of Parole Commissioners has had only limited experience with the law requiring that victims, and their survivors, be notified of upcoming parole hearings.

The board has had only four requests for notification from relatives or survivors, and survivors have appeared at only one hearing.

The law requires that victims or survivors inform the board that they want to be notified and that they furnish the board a current address.

One family opposed a parole after it was granted, claiming that they were unaware of the requirement that they furnish a current address. That's the problem, of course. Some of the crimes were committed ten or more years prior to scheduled hearings and we, of course, don't know where victims or survivors are because of name changes, etc.

It would take a lot of man hours to track down victims, or their survivors if the requirement that they furnish current addresses were not included in the law.

Hope this is helpful.

Very truly yours,

FOR THE NEVADA BOARD OF
PAROLE COMMISSIONERS:

Bryn Armstrong
BRYN ARMSTRONG, CHAIRMAN

BA/le

APPENDIX F

Letter, Dated February 16, 1984, from Vernon G. Housewright,
Director of Department of Prisons, to Donald A. Rhodes,
Research Director, Legislative Counsel Bureau,
Concerning Notification of Temporary
Passes for Prison Inmates to the
Victims of Their Crimes

STATE OF NEVADA
DEPARTMENT OF PRISONS

BOARD OF PRISON COMMISSIONERS

RICHARD BRYAN, GOVERNOR

BRIAN MURRAY, ATTORNEY GENERAL

WM. D. SWACKHAMER, SECRETARY OF STATE



VERNON G. HOUSEWRIGHT
DIRECTOR
ADMINISTRATIVE OFFICE
P O BOX 7000
CARSON CITY, NEVADA 89701
PHONE (702) 882-0000

February 16, 1984

Donald A. Rhodes
Research Director
State of Nevada
Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89701


Dear Mr. Rhodes:

In reply to the attached correspondence, this is to advise that the Department of Prisons has no objection to the indicated expansion of provisions currently contained in the Nevada Revised Statutes at subsection 2, NRS 178.5698.

While this proposal imposes additional administrative requirements upon the Department, the added burden is acceptable to us given the importance of establishing effective victims' rights legislation.

Thank you for allowing us the opportunity to respond on this subject.

Sincerely,


Vernon G. Housewright
Director

VGH/ks

Attachment

"An Equal Opportunity Employer"

APPENDIX G

Charts Showing Certain Provisions of Nevada Law
Relating to Rights of Crime Victims and
Compensation for Victims
of Crime in Nevada

| Type of Legislation | Citation | Date | Description |
|------------------------------|--|--------------------------------------|---|
| Victim Bill of Rights | Senate Bill 145 (chapter 368, Statutes of Nevada 1983) | 1983 | See Attached Description. |
| Victim/Witness Notification | Senate Bill 145 (chapter 368, Statutes of Nevada 1983) & Senate Bill 404 (chapter 491, Stats. of Nv. 1983) | 1983 | See description under Victim Bill of Rights and Senate Bill 404 on Attached Sheet under Victim/Witness Notification |
| Protection from Intimidation | NRS 199.230 & Assembly Bill 163 (chapter 579, Statutes of Nevada 1983) | 1911 - Latest amend- ment 1983 | See Attached Description. |
| Counsel for Victims | See attached sheet. | NRS 217.140 was added in 1969 | See Attached Description. |
| Participation in Proceedings | See attached sheet. | 1983 | See Attached Description. |
| Use of Depositions | NRS 174.215 | 1967 | See Attached Description. |
| Other | | | |

VICTIM BILL OF RIGHTS

S.B. 145 (chapter 368)

Relates to victims' rights. It provides for:

1. Protection of victims of crimes and witnesses who cooperate with the prosecuting attorney in criminal cases;
2. The prosecuting attorney or certain law enforcement officials to intercede with employers, on behalf of a victim or witness, to minimize any loss of pay or other benefits which might result from the victim's assistance or appearance in court;
3. The notification of a victim or witness of changes in court dates;
4. Return of a victim's property when it is no longer needed as evidence; and
5. A witness to be informed of the fee to which he is entitled for testifying and how to obtain the fee.

The act requires that a court trying a criminal case provide victims and witnesses a secure waiting area which is not used by the members of the jury or the defendant and his family and friends. It also provides that a victim or witness, upon written request, be informed when the defendant is released from custody at any time before or during the trial, the amount of bail required, and the final disposition of the criminal case in which he was directly involved. The measure also provides that in felony cases the warden of the prison inform the victim or witness when the defendant is released from prison.

VICTIM/WITNESS NOTIFICATION

S.B. 404 (chapter 491)

Provides victims of crimes with the opportunity to testify at the parole hearings of those offenders who carried out crimes against them and to be made aware by the state board of pardons commissioners if the offenders' fines or forfeitures are remitted, or if the offenders receive commuted sentences or pardons.

Under the act, the victims of any person applying for parole may submit documents to the state board of parole commissioners and may testify at the meeting held to consider the application. No application for parole may be considered until the board has notified the victim of his rights and he is given the opportunity to exercise those rights. The act also provides that a victim be given written notice of state board of pardons commissioners' meetings pertaining to persons who committed crimes against him. To be eligible to receive notice, victims must notify the appropriate board in writing and provide the board with their current address.

PROTECTION FROM INTIMIDATION

A.B. 163 (chapter 579)

Provides penalties for the commission of acts against victims of crime, witnesses and public justice. Under the measure, any person who prevents or dissuades a victim of a crime, a person acting in his behalf or a witness from reporting a crime, commencing a criminal prosecution or a proceeding for the revocation of a parole or probation, or causing the arrest of a person in connection with a crime is punishable by imprisonment in the state prison for 1 to 6 years and a fine of up to \$10,000. The measure increases the fine from \$5,000 to \$50,000 for preventing or attempting to prevent, by force or the immediate threat of force, another person from appearing before the court as a witness in any action, investigation or other official proceeding. It also increases the fine from \$10,000 to \$50,000 for conviction of using any force, threat, intimidation or deception with intent to influence the testimony of any witness, causing or inducing the witness to give false testimony, or causing or inducing the witness to withhold a record, document or other object from the proceeding.

COUNSEL FOR VICTIMS

Citation

Section 8 of Article 1 of the Nevada constitution, NRS 171.186 and NRS 174.195 contain general provisions relating to any defendant's right to counsel. Nevada Revised Statutes 217.140 relates to attorneys' fees for victims in certain proceedings.

Description

As noted, Nevada law, as does the law of most states, and the Federal Government, contains general provisions relating to right to counsel. Nevada Revised Statutes 217.140 permits hearing officers to allow reasonable attorneys' fees, not to exceed 10 percent of the award, for victims to retain attorneys at compensation hearings. I could find no specific measure in Nevada law permitting victims to retain counsel, at their own expense, when their conduct is alleged to be improper in the course of a criminal proceeding.

PARTICIPATION IN PROCEEDINGS

Citation

Senate Bill 145 (chapter 368, Statutes of Nevada 1983), Senate Bill 404 (chapter 491, Statutes of Nevada 1983) and Senate Bill 386 (chapter 369, Statutes of Nevada 1983).

Description

Senate Bill 145 and Senate Bill 404 are summarized earlier. Senate Bill 386 permits the attendance of a person to support the prosecuting witness at the preliminary hearing and trial in cases involving sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure. The bill provides that the court must exclude any attendant who influences or affects or attempts to influence or affect the testimony of the prosecuting witness. News media representatives, unless they are the parent, child, brother or sister of the prosecuting witness, are prohibited from serving as supporting attendants.

USE OF DEPOSITIONS

This is a general law provision which covers depositions in criminal proceedings. It says, in part:

1. At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears:
 - (a) That the witness is dead;
 - (b) That the witness is out of the State of Nevada, unless it appears that the absence of the witness was procured by the party offering the deposition;
 - (c) That the witness is unable to attend or testify because of sickness or infirmity; or
 - (d) That the party offering the deposition has been able to procure the attendance of the witness by subpoena.
2. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the opponent as a witness.
3. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.

I could find no specific provision in our law encouraging depositions in lieu of courtroom appearances for certain victims and witnesses to spare unstable or traumatized victims and witnesses the emotional strain of a public courtroom appearance.

DAR/llp:8/5/83:Victim.1-.3

FINANCIAL ASSISTANCE

State Nevada

| Type of Legislation | Citation | Date | Description |
|---------------------------|--|---|---------------------------|
| Victim Compensation | Chapter 217 of Nevada Revised Statutes (NRS) | Added 1969-Most Recent Amendment 1983 | See Attached Description. |
| Restitution | Chapters 62, 176, 209, 213 & 217 of NRS | Certain provisions added in 1975 - Most recent amendments in 1983 | See Attached Description. |
| Lien on Offender Profit | NRS 217.265 | Added in 1981 | See Attached Description. |
| Return of Seized Property | Senate Bill 145 (chapter 368, Statutes of Nevada 1983) | Added in 1983 | See Attached Description. |
| Increased Witness Fees | None | - | See Attached Description. |
| Employer Obligations | No specific provision | - | See Attached Description. |
| Other | | | |

VICTIM COMPENSATION

The law provides for awards of from \$100 to \$15,000 to Nevada residents who are victims of crimes. A victim means a person who is physically injured or killed as a direct result of a criminal act or a minor who is involved in the production of pornography. Awards may be for medical expenses, loss of earnings not to exceed \$200 per week, pecuniary loss to the dependents of the deceased victim, funeral expenses not in excess of \$1,000, or other losses which the hearing officer determines to be reasonable. The law permits preliminary and emergency awards. Awards may be denied if the hearing officer determines that the claimant will not suffer serious financial hardship. The law contains provisions relating to victims of domestic violence and sexual assault.

The 1983 legislature passed several new measures relating to victims' compensation. They are:

A.B. 183 (chapter 84)

Provides that all money received by the department of parole and probation for victims of crime must be deposited with the state treasurer for credit to the restitution trust fund. The measure also transfers the expenses of determining if parolees are using controlled substances from the parole board to the department of parole and probation.

A.B. 557 (chapter 609)

Requires Clark County to appropriate, with the approval of the administrator of the mental hygiene and mental retardation division of the state department of human resources, 15 percent of all money which is credited to the account for victims of domestic violence to an organization in the county which has been specifically created to assist victims of rape. To be eligible for this appropriation, the organization must receive at least 15 percent of its money from sources other than the Federal Government, the state, any local government or other public body.

A.B. 577 (chapter 607)

Changes various provisions of the aid to victims of crime law. The bill:

1. Provides that compensation officers may receive a wage of up to \$50 an hour as determined by contract for performing their duties (previous law set a flat \$50 per hour rate);

VICTIM COMPENSATION (continued)

A.B. 577 (continued)

2. Allows for the payment of victims' expenses for psychological counseling;
3. Permits hearing officers to order emergency awards to victims to help the victims avoid financial hardship and provides for the deduction of the emergency awards from the final awards;
4. Provides that a claim with respect to which information has been requested from a claimant by the compensation officer or hearing officer remains open for 1 year after the request is made;
5. Requires that money for payment of salaries and other expenses incurred by the hearings division of the department of administration, pursuant to the aid to victims of crimes law, be paid from the fund for the compensation of victims of crime; and
6. Increases the maximum award to victims, except for child pornography victims, from \$5,000 to \$15,000.

S.B. 369 (chapter 367)

Provides for preliminary monetary awards to victims of crime. Under the act, a person is eligible for a preliminary award if his income is not more than \$750 per month. Preliminary award limits are \$400 for the replacement of lost money and \$1,000 for the replacement or repair of lost or damaged property which is essential to the physical or psychological health of the applicant. The measure provides that the amount of any preliminary award must be deducted from any award subsequently granted and enumerates procedures for the processing of preliminary awards.

S.B. 426 (chapter 376)

Makes changes in the administration of funds used to provide assistance to victims of domestic violence. Existing law provides for assistance to victims of domestic violence by nonprofit corporations through funding provided by grants from boards of county commissioners. Money for the grants is obtained from a \$5 fee which is included with the marriage license fee. Supplemental funds for aid for victims of domestic violence are also available from a general fund account administered by the mental hygiene and mental retardation division of the department of human resources.

VICTIM COMPENASATION (continued)

S.B. 426 (continued)

This act, which becomes effective on July 1, 1985, shifts to the mental hygiene and mental retardation division the full responsibility for administering grants to nonprofit agencies to carry on the domestic violence programs. It specifies a formula for the division to use in allocating the grant money. The measure also requires the administrator of the division to make a comprehensive report biennially to the legislature, including an evaluation of the effectiveness of the respective organizations in aiding victims of domestic violence.

RESTITUTION

Various statutory provisions require restitution as a condition of probation, suspended sentence and parole. The law also covers restitution by offenders incarcerated in the department of prisons.

The 1983 amendments to the restitution laws are:

S.B. 111 (chapter 190)

Broadens the class of victims of crimes who are eligible for restitution from offenders sentenced to prison to include those persons whose injuries or damages are indirectly a result of the crime.

S.B. 244 (chapter 165)

Requires the court to order full or partial restitution as a condition of probation or suspension of sentence unless it finds that restitution is impracticable. The court may, under the measure, require payment for victims' psychological treatment. If the court does not require restitution it must set forth the circumstances upon which it finds restitution impracticable.

LIEN ON OFFENDER PROFIT

The law provides that one-half of the value of all money and other property which an offender receives for books, serialization rights, rights for movies and television programs and other payments based on his notariety as an offender must be paid into the fund for the compensation of victims of crimes.

The 1983 legislature amended the law by passing A.B. 275 (chapter 449, Statutes of Nevada 1983) which provides that all property, including any tool, substance, weapon, machine, money or security, which is used in the commission or attempted commission of the crime of murder, sexual assault, robbery, kidnapping, burglary, grand larceny or pandering is subject to forfeiture. The measure requires that all proceeds of the sale of such property, after the payment of expenses, be paid to the state treasurer for deposit in the state treasury for credit to the fund for the compensation of victims of crimes.

RETURN OF SEIZED PROPERTY

The law requires that a court or law enforcement agency which has custody of any stolen or other personal property belonging to a victim or witness is required, upon written request of the victim or witness, to make available to him a list describing the property held in custody, unless it is shown that the disclosure of the identify or nature of the property would seriously impede the investigation of the crime; or return the property to him when it is no longer needed as evidence.

INCREASED WITNESS FEES

Senate Bill 145 (chapter 368, Statutes of Nevada 1983) requires the prosecuting attorney to inform each witness of the fees to which he is entitled for testifying and how to obtain the fees.

EMPLOYER OBLIGATIONS

Senate Bill 145 (chapter 368, Statutes of Nevada 1983) says:

* * * If it difficult for such a victim or witness to assist in an investigation or cooperate with the prosecuting attorney because he is being harassed, intimidated or subjected to conflicting requirements by his employer, the prosecuting attorney, sheriff or chief of police shall, upon the written request of the victim or witness, intercede on his behalf to minimize any loss of pay or other benefits which would result from his assistance or appearances in court.

APPENDIX H

Victims of Crime Pre-Application Form Used
by the State Board of Examiners

VICTIMS OF CRIME PRE-APPLICATION
STATE OF NEVADA
BOARD OF EXAMINERS
209 E. MUSSER STREET, ROOM 205
CARSON CITY, NEVADA 89710

Victim's Name _____ Telephone _____
Address _____
(Street) (City) (State) (Zip)
Applicant's Name _____ Telephone _____
Address _____
(Street) (City) (State) (Zip)

Answers to the following questions will help determine eligibility for the Nevada Victim's Program.

- _____ 1. Was the victim injured or killed as a result of the crime?
- _____ 2. Did the personal injury or death of the victim occur within the last 12 months?
- _____ 3. Was the victim a resident of the State of Nevada at the time of the incident?
- _____ 4 A. Were medical or burial expenses incurred as a result of the crime and did they exceed unreimbursed expenses of \$100?
- _____ 4 B. Did the victim lose earnings as a result of the incident? Attach state or federal tax returns for the last two years before the injury. If you are self-employed, include copies of profit and loss statements for the last two years before the injury.
- _____ 4 C. Was money lost during the incident which the victim would need to pay his expenses for the next thirty days?
- _____ 4 D. As a result of the incident, was property lost or damaged which is essential to the physical or psychological health of the victim?
- _____ 5. Did injury or death occur as a result of the operation of a vehicle, boat or airplane accident?
- _____ 6. Did the victim violate a penal law of this State which caused or contributed to his injuries or death.
- _____ 7. Is the victim a relative of the offender? Per NRS 217.060 "Relative" of any person includes a) a spouse, parent, grandparent or stepparent; b) a natural born, step or adopted child; c) a grandchild, brother, sister, half-brother, or half-sister; or d) a parent of a spouse.
- _____ 8. At the time of death or personal injury, was the victim married to or living with the offender in a continuing relationship.

For Board Use Only

Date: _____

Number: _____

STATE OF NEVADA
VICTIMS OF CRIME APPLICATION
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
(702) 885-4065

I. Victim's Name _____ Telephone _____
Address _____
(Street) (City) (State) (Zip)
Applicant's Name _____ Telephone _____
Address _____
(Street) (City) (State) (Zip)

II. VICTIM DATA
Date of Birth _____ Social Security No. _____
Marital Status: ☐ Single ☐ Married ☐ Separated ☐ Divorced ☐ Widowed
Victim's Dependent(s): Name _____ Age _____

III. INCIDENT INFORMATION

Date of Incident _____

Place of Incident & Time _____

To What Agency Was the Crime Reported? _____ Date _____

Was the incident reported to law enforcement officers within five days of its occurrence? ☐ Yes ☐ No

If no, explain why not. _____

Who committed the crime? _____ Has arrest been made? ☐ Yes ☐ No

Has the person been charged in court? ☐ Yes ☐ No

If yes, what are the charges? _____

Did victim know the offender? ☐ Yes ☐ No

If yes, in what way? _____

Was victim related to offender? ☐ Yes ☐ No

If yes, how? _____

Was victim living in the same house as the offender at the time of the crime? ☐ Yes ☐ No

If yes, what was the length and nature of the relationship (i.e., landlord/tenant, husband/wife, parent/child, boyfriend/girlfriend)? _____

Use this space to list names, addresses or telephone numbers of any witness to the incident.

Give a brief description of the incident including injuries. Use additional sheets of paper if necessary.

EMERGENCY AWARD

Is an Emergency Award Sought? (The law allows for a preliminary award under unusual circumstances. If emergency award is made, that amount is deducted from final award or will be reimbursed by the victim in cases where awards are not made.)

☐ Yes ☐ No

If Yes, Amount Sought \$ _____

What is your total monthly income \$ _____

Describe the particular loss suffered which has an immediate impact on the victim. Further, discuss what hardship will result if you do not receive emergency financial aid.

LOSS AND REIMBURSEMENT SECTION

Submit Copies of All Bills

Attach Additional Pages if Necessary

MEDICAL/FUNERAL LOSSES

| Provider of Service | Expense Incurred | Insurance or Other Sources (Including Medicaid/Medicare) ¹ | | Amount of Payments Made or Received |
|---------------------|------------------|---|---------------------------------------|-------------------------------------|
| | | Policy No. | Name and Address of Insurance Carrier | |
| Telephone No. () | | | | |
| | \$ | | | \$ |
| Telephone No. () | | | | |
| | \$ | | | \$ |
| Telephone No. () | | | | |
| | \$ | | | \$ |
| Telephone No. () | | | | |
| | \$ | | | \$ |

ocial Security, Worker's Compensation, Veteran's Benefits, other types of health or fe insurance, etc.

INCOME LOSS SECTION**EMPLOYMENT INFORMATION**

| | | | | |
|---------------------------------------|-----------------|------|------------------|----------|
| Victim Employed Under, if different | Employer's Name | | Phone Number () | |
| ss of Victim's Employer | Street | City | State | Zip Code |
| o's Name | Employer's Name | | Phone Number () | |
| ss of Spouse's Employer | Street | City | State | Zip Code |
| ian Who Gave Victim Disability Period | | | Phone Number () | |
| ian's Address | Street | City | State | Zip Code |

OTHER INCOME (Disability Insurance, Welfare, or Unemployment Income, Etc.)

| | | | | |
|-------------------------|--------|------|------------------|----------|
| of Firm or State Agency | | | Phone Number () | |
| s | Street | City | State | Zip Code |

OTHER LOSSES

oe and Indicate Dollar Value

\$ _____
\$ _____

APPENDIX I

Victims of Crimes Program Statistics (Nevada), May 31, 1984

VICTIMS OF CRIMES
Program Statistics
May 31, 1984

A. Case Study Report

| <u>Year</u> | <u>Funds Received</u> | <u>Claims Received</u> | <u>Claims Withdrawn By Victim</u> | <u>Claims Denied</u> | <u>Claims Awarded</u> | <u>Claims Pending</u> | <u>Total Amount Awarded</u> |
|-------------|-----------------------|------------------------|-----------------------------------|----------------------|-----------------------|-----------------------|-----------------------------|
| FY 1982 | \$111,137.71 | 26 | | 5 | 6 | 15 | \$ 21,343.69 |
| FY 1983 | \$130,448.84 | 90 | 2 | 36 | 23 | 44 | \$ 59,556.07 |
| FY 1984 | \$315,357.71 | 138 | | 87 | 60 | 35 | \$201,079.86 |

Please Note:

1. The Victims of Crimes Program began in September 1981.
2. 72% of the claims for fiscal year 1982 were filed during the fourth quarter.
3. "Claims Pending" are carried forward from fiscal year to fiscal year.
4. Emergency Awards started July 1, 1983.
5. The fiscal year 1984 statistics include claims received through May 31, 1984.
6. Seven Emergency Awards have been made during fiscal year 1984.

B. Awards Breakdown

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> | <u>Total</u> |
|-----------------|----------------|----------------|----------------|--------------|
| \$ 1 - \$ 500 | 1 | 2 | 12 | 15 |
| 501 - 1,000 | 1 | 7 | 12 | 20 |
| 1,001 - 2,000 | | 3 | 9 | 12 |
| 2,001 - 3,000 | | 2 | 3 | 5 |
| 3,001 - 4,000 | | | 6 | 6 |
| 4,001 - 4,999 | | 1 | 1 | 2 |
| 5,000 | 4 | 8 | 8 | 20 |
| 5,001 - 7,500 | | | 2 | 2 |
| 7,501 - 10,000 | | | 0 | 0 |
| 10,001 - 12,500 | | | 3 | 3 |
| 12,501 - 14,999 | | | 0 | 0 |
| 15,000 | | | 4 | 4 |
| Totals | 6 | 23 | 60 | 89 |

Victims of Crimes - Program Statistics
May 31, 1984
Page 2

C. Administrative Costs

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> |
|-----------------------|----------------|----------------|----------------|
| Compensation Officers | \$2,321.55 | \$16,039.56 | \$26,365.75 |
| Hearing Officers | | | 2,928.54 |
| Indirect Costs: | | | |
| Postage | | | 205.51 |
| Copies | | | 418.90 |

D. Revenue Received

| | <u>FY 1982</u> | | | | <u>FY 1983</u> | | | | <u>FY 1984</u> | | | |
|--|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| | <u>1st</u> <u>Quarter</u> | <u>2nd</u> <u>Quarter</u> | <u>3rd</u> <u>Quarter</u> | <u>4th</u> <u>Quarter</u> | <u>1st</u> <u>Quarter</u> | <u>2nd</u> <u>Quarter</u> | <u>3rd</u> <u>Quarter</u> | <u>4th</u> <u>Quarter</u> | <u>1st</u> <u>Quarter</u> | <u>2nd</u> <u>Quarter</u> | <u>3rd</u> <u>Quarter</u> | <u>4th</u> <u>Quarter</u> |
| Clark County | \$22,937.71 | \$55,850.00 | \$31,850.00 | \$34,500.00 | \$16,350.00 | \$18,500.00 | \$20,500.00 | \$187,522.00 | \$43,602.95 | \$17,369.00 | 18,500.00 | |
| Mineral County | | | 500.00 | | | | | | | | | |
| Washoe County | | | | | 100.00 | 300.00 | 36,997.84 | | 1,700.00 | | | 16,054.00 |
| Elko County | | | | | | 600.00 | | 8,000.00 | 2,500.00 | 2,738.00 | | 2,500.00 |
| Carson City | | | | | | | 1,000.00 | | | | | 1,000.00 |
| Douglas County | | | | | | | 1,301.00 | | 5,000.00 | 2,250.00 | | |
| Pershing County | | | | | | | 300.00 | | | | | |
| Lyon County | | | | | | | | | 3,000.00 | | | |
| Department of Parole and Probation | | | | | | | | | | | 3,621.76 | |
| | \$22,937.71 | \$55,850.00 | \$32,350.00 | \$34,500.00 | \$16,450.00 | \$19,400.00 | \$60,098.84 | \$197,222.00 | \$54,102.95 | \$25,978.76 | 38,054.00 | |
| Total Revenue by Fiscal Year | | | \$111,137.71 | | | | \$130,448.84 | | | | \$315,357.71 | |
| Balance Forward from Prior Fiscal Year | | | .00 | | | | 87,472.47 | | | | 142,325.68 | |
| Total Available Funds by Fiscal Year | | | \$111,137.71 | | | | \$217,921.31 | | | | \$457,683.39 | |

Victims of Crimes - Program Statistics
May 31, 1984
Page 3

E. Claims Received

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> |
|-----------|----------------|----------------|----------------|
| July | 0 | 6 | 6 |
| August | 0 | 5 | 13 |
| September | 0 | 4 | 11 |
| October | 1 | 3 | 16 |
| November | 0 | 9 | 11 |
| December | 1 | 6 | 12 |
| January | 1 | 7 | 18 |
| February | 2 | 7 | 13 |
| March | 2 | 8 | 14 |
| April | 5 | 11 | 13 |
| May | 5 | 12 | 11 |
| June | <u>9</u> | <u>12</u> | <u> </u> |
| Total | 26 | 90 | 138 |

F. Reasons for Claim Denial

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> |
|---|----------------|----------------|----------------|
| 1. Failure to Cooperate | 1.0 | 7.5 | 3.0 |
| 2. Contributory Conduct | 2.0 | 4.0 | 25.5 |
| 3. No Crime Committed | 0 | 1.5 | 2.0 |
| 4. Continuing Relationship | 0 | 3.0 | 8.0 |
| 5. Outside Scope of Statute (other than listed) | 1.0 | 5.5 | 16.5 |
| 6. Reimbursed by Collateral Source | 0 | 5.0 | 5.0 |
| 7. No Financial Need | 0 | 9.5 | 15.0 |
| 8. Non-Resident | 0 | 0 | 6.0 |
| 9. Missed Deadline | 0 | 0 | 4.5 |
| 10. No Police Report Filed | <u>1.0</u> | <u>0</u> | <u>1.5</u> |
| | 5.0 | 36.0 | 87.0 |

Victims of Crimes - Program Statistics
May 31, 1984
Page 4

G. Claims Dispositions - Paid or Denied

| | <u>FY 1982</u> | <u>FY 1983</u> | <u>FY 1984</u> |
|---------------|----------------|----------------|----------------|
| 0 - 30 Days | 0 | 3% | 12% |
| 31 - 60 Days | 16% | 17% | 29% |
| 61 - 90 Days | 38% | 37% | 38% |
| 91 - 120 Days | 23% | 11% | 13% |
| Over 120 Days | 23% | 32% | 8% |

APPENDIX J

Victims of Criminal Acts (Nevada Listing of Persons
Who Have Applied for Compensation),
October 23, 1981, through
May 29, 1984

VICTIMS OF CRIMINAL ACTS

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|-------------------|---|------------------------|----------------------------|
| 1-CC | Billie D. Weir | Assault Location of Incident: Near the Carson City Cemetary Date & Time of Incident: 9/17/81 at 11:30 p.m. Date Received: 10/23/81 | Denied 12/31/81 | \$ |
| 2-CC | Orville L. Libby | Assault Location of Incident: 414 5th Street, Sparks Date & Time of Incident: 10/25/81 at 10:40 p.m. Date Received: 12/18/82 | Dismissed 3/16/82 | |
| 3-CC | Daniel Barr | Assault with a deadly weapon Location of Incident: Tonopah, Nevada Date & Time of Incident: 12/11/81 at approximately 12:00 a.m. Date Received: 2/4/82 | Denied 3/18/82 | |
| 4-LV | Mitoshi K. Albert | Attempted murder, robbery and burglary Location of Incident: 2370 Caravelle Street, Las Vegas Date & Time of Incident: 9/13/81 at approximately 12:00 a.m. Date Received: 2/4/82 | Paid 4/28/82 | 901.63 |
| 5-LV | Paul Rogers | Attempted murder. Location of Incident: Back Door Lounge, Las Vegas Date & Time of Incident: 2/2/82 at 5:00 a.m. Date Received: 2/18/82 | Paid 6/21/82 | 5,000.00 |
| 6-LV | Nick Salmas | Battery with a deadly weapon Location of Incident: Marie Calendars, Las Vegas Date & Time of Incident: 9/1/81 at 3:07 a.m. Date Received: 3/10/82 | Denied 7/6/82 | |
| 7-LV | Thomas Nihill | Attempted murder, assault with a deadly weapon. Location of Incident: 8000 Block of West Sahara, Las Vegas Date & Time of Incident: 10/4/81 at 9:40 p.m. Date Received: 3/10/82 | Paid 6/7/82 | 442.06 |
| Sub-Total | | | \$ | 6,343.69 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|-----------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 6,343.69 |
| 8-LV | Dorothy Phlieger | Purse Snatch Location of Incident: 100 Block No. 6th Street, Las Vegas Date & Time of Incident: 1/8/82 at 8:00 p.m. Date Received: 4/19/82 | Closed 8/16/82 | |
| 9-LV | Robert H. Koenigsfeld | Attempted murder Location of Incident: Bob's Auto Repair, Las Vegas Date & Time of Incident: 11/20/81 at 7:45 a.m. Date Received: 4/19/82 | Paid 6/25/82 | 5,000.00 |
| 10-LV | Michael Watters | Assault Location of Incident: Oz Lounge, Las Vegas Date & Time of Incident: 2/13/82 at 4:00 a.m. Date Received: 4/21/82 | Denied 5/21/82 | |
| 11-LV | Norvel E. Barnes | Auto Accident Location of Incident: Northbound I-15 between Charleston E & W Exits, Las Vegas Date & Time of Incident: 3/12/82 at approximately 1:30 a.m. Date Received: 4/19/82 | Denied 6/2/82 | |
| 12-LV | Bruce Marillo | Assault Location of Incident: 3221 Tabor #2, Las Vegas Date & Time of Incident: 2/10/82 at 5:15 a.m. Date Received: 4/30/82 | Paid 7/7/82 | 5,000.00 |
| 13-LV | Margaret Lawrence | Attempted Purse Snatch Location of Incident: Sam's Town Casino Date & Time of Incident: 3/31/82 at 2:15 a.m. Date Received: 5/17/82 | Paid 4/15/83 | 593.76 |
| 14-LV | Maria Gonzales | Attempted murder/suicide Location of Incident: Lake Mead National Recreation Area Date of Incident: 4/4/82 Date Received: 5/17/82 | Paid 7/19/82 | 5,000.00 |
| Sub-Total | | | | \$ 21,937.45 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---------------------------|--|--|------------------------|
| Sub Total | | | | \$ 21,937.45 |
| 15-LV | Olena L. Barcliff | Murder of claimant's son, Greg L. Gelunas Location of Incident: 2129 Wengert, Las Vegas Date of Incident: 1/20/82 Date Received: 5/21/82 | Paid 9/22/82 | 1,000.00 |
| 16-LV | Lori Lamb (Rocky Lamb) | Claimant's husband was murdered. Location of Incident: 1721 E. McWilliams, Las Vegas Date & Time of Incident: 5/3/82 at 2140 hours Date Received: 5/25/82 | Paid 8/4/83 | 3,728.54 |
| 17-LV | Joseph Bradley Angelico | Assault Location of Incident: Forrest Lane Apts., Las Vegas Date & Time of Incident: 4/25/82 at 8:35 p.m. Date Received: 5/28/82 | Denied 10/1/82 | |
| 18-LV | Benito Jaramillo | Assault Location of Incident: 3461 Big Sur, Las Vegas Date of Incident: 11/20/81 Date Received: 6/7/82 | Denied 11/10/82 Appealed 3/83 Board approved 4/15/83 | 5,000.00 |
| 19-LV | Scott Peril | Assault and Robbery Location of Incident: 895 Sierra Vista, Las Vegas Date & Time of Incident: 12/6/81 at 8:05 a.m. Date Received: 6/7/82 | Denied 8/31/82 | |
| 20-CC | Raymond H. Clark | Assault Location of Incident: 1st and Arlington, Reno Date & Time of Incident: 6/1/82 at 9:00 a.m. Date Received: 6/7/82 | Denied 8/8/82 | |
| 21-LV | Goldie Furchik | Robbery and battery Location of Incident: 1900 Block of Las Vegas Blvd. Date & Time of Incident: 4/30/82 at 9:30 p.m. Date Received: 6/14/82 | Paid 10/12/82 | 1,231.00 |
| Sub-Total | | | | \$ 32,896.99 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 32,896.99 |
| 22-LV | Malvie Cooper | Robbery and Battery Location of Incident: H Street & Van Buren, Las Vegas Date & Time of Incident: 12/19/81 at 4:00 p.m. Date Received: 6/15/82 | Denied 10/7/82 | |
| 23-LV | Allan Barber, Jr. | Assault with substantial bodily harm Location of Incident: Food & Deli, Las Vegas Date & Time of Incident: 2/27/82 at 10:00 p.m. Date Received: 6/16/82 | Denied 10/7/82 | |
| 24-LV | Valencia Hargrave | Battery Location of Incident: 1600 East Rochelle #132, Las Vegas Date & Time of Incident: 4/20/82 at 2:00 a.m. Date Received: 6/17/82 | Denied 10/7/82 | |
| 25-LV | James Pearson | Robbery and attempted murder Location of Incident: Fantasy Park, Las Vegas Date & Time of Incident: 1/29/82 at 2:40 a.m. Date Received: 6/18/82 | Paid 9/10/82 | 5,000.00 |
| 26-LV | Max C. Schomer | Injuries from hit and run Location of Incident: Las Vegas Date of Incident: 5/14/82 Date Received: 6/28/82 | Denied 12/27/82 | |
| 27-LV | Timothy R. Bly | Hit and run Location of Incident: Flamingo and Escandido, Las Vegas Date & Time of Incident: 4/10/82 at 0355 hours Date Received: 7/12/82 | Denied 9/9/82 | |
| 28-LV | Gertrude Hirschman | Injuries from mugging Location of Incident: In front of residence, Las Vegas Date & Time of Incident: 2/13/82 at 1405 hours Date Received: 7/8/82 | Paid 9/10/82 | 350.65 |
| Sub-Total | | | | \$ 38,247.64 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|----------------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 38,247.64 |
| 29-LV | Lucian Barham | Robbery, Assault Location of Incident: Clark & Main, Las Vegas Date & Time of Incident: 6/25/82 at 1:15 a.m. Date Received: 7/12/82 | Withdrawn | |
| 30-LV | Blanca Perez | Assault. Location of Incident: Circle Park - Fairfield/Philidelphia, L.V. Date & Time of Incident: 3/14/82 at 0015 hours Date Receive: 7/26/82 | Denied 10/7/82 | |
| 31-LV | James Roteff, Estate of | Murder Location of Incident: Boulder City Date of Incident: 1/31/82 Date Received: 7/27/82 | Denied 2/1/83 | |
| 32-LV | Delbert Poulain | Murder of claimant's son, Dean Poulain Location of Incident: Southwest Parking log, Tropicana & Maryland Date & Time of Incident: 1/1/82 at 4:45 a.m. Date Received: 7/28/82 | Denied 1/21/83 | |
| 33-CC | Terry Reading | Assault, robbery. Location of Incident: North side of Karl's Silver Club, Las Vegas Date & Time of Incident: 7/4/82 at 0015 hours Date Received: 8/11/82 | Paid 10/26/82 | 2,366.72 |
| 34-LV | Robert W. Conrad | Murder of claimant's mother, Ann Conrad. Location of Incident: Lake Mead Lodge, Boulder Beach Date & Time of Incident: Between 10:00 p.m. 7/24/82 and 11:00 a.m. 7/25/82 Date Received: 8/13/82 | Denied 11/10/82 | |
| 35-LV | Ken Barnes | Assault Location of Incident: Not given Date & Time of Incident: April 1982 Date Received: 8/18/82 | Paid 3/2/83 | 748.02 |
| Sub-Total | | | | \$ 41,362.38 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|------------------------|--|-------------------------------------|------------------------|
| Sub-Total | | | | \$ 41,362.38 |
| 36-LV | Janet Balthaser | Assault Location of Incident: Casino Center & Carson Ave., L.V. Date & Time of Incident: 7/6/82 at 9:25 a.m. Date Received: 8/18/82 | Paid 5/9/83 | 307.75 |
| 37-LV | Donlin F. Moore | Assault Location of Incident: Safeway, Cheyenne Avenue, Las Vegas Date & Time of Incident: 2/16/82 Date Received: 8/23/82 | Denied 1/21/83 | |
| 38-LV | Jerry Charlin | Injuries sustained when fighting fire suspected of arson. Location of Incident: 1600 University #230, Las Vegas Date & Time of Incident: 6/4/82 at 2:26 p.m. Date Received: 9/15/82 | Paid 10/5/82 Supplement 11/16/82 | 1,153.55 150.00 |
| 39-LV | Pauline Ritter | Grab and run Location of Incident: 300 block of Desert Inn Road, L.V. Date & Time of Incident: 6/22/82 at 4:50 p.m. Date Received: 9/21/82 | Denied 1/21/83 | |
| 40-LV | Evelyn Shamhart | Assault with a deadly weapon. Location of Incident: 5th floor parking ramp - Barbary Coast, LV Date & Time of Incident: 7/3/82 at 11:10 p.m. Date Received: 9/21/82 | Denied 2/1/83 | |
| 41-LV | Ronald Reeves | Attempted murder, assault with a deadly weapon Location of Incident: Ronnie's Basin Bar, Las Vegas Date & Time of Incident: 8/15/82 at 8:16 a.m. Date Received: 9/24/82 | Paid 4/11/83 | 5,000.00 |
| 42-LV | Richard & Karla Vetter | Attempted murder Location of Incident: Las Vegas Boulevard & Bonanza Road, L.V. Date of Incident: 9/7/82 Date Received: 10/7/82 | Paid 4/22/83 | 529.37 |
| Sub-Total | | | | \$ 48,503.05 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|----------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 48,503.05 |
| 43-CC | Kenneth Weiderhold | Assault with a deadly weapon Location of Incident: 142 Maple Street, Reno Date of Incident: 9/27/82 Date Received: 10/21/82 | Paid 1/26/83 | 2,480.92 |
| 44-LV | Stefan Stanley Dudek | Assault, attempted murder and attempted robbery. Location of Incident: "H" Street & Lake Mead, L.V. Date & Time of Incident: 9/11/82 at 9:45 p.m. Date Received: 10/29/82 | Paid 1/26/83 | 5,000.00 |
| 45-LV | Desiree Dennis | Murder of Winifred Dennis Location of Incident: 1200 block of North "D", L.V. Date & Time of Incident: 8/6/82 at 1:15 a.m. Date Received: 11/2/82 | Denied 11/4/83 | |
| 46-LV | Elaine Nostro | Battery with substantial bodily harm. Location of Incident: 2830 S. Decatur #2, L.V. Date & Time of Incident: 10/10/82 at 1430 hours Date Received: 11/4/82 | Denied 1/21/83 | |
| 47-LV | Chu Kin | Attempted murder and burglary Location of Incident: 700 E. Flaming Rd., L.V. Date & Time of Incident: 4/12/82 at 0343 hours Date Received: 11/4/82 | Paid 1/26/83 | 4,530.25 |
| 48-LV | Harriet Stone | Burglary and assault with substantial bodily harm. Location of Incident: 1890 Wagonwheel, L.V. Date of Incident: May 1982 Date Received: 11/4/82 | Denied 11/4/83 | |
| 49-LV | Brian Berger | Robbery and attempted murder. Location of Incident: Taco Bell #1 - Las Vegas Date & Time of Incident: 9/18/82 at 0115 hours Date Received: 11/4/82 | Denied 2/1/83 | |
| Sub-Total | | | | \$ 60,514.22 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|--|------------------------|------------------------|
| Sub-Total | | | | \$ 60,514.22 |
| 50-LV | Nepomuceno & Louisa Sanchez | Assault and battery and attempted robbery. Location of Incident: 1600 L.V. Blvd., No. L.V. Date & Time of Incident: 11/14/82 at 8:00 a.m. Date Received: 11/10/82 | Denied 6/8/83 | |
| 51-LV | Phillip R. Havenstein (Estate of) | Murder Location of Incident: North Las Vegas Date of Incident: 9/2/82 Date Received: 11/15/82 | Denied 2/1/83 | |
| 52-LV | Ronald Parks | Injuries sustained when trying to apprehend shoplifter Location of Incident: 700 S. Decatur (Safeway #334), L.V. Date & Time of Incident: 2/26/82 at 2210 hours Date Received: 11/16/82 | Withdrawn | |
| 53-LV | Noreen Caradonna & Lawrence Weinberg | Robbery Location of Incident: Las Vegas Date of Incident: 11/1/82 Date Received: 11/23/82 | Dismissed 4/15/83 | |
| 54-LV | Sanford E. Reifman | Battery Location of Incident: 1401 E. Fremont, L.V. Date & Time of Incident: 11/20/82 at 10:45 p.m. Date Received: 12/6/82 | Denied 6/8/83 | |
| 55-LV | Mack Dawson | Battery Location of Incident: The Brewery, Las Vegas Date & Time of Incident: 1/1/82 at 0630 hours Date Received: 12/6/82 | Denied 2/1/83 | |
| 56-LV | Anthony Rodriquez | Battery Location of Incident: Von Tobel Jr. High School, L.V. Date & Time of Incident: 9/17/82 at 1415 hours Date Received: 12/6/82 | Paid 5/5/83 | 419.00 |
| Sub-Total | | | | \$ 60,933.22 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---------------------------------------|--|--|------------------------|
| Sub-Total | | | | \$ 60,933.22 |
| 57-LV | Louis Book | Battery Location of Incident: 4th and Hoover, L.V. Date & Time of Incident: 10/9/82 at 2:15 a.m. Date Received: 12/9/82 | Denied 2/1/83 | |
| 58-LV | Robin Iberg | Battery Location of Incident: 510 San Pablo #97, L.V. Date & Time of Incident: 10/30/82 at 0230 hours Date Received: 12/22/82 | Denied 6/8/83 | |
| 59-CC | Manchi J. Yung | Attempted murder Location of Incident: Jones & Keystone, Reno Date & Time of Incident: 12/8/82 between 6:00 & 6:30 p.m. Date Received: 12/27/82 | Denied 2/24/83 | |
| 60-CC | Betty Umathum | Battery Location of Incident: 7841 Bass St., Silver Springs Date & Time of Incident: 9/22/82 at 7:00 p.m. Date Received: 1/5/83 | Denied 5/16/83 Appealed 5/24/83 Denied by BOE 6/29/83 | |
| 61-LV | Marilyn Chase (Kendal Scott Chase) | Murder Location of Incident: 3455 Del Marino, L.V. Date & Time of Incident: 10/7/82 Date Received: 1/13/83 | Paid 4/11/83 | 1,000.00 |
| 62-LV | Connie Chapin (Richard G. Cole) | Murder Location of Incident: 1001 N. Decatur, L.V. Date & Time of Incident: 6/10/82 Date Received: 1/14/83 | Denied 4/15/83 Appealed 4/26/83 Denied by BOE 10/19/83 | |
| 63-LV | Mary Bartsas | Robbery and Assault Location of Incident: 528 E. Oakley Blvd., L.V. Date & Time of Incident: 1/6/83 Date Received: 1/14/83 | Denied 6/8/83 | |
| Sub-Total | | | | \$ 61,933.22 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--|---|---|------------------------|
| Sub-Total | | | | \$ 61,933.22 |
| 64-LV | Martha Badillo (Luis Jaime Badillo) | Murder Location of Incident: 7-11 Store, Stewart & Eastern, L.V. Date & Time of Incident: 10/14/82 at 8:45 p.m. Date Received: 1/17/83 | Paid 8/30/83 | 1,000.00 |
| 65-CC | Wayne E. Noyd | Stab Wounds Location of Incident: New State Hotel, Reno Date & Time of Incident: 5/9/82 Date Received: 1/18/83 | Denied 2/9/83 | |
| 66-LV | Aimee Shaia (Mitchell Shaia) | Murder Location of Incident: Lake Mead Drive at 3-Kids Mine, L.V. Date & Time of Incident: 10/16/82 Date Received: 1/4/83 | Denied 7/1/83 Appealed 7/11/83 Approved BOE 9/20/83 | 1,000.00 |
| 67-LV | Rosemary Smith | Battery Location of Incident: 1410 N. "F" Street, L.V. Date & Time of Incident: 12/18/82 at 10:20 a.m. Date Received: 2/2/83 | Paid 4/26/83 | 5,000.00 |
| 68-LV | Charles & Nancy Strassner | Burglary & Battery Location of Incident: 208 E. Coolidge, L.V. Date & Time of Incident: 9/28/82 at 1:30 a.m. Date Received: 2/2/83 | Paid 4/15/83 | 740.03 |
| 69-LV | Alice Shandron | Battery Location of Incident: 810 S. Highland, L.V. Date & Time of Incident: 2/8/83 at 7:00 p.m. Date Received: 2/14/83 | Paid 5/17/83 | 1,038.00 |
| 70-LV | Robert Rodriguez | Assault & Battery Location of Incident: 3517 Reynolds, L.V. Date & Time of Incident: 11/1/82 at 2:27 a.m. Date Received: 2/17/83 | Denied 5/17/83 | |
| Sub-Total | | | | \$ 70,711.25 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 70,711.25 |
| 71-CC | Pablo Walker | Attempted murder Location of Incident: 5240 E. Wikel St., Winnemucca Date & Time of Incident: 8/10/82 at 12:20 a.m. Date Received: 2/17/83 | Paid 5/9/83 | 5,000.00 |
| 72-LV | Lee Ann Hayes | Attempted murder Location of Incident: 940 W. Bartlett, L.V. Date & Time of Incident: 11/1/82 at 12:53 p.m. Date Received: 2/25/83 | Paid 4/26/83 | 5,000.00 |
| 73-LV | Janis Lyons (Michael Lyons) | Murder Location of Incident: 1600 S. Main St. #326, L.V. Date of Incident: 3/28/82 Date Received: 2/28/83 | Paid 7/1/83 | 1,000.00 |
| 74-LV | Kevin Coleman | Assault/Robbery Location of Incident: City View Park, L.V. Date of Incident: 11/7/82 Date Received: 3/11/83 | Denied 4/27/83 | |
| 75-CC | Lynn Phillips | Robbery Location of Incident: Near Monte Carlo Club, Reno Date of Incident: 12/18/82 Date Received: 3/17/83 | Denied 5/27/83 | |
| 76-LV | Garrett S. Dodds | Battery Location of Incident: 1412 No. 23rd St., L.V. Date of Incident: 7/31/82 Date Received: 3/16/83 | Paid 7/13/83 | 1,561.40 |
| 77-LV | Gwendolyn Estell | Sexual Assault, Robbery, Attempted Murder Location of Incident: G & Jackson, L.V. Date & Time of Incident: 1/6/83 at 8:00 p.m. Date Received: 3/24/83 | Denied 3/31/84 | |
| Sub-Total | | | | \$ 83,272.65 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 83,272.65 |
| 78-LV | Brian Garriques | Robbery, Attempted Murder Location of Incident: 1924 E. Charleston, L.V. Date & Time of Incident: 3/4/83 at 3:05 p.m. Date Received: 3/25/83 | Denied 4/21/83 | |
| 79-LV | Luther Joiner | Attempted Murder Location of Incident: 600 W. Lake Mead Blvd., L.V. Date & Time of Incident: 6/8/83 at 12:28 p.m. Date Received: 3/28/83 | Denied 6/8/83 | |
| 80-LV | Larry Worthen | Strong Arm Robbery, Battery Location of Incident: Fremont St., L.V. Date & Time of Incident: Between 1/31/83 at 8:00 p.m. and 2/1/83 at 7:00 a.m. Date Received: 3/29/83 | Denied 5/12/83 | |
| 81-LV | Norman Padgett | Attempted Murder Location of Incident: 2110 E. Fremont St., #247, L.V. Date & Time of Incident: 3/3/83 at 10:40 p.m. Date Received: 4/1/83 | Dismissed 4/1/83 | |
| 82-LV | Gene Lowery | Hit and Run Location of Incident: University Street, L.V. Date of Incident: 5/11/82 Date Received: 3/28/83 | Denied 8/4/83 | |
| 83-LV | Warren Fullerton | Battery with Substantial Bodily Harm Location of Incident: 819 So. 4th St., Apt. #, L.V. Date of Incident: 12/11/82 Date Received: 4/11/83 | Paid 11/1/83 | 1,835.50 |
| 84-LV | Armando Constantin | Attempted Murder Location of Incident: 5010 Maryland Parkway, L.V. Date & Time of Incident: 3/23/83 at 10:50 p.m. Date Received: 4/13/83 | Paid 6/16/83 | 5,000.00 |
| Sub-Total | | | | \$ 90,108.15 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|---|--|------------------------|
| Sub-Total | | | | \$ 90,108.15 |
| 85-CC | Julia Suwalsky (Christina Ann Morales) | Murder Location of Incident: Belvada #206, Tonopah Date of Incident: 9/11/82 Date Received: 4/14/83 | Denied 5/24/83 Appealed 6/7/83 Denied by Board 8/4/83 | |
| 86-LV | Michelle D. Byrd | Child Pornography Location of Incident: 4629 Las Vegas Blvd., No. 70, L.V. Date of Incident: July & August 1981 Date Received: 4/15/83 | Denied 4/15/83 | |
| 87-CC | Elsie Pace | Assault Location of Incident: 235-6th Street, Sparks Date & Time of Incident: 11/3/82 at 10:00 p.m. Date Received: 4/20/83 | Paid 9/19/83 | 2,544.85 |
| 88-LV | Stuart Greenberg | Attempted Murder Location of Incident: 3890 Swenson #205, L.V. Date & Time of Incident: 4/4/83 at 9:49 p.m. Date Received: 4/20/83 | Denied 8/1/83 | |
| 89-LV | Star Ann George | Battery with Substantial Bodily Harm Location of Incident: Blue Haven Lounge, L.V. Date & Time of Incident: 11/13/82 between 1:30 & 2:30 a.m. Date Received: 4/30/83 | Paid 8/16/83 | 4,308.52 |
| 90-LV | Darrel Price (Teresa Lynn Mayer) | Murder by Motor Vehicle Location of Incident: 916 E. Fremont St., L.V. Date & Time of Incident: 3/7/83 before 10:15 p.m. Date Received: 4/22/83 | Denied 7/19/83 Appealed 7/25/83 Remanded to Hr. Off. 9/1/83 Denied 10/28/83 | |
| 91-LV | Peter A. Neilsen, Jr. | Battery with Substantial Bodily Harm Location of Incident: Between 7th & 8th St., L.V. Date & Time of Incident: 4/27/82 at 12:00 p.m. Date Received: 4/26/83 | Paid 7/20/83 | 5,000.00 |
| Sub-Total | | | | \$ 101,961.52 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|------------------------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 101,961.52 |
| 92-LV | James Walker, Jr. | Battery with Deadly Weapon Location of Incident: 2721 Sword, L.V. Date & Time of Incident: 3/19/83 at 8:03 p.m. Date Received: 4/29/83 | Denied 6/13/83 | |
| 93-LV | Cecile Kushdan | Battery with Deadly Weapon Location of Incident: McCarran Airport Date & Time of Incident: 3/29/83 at 5:00 p.m. Date Received: 5/18/83 | Paid 5/18/83 | 153.00 |
| 94-LV | Bozie Wayne English | Battery with Deadly Weapon Location of Incident: A & Bonanza, L.V. behind Salvation Army Date & Time of Incident: 4/5/83 at 2:00 a.m. Date Received: 5/18/83 | Denied 7/27/83 | |
| 95-LV | Jose Corral | Attempted Murder Location of Incident: 215 W. Philadelphia, L.V. Date & Time of Incident: 10/31/82 at 10:02 p.m. Date Received: 5/18/83 | Paid 8/2/83 | 1,471.06 |
| 96-LV | Esther A. Lucibello | Armed Robbery Location of Incident: 4013 W. Sahara, L.V. Date & Time of Incident: 8/17/82 at 9:30 a.m. Date Received: 5/20/83 | Denied 7/19/83 | |
| 97-CC | Maureen Sales | Assault Location of Incident: 805 Robinhood #21, Reno Date of Incident: 1/20/83 Date Received: 5/20/83 | Paid 8/29/83 | 3,188.15 |
| 98-LV | Valley Hospital (Floyd Ballard) | Murder Location of Incident: Las Vegas Date of Incident: 4/28/83 Date Received: 5/16/83 | Denied 7/19/83 | |
| Sub-Total | | | | \$ 106,773.73 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|---|---|------------------------|
| Sub-Total | | | | \$ 106,773.73 |
| 99-LV | Linda Sue M. Dahler (Lillian Julian Myers) | Murder Location of Incident: 717 No. Valley View Blvd., L.V. Date of Incident: Unknown Date Received: 5/17/83 | Denied 8/2/83 Appealed 4/13/84 Denied by Board 5/8/84 | |
| 100-LV | Edward T. Smith III | Assault with a deadly weapon Location of Incident: 3000 Pennwood Block, L.V. Date & Time of Incident: 4/21/83 between 4 a.m. and 10:11 p.m. Date Received: 5/23/83 | Denied 10/4/83 | |
| 101-LV | Tula Maxfield | Robbery, Assault Location of Incident: Rear of Flamingo Hilton Hotel Date & Time of Incident: 3/29/83 at 5:30 p.m. Date Received: 5/31/83 | Paid 8/17/83 Reimbursed from Insurance Settlement | 1,686.05 (1,686.05) |
| 102-LV | Ronald Jacobus | Assault with a deadly weapon Location of Incident: 2077 Las Vegas Blvd. No., L.V. Date & Time of Incident: 4/19/83 at 9:12 p.m. Date Received: 5/31/83 | Denied 8/2/83 | |
| 103-LV | Noel Casimiro | Battery with a deadly weapon Location of Incident: Marion & Stewart, L.V. Date & Time of Incident: 3/7/83 at 8:00 p.m. Date Received: 5/31/83 | Denied 8/1/83 | |
| 104-LV | Leisa Franks | Robbery, Battery Location of Incident: 700 block of No. Main, L.V. Date & Time of Incident: 5/15/83 at 9:20 p.m. Date Received: 5/31/83 | Paid 7/19/83 | 240.32 |
| 105-LV | Anthony Graham | Battery with a deadly weapon Location of Incident: 2521 Dana Dr., No. L.V. Date & Time of Incident: 5/26/83 at 6:30 p.m. Date Received: 6/8/83 | Paid 8/2/83 | 5,000.00 |
| Sub-Total | | | | \$ 112,014.05 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|----------------------|--|------------------------|----------------------------|
| Sub-Total | | | | \$ 112,014.05 |
| 106-LV | John Bates | Attempted murder Location of Incident: 3135 So. Industrial Rd., L.V. Date of Incident: 4/9/83 Date Received: 6/15/83 | Paid 8/30/83 | 5,000.00 |
| 107-LV | Robert Moore | Attempted Murder Location of Incident: 2500 block of Donna, No. L.V. Date of Incident: 6/3/83 Date Received: 6/17/83 | Paid 8/4/83 | 5,000.00 |
| 108-LV | Martin D. Owens | Assault Location of Incident: Las Vegas Date of Incident: 3/9/82 Date Received: 6/20/83 | Denied 8/18/83 | |
| 109-CC | Nan Dwyer | Assault, Purse-snatch Location of Incident: Nugget parking lot, Carson City Date & Time of Incident: 5/16/83 at 10:50 p.m. Date Received: 6/23/83 | Denied 8/8/83 | |
| 110-CC | Gerald P. Fitzgerald | Attempted Murder Location of Incident: 2335 Tybo Ave., Reno Date & Time of Incident: 1/10/83 at 7:30 p.m. Date Received: 6/23/83 | Denied 8/8/83 | |
| 111-LV | Albert Bogue | Battery with a deadly weapon Location of Incident: 5006 Wilbur, L.V. Date of Incident: 3/26/83 Date Received: 6/23/83 | Denied 8/30/83 | |
| 112-LV | John Robert Burns | Attempted Murder Location of Incident: 1200 E. Sahara, L.V. Date & Time of Incident: 7/12/82 at 7:55 p.m. Date Received: 6/24/83 | Denied 8/26/83 | |
| Sub-Total | | | | \$ 122,014.05 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------------------------|---|--|------------------------|
| Sub-Total | | | | \$ 122,014.05 |
| 113-LV | James Dorta | Battery with a Deadly Weapon Location of Incident: 1014 Lewis, L.V. Date & Time of Incident: 4/3/83 at 9:00 a.m. Date Received: 6/24/83 | Denied 10/19/83 | |
| 114-LV | Jack Strosnider | Assault with a Deadly Weapon Location of Incident: 429 Del Mue, L.V. Date & Time of Incident: 5/11/83 at 9:45 p.m. Date Received: 6/24/83 | Paid 8/30/83 | 5,000.00 |
| 115-LV | Tammy Edwards | Assault Location of Incident: 2212 Van Patten, L.V. Date & Time of Incident: 6/21/83 at 5:15 a.m. Date Received: 6/29/83 | Denied 8/26/83 | |
| 116-CC | Willis Enhelder | Attempted Murder Location of Incident: 343 So. Wells, Reno Date of Incident: 11/29/82 Date Received: 6/29/83 | Paid 10/27/83 | 5,000.00 |
| 117-LV | Beverly Funderbork (Steven Vigil) | Murder Location of Incident: Sewage Treatment Plant, L.V. Date of Incident: On or about 6/15 - 6/16/83 Date Received: 7/7/83 | Denied 8/29/83 Appealed 9/2/83 Denied by Board 9/20/83 | |
| 118-LV | Ronald Farnell | Battery with a Deadly Weapon Location of Incident: 1720 Linden, LV Date & Time of Incident: 5/20/83 at 10:45 p.m. Date Received: 7/8/83 | Denied 10/6/83 | |
| 119-LV | Dena Pilgrim | Purse snatch with injuries Location of Incident: Lake Mead & Nellis, L.V. Date & Time of Incident: 7/9/83 at 10:05 a.m. Date Received: 7/14/83 | Emergency Award 7/25/83 Closed lack of Cooperation | 225.00 |
| Sub-Total | | | | \$ 132,239.05 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|----------------------|--|---|------------------------|
| Sub-Total | | | | \$ 132,239.05 |
| 120-LV | Sherry Jean Williams | Rape, robbery. Location of Incident: 230 North 11th Street, Las Vegas Date & Time of Incident: 12-24-82 at 3:30 p.m. Date Received: 7/21/83 | Paid 9/20/83 | 2,293.75 |
| 121-LV | Robert Newton | Battery with a deadly weapon. Location of Incident: 800 E. Ogden, Las Vegas Date & Time of Incident: 4/10/83, 5:30 a.m. Date Received: 7/26/83 | Denied effective 8/3/84 if victim does not make contact | |
| 122-LV | Stephen R. Brock | Battery with a deadly weapon. Location of Incident: 4344 Koval Lane, #2B, NLV Date & Time of Incident: 2/3/83, 1:00 a.m. Date Received: 7/28/83 | Denied 10/7/83 | |
| 123-LV | Anthony Jackson | Kidnap and attempted murder. Location of Incident: I-15 southbound, milepost 52, LV Date & Time of Incident: 8/21/82 at 7:00 a.m. Date Received: 8/1/83 | Paid 12/10/84 | 3,420.71 |
| 124-LV | Peter Miesen | Assault with a deadly weapon. Location of Incident: 1717 E. Fremont, Las Vegas Date & Time of Incident: 6/11/83 at 9:00 p.m. Date Received: 8/2/83 | Paid 10/17/83 | 767.90 |
| 125-CC | Robert L. Johnson | Assault Location of Incident: AM/PM Store on So. Carson, Carson City Date & Time of Incident: 2/18/83 at 12:30 a.m. Date Received: 8/2/83 | Paid 12/1/83 Reimbursed by offender | 3,501.30 (50.00) |
| 126-LV | Joseph Hill | Attempted murder. Location of Incident: Winners Circle Bar, 3665 Las Vegas Blvd. S. Date & Time of Incident: 7/25/83 at 9:05 p.m. Date Received: 8/3/83 | Emergency Award 9/1/83 Paid 10/6/83 | 500.00 14,500.00 |
| Sub-Total | | | | \$ 157,172.71 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|----------------------|---|--|------------------------|
| Sub-Total | | | | \$ 157,172.71 |
| 127-LV | John Carey | Attempted murder Location of Incident: Winners Circle Bar, 3665 Las Vegas Blvd. S. Date & Time of Incident: 7/25/83 at 9:10 p.m. Date Received: 8/8/83 | Denied 10/5/83 | |
| 128-LV | Michael L. Konic J.r | Burglary, Battery Location of Incident: 3805 Boulder Highway, Las Vegas Date & Time of Incident: 4/8/83 at 4:05 a.m. Date Received: 8/9/83 | Denied 11/4/83 | |
| 129-LV | Ron Fitzgerald | Battery with a deadly weapon Location of Incident: Henry's Pool Hall, H & Wilson, Las Vegas Date & Time of Incident: 7/21/83 at 3:12 a.m. Date Received: 8/10/83 | Emergency Award 2/23/84 Paid 4/10/84 | 1,000.00 14,000.00 |
| 130-LV | Enrique Vacca Shorts | Assault with a deadly weapon Location of Incident: 133 West St. Louis, Apt. 11, Las Vegas Date & Time of Incident: 7/22/83 at 3:00 a.m. Date Received: 8/12/83 | Paid 9/27/83 | 1,244.00 |
| 131-LV | Benedict Prasad | Battery with substantial bodily harm Location of Incident: 520 Van Dornum, Henderson Date & Time of Incident: 7/5/83 at 7:50 a.m. Date Received: 8/15/83 | Denied effective 10/4/84 if no contact by applicant | |
| 132-LV | Wayne Jordan | Attempted murder Location of Incident: 33 Hole, Lake Mead Date & Time of Incident: 8/7/83 at 2:00 a.m. Date Received: 8/17/83 | Paid 10/28/83 & 11/16/83 | 15,000.00 |
| 133-LV | Barbara Viot | Battery with a deadly weapon Location of Incident: 15th & Fremont Street, Las Vegas Date & Time of Incident: 7/25/83 at 5:00 a.m. Date Received: 8/17/83 | Paid 11/8/83 Refund from hospital | 5,374.04 (120.75) |
| Sub-Total | | | | \$ 193,670.00 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|-------------------------|--|---|----------------------------|
| Sub-Total | | | | \$ 193,670.00 |
| 134-CC | Edward D. Farmer | Assault Location of Incident: Depression Dell, Reno Date & Time of Incident: 7/31/83 Date Received: 8/22/83 | Denied 11/22/83 | |
| 135-LV | Martin Sullins | Stab wounds sustained while apprehending purse snatcher. Location of Incident: 11th & Fremont Date & Time of Incident: 8/21/83 at 0025 hours Date Received: 8/31/83 | | |
| 136-LV | George Plummer | Robbery Location of Incident: 610 W. Washington, Las Vegas Date & Time of Incident: 12/19/82 at 12:30 a.m. Date Received: 9/6/83 | Denied 11/4/83 | |
| 137-LV | Sharon Kirkman | Rape Location of Incident: Desert area of 1600 E. Tropicana block Date & Time of Incident: 10/4/82 between 1245 and 1:15 p.m. Date Received: 9/6/83 | Denied 11/2/83 Appealed 11/16/83 Board Approved 12/1/83 | 5,000.00 |
| 138-LV | Susan McLeish | Robbery and assault Location of Incident: Unknown. Date & Time of Incident: 8/28/83 at 10:40 a.m. Date Received: 9/8/83 | Emergency Award 9/16/83 Paid 12/6/84 Supplemental 1/17/84 | 420.00 349.00 262.00 |
| 139-LV | Ralph Stinson | Robbery, burglary Location of Incident: 1215 No. Las Vegas Blvd. Date & Time of Incident: 8/15/83 at 8:00 p.m. Date Received: 9/9/83 | Paid 11/1/83 | 629.00 |
| 140-CC | Mr. & Mrs. John Pacheco | Burglary Location of Incident: 38 West Bell Street, Winnemucca Date of Incident: 4/1 or 4/2/83 Date Received: 9/12/83 | Denied 10/26/83 | |
| Sub-Total | | | | \$ 200,330.00 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------|---|--|--------------------------------|
| Sub-Total | | | | \$ 200,330.00 |
| 141-LV | Sandy Witte | Purse snatch Location of Incident: Bonanza between Rancho & Highland and Washington, Las Vegas Date & Time of Incident: 8/31/83 at 10:00 p.m. Date Received: 9/20/83 | Emergency Award 10/5/83 Claim closed 1/4/84 No further award | 150.00 |
| 142-LV | Joann Rodman | Burglary Location of Incident: 5100 East Tropicana, Apt. 43-C Date & Time of Incident: 8/16/83 Date Received: 9/22/83 | Denied 11/4/83 Appealed 11/10/83 Board Denied 12/1/83 | |
| 143-LV | Xenia Davis | Attempted murder Location of Incident: 2635 Karen Court, Las Vegas on 7/29 and 2425 East Desert Inn Road, Las Vegas on 8/23 Date & Time of Incident: 7/29/83 at 23:50 hrs and 8/23/83 at 1500 hours Date Received: 9/22/83 | Paid 11/7/83 | 15,000.00 |
| 144-LV | Marvin Channell | Assault Location of Incident: 1905 Alwill, Apt. D, Las Vegas Date & Time of Incident: 6/18/83, 3:00 a.m. Date Received: 9/22/83 | Paid 11/9/83 | 5,000.00 |
| 145-LV | David P. McCathran | Attempted Murder Location of Incident: Help Center - Repeat Boutique Date of Incident: 7/23/83 Date Received: 9/26/83 | Denied 12/6/83 | |
| 146-CC | Theda Hayes | Assault, burglary and rape Location of Incident: 1011 E 4th Street #9, Reno Date & Time of Incident: 8/13/83 between midnight & 4:00 a.m. Date Received: 9/28/83 | Paid 2/13/84 Supplemental 4/5/84 Refund from Hospital | 6,613.48 584.46 (393.00) |
| Sub-Total | | | | \$ 227,284.94 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|---|---|------------------------|
| Sub-Total | | | | \$ 227,284.94 |
| 147-LV | Joyce A. Watson | Gunshot Wounds Location of Incident: Anthony Plaza Apartments Date of Incident: 7/9/83 Date Received: 10/5/83 | Denied 11/16/73 | |
| 148-LV | Marco Beaver | Attempted murder Location of Incident: Jaycee Park Date of Incident: 5/8/83 Date Received: 10/5/83 | Denied 1/17/84 | |
| 149-LV | Marion Goodwin | Burglary Location of Incident: 28 Britz Circle, No. Las Vegas Date & Time of Incident: 8/20/83 around 9:00 a.m. Date Received: 10/6/83 | Denied 12/13/83 | |
| 218 150-LV | Joann Taloma (Jennifer Davis) | Lewdness with a minor child. Location of Incident: 2202 Webb, No. Las Vegas Date & Time of Incident: June - August 15, 1983 Date Received: 10/7/83 | Paid 4/9/84 (Monthly billings to follow for approx. one year.) | 930.00 |
| 151-LV | Kathy Knautz Kidwell Don Paul Knautz | Murder of husband Location of Incident: 5075 No. 5th Street, Las Vegas Date & Time of Incident: 8/27/83 Date Received: 10/7/83 | Denied 12/7/83 | |
| 152-LV | Maggie Baker (Sanara Spivey Mudd) | Murder of daughter Location of Incident: 3040 Vegas Drive, Las Vegas Date & Time of Incident: 9/6/83 at 5:00 a.m. Date Received: 10/11/83 | Denied 12/23/83 | |
| 153-LV | Gregory Weems | Battery with a deadly weapon Location of Incident: Jo Mackey School Date & Time of Incident: 9/11/83 at 7:00 p.m. Date Received: 10/12/83 | Denied 12/29/83 | |
| Sub-Total | | | | \$ 228,214.94 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|------------------------------------|--|------------------------|------------------------|
| Sub-Total | | | | \$ 228,214.94 |
| 154-LV | Maxine Gaines | Assault Location of Incident: 507 Jackson Street, Las Vegas Date & Time of Incident: 10/4/83 at 9:45 Date Received: 10/12/83 | Denied 11/29/83 | |
| 155-LV | Richard Chaney | Assault Location of Incident: Horseshoe Parking Lot, 3rd and Fremont, Las Vegas Date & Time of Incident: 10/7/83 at 12:00 a.m. Date Received: 10/12/83 | Denied 12/23/83 | |
| 156-CC | Charles Davenport | Assault Location of Incident: 231 Mill Street, Reno Date of Incident: 9/4/83 Date Received: 10/16/83 | Denied 12/15/83 | |
| 157-CC | Regina Gourde | Kidnap and Assault Location of Incident: Lake Tahoe Date of Incident: May 1983 Date Received: 10/17/83 | Denied 11/21/83 | |
| 158-LV | Dwain E. Washington | Assault Location of Incident: Jo Mackey School Date & Time of Incident: 9/20/83 at 4:00 p.m. Date Received: 10/26/83 | Denied 12/30/83 | |
| 159-CC | Mary Ann Delaney (Judy Delaney) | Sexual Assault Location of Incident: Incline Village Date & Time of Incident: 10/4/83 between 8 & 10 p.m. Date Received: 10/27/83 | | |
| 160-LV | Dennis L. Henderson | Battery with a Deadly Weapon Location of Incident: Serene Room, L.V. Date & Time of Incident: 9/18/83 at 4:05 a.m. Date Received: 10/28/83 | Denied 12/29/83 | |
| Sub-Total | | | | \$ 228,214.94 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|-----------------------------------|--|--|------------------------|
| Sub-Total | | | | \$ 228,214.94 |
| 161-LV | Gino R. LaBell | Armed Robbery Location of Incident: Union Plaza Parking Garage, L.V. Date & Time of Incident: 10/20/83 at 2:00 a.m. Date Received: 10/28/83 | Denied 11/10/83 | |
| 162-LV | Mary Williams Helen Parrishall | Burglary Location of Incident: 3801 Daisy Street, L.V. Date & Time of Incident: 10/2/83 at 2:20 a.m. Date Received: 10/28/83 | Denied 1/9/84 | |
| 163-LV | Sheila A. Beaver | Rape, Assault Location of Incident: Nevada Drive-In Theatre, L.V. Date & Time of Incident: 10/3/83 at 9:50 p.m. Date Received: 11/1/83 | Denied 12/29/83 | |
| 164-LV | Linda F. Hanselman | Assault with a Deadly Weapon Location of Incident: Near corner of Winnich & Roval Lane, L.V. Date & Time of Incident: 9/14/83 between 12:15 & 12:30 a.m. Date Received: 11/1/83 | Paid 1/17/84 | 10,884.11 |
| 165-CC | Timothy E. Lee | Felony DUI, Hit & Run Location of Incident: Oddie & Silverado, Reno Date & Time of Incident: 4/10/82 at 9:00 p.m. Date Received: 11/1/83 | Denied 11/29/83 | |
| 166-LV | Birdia Jean Dupree | Assault Location of Incident: 150 S. Prinzino, L.V. Date & Time of Incident: 3/29/83 at 5:00 p.m. Date Received: 11/3/83 | Denied 1/25/84 | |
| 167-LV | Betty Langley | Assault Location of Incident: 2950 Clifford Date & Time of Incident: 10/28/83 at 9:00 p.m. Date Received: 11/4/83 | Denied 1/5/84 Appealed 1/16/84 Board Approved 3/1/84 | 237.00 |
| Sub-Total | | | | \$ 239,336.05 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--------------------------------------|--|--|--------------------------------|
| Sub-Total | | | | \$ 239,336.05 |
| 168-LV | Maria Landeros (Victoria Arriaga) | Murder Location of Incident: D-Q Hamburgers, 2040 Nellis, No. L.V. Date & Time of Incident: 10/7/83 at 2:40 p.m. Date Received: 11/14/83 | Denied 1/17/84 | |
| 169-LV | Karen Mutchaus | Assault Location of Incident: Caesar's Palace Parking Lot, L.V. Date & Time of Incident: 11/11/83 at 3:00 a.m. Date Received: 11/18/83 | Denied Effective 11/30/84 if no contact by victim | |
| 170-LV | John E. Fowler | Assault Location of Incident: "J" Street & Vegas Drive, L.V. Date & Time of Incident: 9/22/83 at 3:00 p.m. Date Received: 11/23/83 | Paid 2/8/84 Supplemental 3/20/84 Supplemental 4/9/84 | 2,129.85 1,213.00 380.00 |
| 171-CC | Rita M. Riley (Kenneth H. Riley) | Murder Location of Incident: 11331 So. Virginia, Reno Date & Time of Incident: 7/31/83 at 10:50 a.m. Date Received: 11/29/83 | Denied 3/27/84 Appealed 4/9/84 Board authorized payment up to \$15,000 5/8/84 | |
| 172-LV | Frederic C. Prado | Battery Location of Incident: 322 W. Bonanza Rd., L.V. Date & Time of Incident: 7/10/83 at 8:00 a.m. Date Received: 11/28/83 | Denied 1/25/84 | |
| 173-LV | Clark Milton | Assault Location of Incident: Fields near Mojave & Charleston, L.V. Date & Time of Incident: 10/17/83 at 1:45 p.m. Date Received: 11/28/83 | Paid 1/25/84 | 740.50 |
| 174-LV | Isabella Lunn | Purse Snatch Location of Incident: Broadway Store, Maryland Parkway, L.V. Date & Time of Incident: 11/14/83 at 10:15 a.m. Date Received: 12/02/83 | Paid 3/8/84 | 761.50 |
| Sub-Total | | | | \$ 244,560.90 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|------------------------------------|--|---|----------------------------|
| Sub-Total | | | | \$ 244,560.90 |
| 175-LV | Constance L. Carr | Assault Location of Incident: 2117 Crawford, L.V. Date & Time of Incident: 11/19/83 at 12:30 p.m. Date Received: 12/5/83 | Paid 3/22/84 | 864.00 |
| 176-LV | Linda Riley (Shannon Lee Riley) | Murder Location of Incident: 11331 So. Virginia, Reno Date & Time of Incident: 7/31/83 at 10:50 p.m. Date Received: 12/8/83 | Denied 3/27/84 | |
| 177-LV | Charles J. Falck | Armed Robber, Attempted Murder Location of Incident: Desert Area near 2200 W. Evans, L.V. Date & Time of Incident: 11/29/83 at 1:30 a.m. Date Received: 12/9/83 | Emergency Award 12/23/83 Paid 2/22/84 | 300.00 396.70 |
| 178-LV | Ralph Reyez | Attempted Murder Location of Incident: Serene Room, L.V. Date & Time of Incident: 10/9/83 at 1:15 p.m. Date Received: 12/12/83 | Denied 3/9/84 | |
| 179-LV | Hugh Hawes | Attempted Murder Location of Incident: 500 W. Miller, L.V. Date & Time of Incident: 3/6/82 at 7:58 a.m. Date Received: 12/13/83 | Denied 2/7/84 Appealed 2/13/84 Denied by Board 3/1/84 | |
| 180-LV | Kenneth E. Elston | Assault with a Deadly Weapon Location of Incident: 303 E. Harmon, L.V. Date & Time of Incident: 11/28/83 at 4:00 p.m. Date Received: 12/14/83 | Denied Effective 11/27/84 if no information from claimant | |
| 181-LV | Jacky C. Larson | Assault Location of Incident: Who Cares Bar, L.V. Date of Incident: 11/9/83 Date Received: 12/19/83 | Denied 3/9/84 | |
| Sub-Total | | | | \$ 246,121.60 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--|---|--|------------------------|
| Sub-Total | | | | \$ 246,121.60 |
| 182-CC | Geraldine M. Henderson | Assault with Deadly Weapon, Felony Sexual Assault Location of Incident: Fallon Date & Time of Incident: 8/14/83 between 9:30 p.m. & midnight Date Received: 12/20/83 | Denied 2/13/84 | |
| 183-CC | John C. Housler | Robbery, Assault Location of Incident: 2nd Street, Reno Date of Incident: 11/19/83 Date Received: 12/22/83 | Denied 4/4/84 | |
| 184-LV | John Seltenreich | Attempted Murder Location of Incident: Colorado Bill Casino, Laughlin, NV Date & Time of Incident: 6/15/83 at 7:30 p.m. Date Received: 12/27/83 | Paid 3/9/84 | 1,623.50 |
| 185-LV | Harold Fox | Fraud Location of Incident: 3537 Marion, L.V. Date of Incident: 12/22/83 Date Received: 12/30/83 | Denied 1/9/84 | |
| 186-CC | Michael Wayne Thomas | Assault with a Deadly Weapon Location of Incident: Oliver & Montello St., Reno Date & Time of Incident: 12/30/83 at 6:30 p.m. Date Received: 1/4/84 | Denied 2/7/84 | |
| 187-LV | Cora Walker (Ricky Nelson Williams) | Murder Location of Incident: Bruce's Liquor, 2027 No. "H", L.V. Date & Time of Incident: 4/13/83 at 7:25 p.m. Date Received: 1/5/84 | Denied 2/8/84 | |
| 188-LV | Miklos Haloka | Attempted Murder Location of Incident: Stuart Ave., L.V. Date & Time of Incident: 12/2/83 at 9:30 p.m. Date Received: 1/9/84 | Denied Effective 12/2/84 if no information from claimant | |
| Sub-Total | | | | \$ 247,745.10 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|---|------------------------|------------------------|
| Sub-Total | | | | \$ 247,745.10 |
| 189-LV | Anthony Alvarado | Attempted Murder Location of Incident: 3701 Webb Street, L.V. Date & Time of Incident: 8/29/83 at 8:20 p.m. Date Received: 1/9/84 | Denied 3/9/84 | |
| 190-CC | Justin W. Farrell | Assault with a Deadly Weapon Location of Incident: Wadsworth, Nevada Date of Incident: Mid-September 1983 Date Received: 1/6/84 | Denied 3/27/84 | |
| 191-LV | Ronald L. Calhoun | Assault with a Deadly Weapon Location of Incident: Jackson Street Date & Time of Incident: 12/29/83 at 8:30 p.m. Date Received: 1/10/84 | Paid 3/9/84 | 10,234.38 |
| 192-CC | Doris Schindler (Margaret Schindler) | Murder Location of Incident: Rural Storey County Date of Incident: 5/14/83 Date Received: 1/9/84 | Paid 3/12/84 | 869.36 |
| 193-LV | Josephine Gribble | Purse Snatch Location of Incident: 3rd Street, L.V. Date & Time of Incident: 12/7/83, evening Date Received: 1/11/84 | Paid 4/27/84 | 774.37 |
| 194-CC | Ernesto R. Raffa | Attempted Murder, Assault, Robbery, Grand Larceny Location of Incident: Incline Village Date & Time of Incident: 12/6/83 at 7:30 p.m. Date Received: 1/16/84 | Denied 3/2/84 | |
| 195-LV | Brian Bridges | Attempted Murder Location of Incident: 6465 No. Goldfield, No. L.V. Date & Time of Incident: 12/22/83 between 6:00 & 7:00 p.m. Date Received: 1/16/84 | Interim Award 3/9/84 | 800.00 |
| Sub-Total | | | | \$ 260,423.21 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|---|-------------------------------------|------------------------|
| Sub-Total | | | | \$ 260,423.21 |
| 196-LV | Leo Weaver | Robbery, Battery with Deadly Weapon Location of Incident: 1519 Las Vegas Blvd., No Date & Time of Incident: 8/6/83 at 2:30 a.m. Date Received: 1/17/84 | Paid 5/7/84 Supplemental 5/17/84 | 459.80 182.00 |
| 197-CC | Timothy H. Ahern | Battery Location of Incident: 670 Winston St., Reno Date & Time of Incident: 9/30/83 at 5:00 p.m. Date Received: 1/18/84 | Denied 2/7/84 | |
| 198-LV | Mildred Knelsen | Purse Snatch Location of Incident: Showboat, Atlantic Side, L.V. Date & Time of Incident: 12/16/83 at 9:15 a.m. Date Received: 1/19/84 | Denied 2/27/84 | |
| 199-LV | Nick J. Micas | Battery Location of Incident: 4455 Mtn. Vista, L.V. Date & Time of Incident: 10/1/83 at 7:00 p.m. Date Received: 1/23/84 | Paid 5/2/84 | 358.60 |
| 200-LV | Ronald L. Johnston (Daniel Johnston) | Murder Location of Incident: I-95 near Beatty Date of Incident: 11/24/83 Date Received: 1/19/84 | Denied 3/9/84 | |
| 201-LV | Kimberly Rene McNair | Battery Location of Incident: Apple Apts., Twain & Swenson, L.V. Date of Incident: 9/18/83 Date Received: 1/25/84 | Denied 3/29/84 | |
| 202-CC | Leonard Urcinoli | Attempted Murder Location of Incident: Near Cave Rock Date & Time of Incident: 6/28/83 at 12:30 a.m. Date Received: 1/25/84 | Denied 3/2/84 | |
| Sub-Total | | | | \$ 261,423.61 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|---|--|--|----------------------------|
| Sub-Total | | | | \$ 261,423.61 |
| 203-LV | John A. Annon | Assault Location of Incident: 2400 East Lake Mead, L.V. Date & Time of Incident: 11/8/83 at 12:34 p.m. Date Received: 1/30/84 | Paid 4/10/84 | 245.00 |
| 204-LV | Angela Thanig | Battery Location of Incident: 5800 block of Boulder Highway Date & Time of Incident: 10/15/83 at 2:15 a.m. Date Received: 2/6/84 | Denied 5/22/84 | |
| 205-LV | Michael Manzitto | Robbery, Assault Location of Incident: 4650 Koval Lane, L.V. Date & Time of Incident: 12/21/83 between 9:00 and 11:45 p.m. Date Received: 2/6/84 | Denied 4/6/84 | |
| 206-LV | Stanley Ward Rogers | Attempted Murder Location of Incident: D & Jackson, L.V. Date & Time of Incident: 12/4/83 at 9:00 p.m. Date Received: 2/6/84 | Emergency Award 2/23/84 Interim Award | 500.00 2,400.00 |
| 207-CC | Dwight Ceresola | Assault Location of Incident: Last Shot Saloon, Fernley Date & Time of Incident: 1/1/84 at 3:05 a.m. Date Received: 2/7/84 | Denied 3/12/84 | |
| 208-LV | Nancy Sikorski (David & Tonya Galloway) | Sexual assault of minor children Location of incident: 2404 Olive Street Date of Incident: Between July 1981 and December 1982 Date Received: 2/13/84 | | |
| 209-LV | Matthew Bernard Reed | Attempted Murder Location of Incident: "F" Street & Jackson, L.V. Date of Incident: 11/4/84 Date Received: 2/14/84 | Emergency Award 3/1/84 Paid 4/16/84 | 200.00 3,405.05 |
| Sub-Total | | | | \$ 268,173.66 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--|--|---|------------------------|
| Sub-Total | | | | \$ 268,173.66 |
| 210-LV | Doris Algeo | Strong Arm Robbery Location of Incident: 333 E. Ogden, L.V. Date & Time of Incident: 1/31/84 at 2:25 p.m. Date Received: 2/15/84 | Denied 4/9/84 | |
| 211-LV | Edith Graves | Purse Snatch Location of Incident: El Cortez, L.V. Date & Time of Incident: 5/20/83 at 5:30 p.m. Date Received: 2/15/84 | Denied 4/10/84 | |
| 212-LV | Frankie K. Patrick | Attempted Robbery Location of Incident: 15th & Fremont, L.V. Date & Time of Incident: 11/19/83 at 1:39 p.m. Date Received: 2/16/84 | Denied Effective 2/23/85 if no information from applicant | |
| 213-CC | Mr. & Mrs. Michael Lundgren (Kyle & Christopher) | Rape of minor child Location of Incident: 1665 Carville Drive, Reno Date & Time of Incident: 8/15/83 at 8:30 a.m. Date Received: 2/17/84 | | |
| 214-LV | Douglas F. Ebnetter | Assault, Robbery Location of Incident: Andy's Liquor Store, L.V. Date & Time of Incident: 2/5/84 at 4:40 a.m. Date Received: 2/22/84 | Paid 5/8/84 | 827.00 |
| 215-LV | David Frank Lemieux | Kidnap, Robbery with Force Location of Incident: Tropicana & Paradise Rd., L.V. Date & Time of Incident: 12/13/83 at 6:30 a.m. Date Received: 2/23/84 | Denied 5/22/84 | |
| 216-LV | Vivienne Carlson (Marian Y. Purcell) | Purse Snatch Location of Incident: Kona Loha Apts., L.V. Dates of Incident: 1/18/83 and 2/5/84 Date Received: 2/29/84 | Denied 5/2/84 Appealed 5/14/84 | |
| Sub-Total | | | | \$ 269,000.66 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|----------------------------------|---|------------------------|----------------------------|
| Sub-Total | | | | \$ 269,000.66 |
| 217-LV | Oscar Gene Owens | Battery with a Deadly Weapon Location of Incident: Gilbert's Bar, L.V. Date & Time of Incident: 11/1/83 at 6:30 p.m. Date Received: 3/1/84 | Paid 5/8/84 | 11,895.21 |
| 218-LV | Mark J. Mattson | Assault Location of Incident: Lake Mead Marina Date & Time of Incident: 2/3/84 at 8:30 p.m. Date Received: 3/6/84 | | |
| 219-LV | Theresa Andresen | Assault, Rape Location of Incident: 8th & Ogden, L.V. Date & Time of Incident: 1/9/84 at 12:30 a.m. Date Received: 3/5/84 | Denied 5/2/84 | |
| 220-LV | Leo Dilger (Gary Dilger) | Assault Location of Incident: 1249 Knotty Pine, Mt. Charleston Date & Time of Incident: 12/26/84 at 2:00 a.m. Date Received: 3/7/84 | Denied 5/8/84 | |
| 221-CC | Eunice D. & Earl L. Robertson | Purse Snatch, Assault Location of Incident: 1 block west of Sundowner, Reno Date of Incident: 3/3/84 Date Received: 3/7/84 | Denied 3/27/84 | |
| 222-CC | Alvie M. Fry | Purse Snatch, Assault Location of Incident: West Second Street, Reno Date & Time of Incident: 3/3/84 between 9:30 and 10:00 p.m. Date Received: 3/8/84 | Denied 4/2/84 | |
| 223-LV | Patrick M. Schneider | Gunshot wound Location of Incident: Boulder Highway, Henderson Date & Time of Incident: 2/21/84 at 3:30 a.m. Date Received: 3/13/84 | Paid 5/8/84 | 722.75 |
| Sub-Total | | | | \$ 281,618.62 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|--|--|------------------------|------------------------|
| Sub-Total | | | | \$ 281,618.62 |
| 224-LV | Jeffrey Jay Balley | Armed Robbery Location of Incident: Silver Nugget Parking Lot, L.V. Date of Incident: 3/5/84 Date Received: 3/16/84 | Denied 3/27/84 | |
| 225-LV | Camille Paradise (Stacey Paradise) | Sexual Assault of Minor Children Location of Incident: Various Locations Date of Incident: From 2/2/81 until 11/3/83 Date Received: 3/16/84 | | |
| 226-LV | Charles M. Baker | Battery with a Deadly Weapon Location of Incident: 640 No. 9th Street, L.V. Date & Time of Incident: 2/3/84 between midnight & 2:45 a.m. Date Received: 3/19/84 | | |
| 227-CC | Joseph R. Allen (Christopher Allen) | Assault Location of Incident: 5th & Boomerang, Sun Valley Date & Time of Incident: 3/2/84 at 5:30 p.m. Date Received: 3/22/84 | Paid 5/17/84 | 262.00 |
| 228-LV | Dr. Vance MacDonald (Julie Battinato) | Murder Location of Incident: 301 E. Charleston, L.V. Date of Incident: 3/14/84 Date Received: 3/26/84 | Denied 4/11/84 | |
| 229-CC | Kelly Colleen McNemar | Rape Location of Incident: University of Nevada at Reno Date & Time of Incident: 11/23/83 between 4:30 and 5:30 p.m. Date Received: 3/27/84 | | |
| 230-CC | Charles Buchanan, Jr. | Assault, Attempted Murder, Attempted Robbery Location of Incident: FIB Parking Garage, Reno Date of Incident: 2/23/84 Date Received: 3/29/84 | | |
| Sub-Total | | | | \$ 281,880.62 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|--|---|------------------------|----------------------------|
| Sub-Total | | | | \$ 281,880.62 |
| 231-LV | Howard Schramm | Assault Location of Incident: No. Tenth Street, Mesquite Date & Time of Incident: 3/16/84 at 8:30 p.m. Date Received: 4/2/84 | | |
| 232-LV | Becky Jean Potter | Assault with a Deadly Weapon Location of Incident: Blue Heaven Lounge Date & Time of Incident: 12/19/83 at 4:15 a.m. Date Received: 4/12/84 | | |
| 233-CC | Alice I. Dela Vega (David B. Dela Vega) | Murder Location of Incident: Hawthorne Heights Trailer Ct., Hawthorne Date & Time of Incident: 3/27/84 between 11:30 p.m. & 6:00 a.m. Date Received: 4/16/84 | | |
| 234-CC | Robert Limbach | Assault Location of Incident: Unknown Date & Time of Incident: 10/22/83 Date Received: 4/16/84 | | |
| 235-CC | Linda Kathryn Beaudoin | Attempted Murder Location of Incident: "B" Street near McCarren, Sparks Date & Time of Incident: 1/23/84 between 10:00 & 10:30 Date Received: 4/17/84 | | |
| 236-CC | William h. Shipman | Injuries from auto accident involving possible suicide Location of Incident: Hwy. 50 East, Stagecoach Date & Time of Incident: 3/22/84 at 6:45 p.m. Date Received: 4/17/84 | | |
| 237-LV | Dean Jewell (Donald W. Jewell) | Assault Location of Incident: Downtown Las Vegas Date & Time of Incident: 3/3/84 Date Received: 4/20/84 | | |
| Sub-Total | | | | \$ 281,880.62 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---|--|-------------------------|------------------------|
| Sub-Total | | | | \$ 281,880.62 |
| 238-LV | Alvera Willoughby | Burglary Location of Incident: 3922 Las Vegas Blvd., So Date & Time of Incident: 3/15/84 in the early afternoon Date Received: 4/25/84 | Denied 5/16/84 | |
| 239-LV | William R. Mangold | Assault, Robbery Location of Incident: Main & Bonanza, L.V. Date & Time of Incident: 4/12/84 at 8:10 p.m. Date Received: 4/25/84 | Emergency Award 5/17/84 | 100.00 |
| 240-LV | Christopher Keledjian | Robbery, Assault Location of Incident: 700 No. Main, L.V. Date & Time of Incident: 4/7/84 Date Received: 4/25/84 | | |
| 241-LV | Carol M. Spencer (Kimberly D. Spencer) | Murder Location of Incident: 600 E. Bonanza, #336, L.V. Date & Time of Incident: 3/10/84 Date Received: 4/27/84 | | |
| 242-CC | Robert Keim | Attempted Murder Location of Incident: 2300 Howard Blvd., Reno Date & Time of Incident: 11/1/83 Date Received: 4/30/84 | | |
| 243-CC | Andy Klein | Burglary, Battery With a Deadly Weapon Location of Incident: 1170 Avenue C, East Ely Date & Time of Incident: 3/16/84 between midnight & 2:48 a.m. Date Received: 4/30/84 | | |
| 244-LV | Lonnie Kay Randolph | Battery With a Deadly Weapon Location of Incident: Unknown Date & Time of Incident: 3/20/84 at 7:30 p.m. Date Received: 5/2/84 | | |
| Sub-Total | | | | \$ 281,980.62 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|------------------|---------------------|---|------------------------|------------------------|
| Sub-Total | | | | \$ 281,980.62 |
| 245-LV | Floyd Kelly | Driving Under the Influence Location of Incident: U.S. 95, Casino Center Drive Interchange Date & Time of Incident: 2/15/84 at 2:10 a.m. Date Received: 5/4/84 | Denied 5/22/84 | |
| 246-LV | Clarice JoAnn Titus | Battery Location of Incident: 4360 Chirr Lane, L.V. Date & Time of Incident: 3/10/84 at 12:54 a.m. Date Received: 5/4/84 | | |
| 247-LV | Denise Candalerio | Assault/Battery Location of Incident: Paradise Road, Motel Continental, L.V. Date & Time of Incident: 4/15/84 at 3:30 a.m. Date Received: 5/7/84 | | |
| 248-CC | Sky Lee Sacay | Assault Location of Incident: Del Mar Station, Reno Date & Time of Incident: 4/27/84 at 3:00 a.m. Date Received: 5/9/84 | | |
| 249-CC | Terrence D. Tanner | Assault Location of Incident: Everybody's Inn, 4th Street, Reno Date & Time of Incident: 5/4/84 at 7:30 p.m. Date Received: 5/15/84 | | |
| 250-CC | Katherine Adams | Unknown Location of Incident: Unknown Date & Time of Incident: Unknown Date Received: 5/17/84 | | |
| 251-LV | Leslie J. Vaughn | Auto Accident Location of Incident: Unknown Date & Time of Incident: 8/2/83 at 11:30 a.m. Date Received: 5/23/84 | | |
| Sub-Total | | | | \$ 281,980.62 |

VICTIMS OF CRIMINAL ACTS - Continued

| <u>Claim No.</u> | <u>Claimant</u> | <u>Nature of Claim</u> | <u>Approved/Denied</u> | <u>Amount of Award</u> |
|----------------------|------------------------|---|------------------------|----------------------------|
| Sub-Total | | | | \$ 281,980.62 |
| 252-LV | Jerry Bernard Williams | Assault Location of Incident: Harvard St., Las Vegas Date & Time of Incident: 5/19/84 at 1:00 Date Received: 5/29/84 | | |
| Sub-Total | | | | \$ 281,980.62 |

APPENDIX K

The National Judicial College "Statement of Recommended
Judicial Practices" for Treatment of Victims of Crime,
which Was Adopted at the Plenary Session of the
National Conference of the Judiciary on the
Rights of Victims of Crime at The National
Judicial College, Reno, Nevada
December 2, 1983



ERNST JOHN WATTS, *Dean*

V. ROBERT PAYANT, *Associate Dean*

file

American Bar Association

THE NATIONAL JUDICIAL COLLEGE

University of Nevada

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STATEMENT OF RECOMMENDED JUDICIAL PRACTICES

INTRODUCTION

Victims of crime often receive serious physical, psychological and financial injuries as a result of their victimization. Victims of and witnesses to crime frequently must take time off from work and make other personal sacrifices, possibly subjecting themselves to risk of intimidation and injury, in the performance of their civic duty. The criminal justice system depends on the willing cooperation of victims and witnesses in order to perform its primary function of protecting all citizens in this country.

We, as trial judges from the United States, the District of Columbia and the Commonwealth of Puerto Rico, have concluded that a number of steps can be taken to help victims of crime and strengthen the protection from harm for all persons in our society. Because the criminal justice system is composed of separate independent agencies, including the police, prosecutors, practicing defense bar, courts and parole boards, all must work together to accomplish this goal. Moreover, some of our recommendations would require new legislation. We have concluded that it is our responsibility as trial judges not only to make improvements within the judicial system, but to take the initiative in coordinating the various elements of the criminal justice system and take the leadership role that is consistent with the doctrine of separation of powers.

We are confident that our recommendations will greatly help victims of and witnesses to crime by improving the necessary information and services provided, afford them additional protection from harm, and create increased respect for the judicial process by improving their participation in the criminal justice system.

We believe that all of this can be accomplished without impairing the constitutional and statutory safeguards appropriately afforded all persons charged with crime. Our goal is not to reduce the rights guaranteed defendants but rather to assure the rights of victims and witnesses.

THE NATIONAL JUDICIAL COLLEGE

I. FAIR TREATMENT OF VICTIMS AND WITNESSES

JUDGES SHOULD PLAY A LEADERSHIP ROLE IN ENSURING THAT VICTIMS AND WITNESSES ARE TREATED WITH COURTESY, RESPECT, AND FAIRNESS.

A. INFORMATION ABOUT COURT PROCEDURES AND FACILITIES

ALL VICTIMS AND WITNESSES IN CRIMINAL CASES SHOULD BE PROVIDED ESSENTIAL INFORMATION ABOUT COURT PROCEDURES AND COURTHOUSE FACILITIES. JUDGES SHOULD ENCOURAGE THE FOLLOWING PRACTICES:

1. That victims and witnesses be provided with information regarding the rights and privileges available to victims and witnesses, and about the physical layout of the courthouse, parking areas, public transportation routes, witness fees, state compensation funds, and other available financial assistance;
2. That court administrators establish reception areas and provide victims and witnesses information about public and community services;
3. That prosecutors explain to victims the criminal justice system insofar as it relates to the victims' cases and what is expected of the victims in the prosecution of the cases.

B. NOTICE TO VICTIMS AND WITNESSES

VICTIMS AND WITNESSES SHOULD BE FULLY INFORMED ABOUT THE CRIMINAL JUSTICE PROCEEDINGS IN THEIR CASES. JUDGES SHOULD ENCOURAGE:

1. That the victims should be able to obtain from appropriate court personnel information concerning the status of their cases;
2. That, if requested, prosecutors inform victims of serious crimes that they may obtain, if possible, timely notice of all bail, pre-trial, trial and post-trial hearings, if the victims provide a current address or telephone number;
3. That if requested, appropriate officials, if possible, give timely notice to victims of serious crimes about the release of the defendant from custody, pre-trial and post-trial, if they provide a current address and phone number;
4. That victims be informed by prosecutors of the disposition of their cases.

THE NATIONAL JUDICIAL COLLEGE

C. SPECIAL SERVICES

JUDGES SHOULD RECOGNIZE THAT VICTIMS AND WITNESSES MAY REQUIRE SPECIAL SERVICES AND SUPPORT, BOTH MATERIAL AND PSYCHOLOGICAL. JUDGES SHOULD ENCOURAGE THE FOLLOWING PRACTICES:

1. Separate waiting areas for defense and prosecution witnesses;
2. Interpreter and translator services for victims and witnesses while they are in the courthouse;
3. An "on call" system to minimize unnecessary trips to court;
4. The expeditious return of evidence;
5. The availability of special transportation and protection to and from the courthouse when witnesses' safety is a consideration;
6. Informing the public generally of the importance of supporting the witnesses' participation in court proceedings and encouraging the adoption of legislation to accord witnesses the same protection from adverse actions by employers as are customarily given jurors and members of the National Guard;
7. Child care services for witnesses;
8. Crisis intervention, counseling and other support services for victims;
9. Ensuring the victim is not charged for rape examinations or other costs of collecting and preserving evidence;
10. Establishing fair and appropriate witness fees.

D. RESTITUTION

JUDGES SHOULD ORDER RESTITUTION IN ALL CASES UNLESS THERE IS AN ARTICULATED REASON FOR NOT DOING SO, WHETHER THE OFFENDER IS INCARCERATED OR PLACED ON PROBATION.

THE NATIONAL JUDICIAL COLLEGE

II. VICTIM PARTICIPATION

VICTIMS SHALL BE ALLOWED TO PARTICIPATE AND, WHERE APPROPRIATE, TO GIVE INPUT THROUGH THE PROSECUTOR OR TO TESTIFY IN ALL STAGES OF JUDICIAL PROCEEDINGS.

A. PARTICIPATION MAY INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING:

1. Pre-trial release or bail hearings;
2. The propriety and conditions of diversion;
3. The scheduling of court proceedings;
4. Continuances or delays; judges should state on the record the reason for granting a continuance;
5. Plea and sentence negotiations;
6. Sentencing;
7. Victim/offender mediation in non-violent cases, when appropriate.

B. TO ASSIST VICTIM PARTICIPATION:

1. A victim's advisor should be permitted to remain in the courtroom with the victim, but not participate in the judicial proceedings;
2. Victim impact statements prior to sentencing should be encouraged and considered;
3. The victim or the victim's family should be allowed to remain in the courtroom when permitted by law and when it will not interfere with the right of the defendant to a fair trial.

THE NATIONAL JUDICIAL COLLEGE

III. PROTECTION

JUDGES SHOULD USE THEIR JUDICIAL AUTHORITY TO PROTECT VICTIMS AND WITNESSES FROM HARASSMENT, THREATS, INTIMIDATION, AND HARM.

A. THIS SHOULD INCLUDE:

1. Encouraging that separate waiting rooms be provided for defense and prosecution witnesses;
2. Requiring that bail be conditioned on the defendants having no access to victims or prosecution witnesses;
3. On showing of good cause, limiting access to the addresses of victims and witnesses;
4. Encouraging that victims and witnesses be advised that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist that the interviews be conducted at neutral locations;
5. Encouraging legislation or rules which would require parole boards to advise the judge, the prosecutor, the public, and the victim where appropriate, prior to any hearing on the release of an offender convicted of a serious crime.

B. JUDGES IN PROTECTING SENSITIVE VICTIMS (MINORS, VICTIMS OF SEXUAL ABUSE, FAMILIES OF HOMICIDE VICTIMS, THE ELDERLY, AND THE HANDICAPPED) MAY CONSIDER THE FOLLOWING:

1. Expediting trials of cases involving sensitive victims;
2. Encouraging specially designed or equipped courtrooms to protect sensitive victims, provided that the right of confrontation is not abridged;
3. Permitting the use of videotaped depositions in cases involving sensitive victims, provided that the right of confrontation is not abridged;
4. Allowing sensitive victims to have an individual of their choice accompany them in closed juvenile proceedings, closed criminal proceedings, and in camera proceedings.

THE NATIONAL JUDICIAL COLLEGE

IV. JUDICIAL EDUCATION

JUDGES AT THE TRIAL AND APPELLATE LEVELS SHOULD BE ENCOURAGED TO PARTICIPATE IN TRAINING PROGRAMS DEALING WITH THE NEEDS, COMFORTS AND LEGAL INTERESTS OF CRIME VICTIMS.

State, regional and national programs and conferences for judges and non-judges should be held on methods to improve the treatment of victims and witnesses and to develop solutions to the problems suggested.

V. ALL THESE RECOMMENDED JUDICIAL PRACTICES ARE SUBJECT TO EXISTING RULES OF COURT, STATUTES AND CONSTITUTIONAL PROVISIONS.

CONCLUSION

Judges have a role in improving the treatment of victims and witnesses by reason of their position in the American Judicial system and their positions in their communities.

Judges believe that fair treatment of victims and witnesses can, consistent with constitutional limitations, be brought about by changes in the law, rules of procedure and legislation. Judges believe that they can influence the actions of others, including officers of the court and public officials, in the treatment of witnesses and victims. Judges also can encourage community support for change in the treatment of witnesses and victims. By their attitude and the attitudes of their staff, judges can set examples in the treatment of witnesses and victims.

We urge that our fellow judges exercise their leadership role in improving the treatment of victims and witnesses. Victims of crime should not be victims of the criminal justice system.

Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Victims of Crime at The National Judicial College, Reno, Nevada, December 2, 1983.

APPENDIX L

Suggested Legislation

| | <u>Page</u> |
|----------------|---|
| BDR 16-97..... | Revises procedure for awarding compensation to victims of crime 247 |
| BDR 16-98..... | Provides additional money and increases authorized awards for victims of crime. (See attached letter of explanation from the legislative counsel concerning possible constitutional conflict.) 253 |
| BDR 16-99..... | Expands eligibility for compensation for victims of crime 261 |
| BDR 16-100.... | Revises requirements for emergency awards for victims of crime 269 |
| BDR 16-101.... | Expands coverage for compensation for victims of sexual assault or sexual abuse 277 |
| BDR 3-102..... | Expands rights of victims in litigation against offenders 285 |
| BDR 103..... | Urges Congress to provide money for compensation for victims of crime 287 |
| BDR 104..... | Urges cooperation of agencies which assist victims of crime 289 |
| BDR C-105..... | Proposes constitutional amendment to allow interest on penal fines to be used to compensate victims of crime 291 |
| BDR 106..... | Urges sheriffs and police departments to train officers to provide assistance to victims of crime 295 |
| BDR 16-107.... | Exempts compensation for victims of crime from execution and related remedies for collection of debts 297 |
| BDR 16-108.... | Requires notice to victim of crime of release or escape of offender 299 |

| | <u>Page</u> |
|---|-------------|
| BDR 16-109.... Requires dissemination of information concerning compensation for victims of crime | 301 |
| BDR 14-110.... Requires training of peace officers in victims' rights | 303 |

SUMMARY--Revises procedure for awarding compensation to victims of crime. (BDR 16-97)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to compensation for victims of crime; requiring appeals officer to hear appeal from decision of hearing officer; requiring the amounts received from collateral sources to be deducted from the victim's expenses instead of from the amount of compensation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

"Appeals officer" means an appeals officer of the hearings division of the department of administration.

Sec. 2. NRS 217.010 is hereby amended to read as follows:

217.010 It is the policy of this state to provide assistance to persons who are victims of violent crimes or the dependents of victims of violent crimes. The legislature intends that this chapter be liberally construed to effect this policy.

Sec. 3. NRS 217.020 is hereby amended to read as follows:

217.020 As used in NRS 217.010 to 217.270, inclusive,

unless the context otherwise requires, the words and terms defined in NRS 217.030 to 217.070, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

Sec. 4. NRS 217.110 is hereby amended to read as follows:

217.110 1. Upon receipt of an application for compensation, the board shall refer the application, together with the reports of the treating or examining physicians, to a compensation officer within 5 days.

2. The compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer may deny the claim if the applicant's ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to an appeals officer within 15 days after the decision. If the appeals officer determines that the applicant may be entitled to compensation, he shall order the compensation officer to complete an investigation and report pursuant to subsection 3. If the appeals officer denies the appeal, the board may review the application and approve the denial or order an investigation and report. The appeals officer shall render his decision within 10 days after receiving notice of the appeal.

3. If the compensation officer does not deny the application pursuant to subsection 2, or if he is ordered to proceed by the appeals officer or the board, he shall conduct his investigation and submit his report and recommendation to a hearing officer within 60 days after his receipt of the application [.] or order. If in conducting his investigation the compensation officer believes that reports on the previous medical history of the victim, or an examination of the victim and a report of that examination, or a report on the cause of death of the victim by an impartial medical expert would aid him in making his recommendation, the compensation officer may order the reports.

[3.] 4. Within 15 days after the hearing officer receives the report and recommendation of the compensation officer, the hearing officer shall render a decision in the case, including any order directing the payment of compensation, or give notice to the applicant that a hearing will be held. The hearing must be held within 20 days after the notice is given.

Sec. 5. NRS 217.115 is hereby amended to read as follows:

217.115 The time limitations in NRS 217.110 and 217.113 may be waived by the applicant or, upon good cause shown, by the hearing officer [.] or appeals officer.

Sec. 6. NRS 217.117 is hereby amended to read as follows:

217.117 1. The applicant may, within 15 days after the hearing officer renders his decision, appeal the decision to [the board. The board shall consider the appeal on the record at its next scheduled meeting if the appeal and the record are received by the board at least 5 days before the meeting. Within 10 days after the meeting the board shall render its decision in the case or give notice to the applicant that a hearing will be held. The hearing must be held within 30 days after the notice is given and the board shall render its decision in the case within 10 days after the hearing.] an appeals officer. The appeals officer may hold a hearing or render a decision without a hearing. If the appeals officer holds a hearing he must give notice to the applicant, hold the hearing within 20 days after the notice, and render his decision in the case within 10 days after the hearing. The appeals officer must render a decision in each case within 45 days after receiving the appeal and the record, whether or not a hearing is held. The appeals officer may affirm, modify or reverse the decision of the hearing officer.

2. The board may on its own motion, within 15 days after

the [hearing] appeals officer renders his decision, modify or reverse the decision.

3. The decision of the board is final and not subject to judicial review. If the board does not review the decision of the appeals officer, that decision is final and not subject to judicial review.

Sec. 7. NRS 217.180 is hereby amended to read as follows:

217.180 1. In determining whether to make an order for compensation, the hearing officer shall consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, need of the victim or his dependents for financial aid and other relevant matters.

2. If the claimant has received or is likely to receive any amount on account of his injuries or the death of another from:

(a) The person who committed the crime which caused the victim's injury or from anyone paying on behalf of the offender;

(b) Insurance;

(c) The employer of the victim; or

(d) Any other private or public source or program of assistance,

he shall report the amounts received or which he is likely to receive to the compensation officer . [and the hearing officer shall reduce the award of compensation by that amount.] Any of those sources which is obligated to pay any amount after the award of compensation shall pay the board any amount of compensation which has been paid to the claimant and pay the remainder of the amount due to the claimant. The hearing officer shall deduct the amounts which the claimant has received or is likely to receive from those sources from the victim's total expenses.

3. An order for compensation may be made whether or not any person is prosecuted or convicted of any offense arising from the act on which the claim for compensation is based.

SUMMARY--Provides additional money and increases authorized awards for victims of crime. (BDR 16-98)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to compensation for victims of crime; increasing authorized awards; providing additional sources of income for the fund for the compensation of victims of crime; making an appropriation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SEN-
ATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 217.200 is hereby amended to read as follows:

217.200 1. The hearing officer may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in NRS 217.070 for:

(a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support not to exceed \$200 per

week and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(e) Any other loss which results from the personal injury or death of the victim and which the hearing officer determines to be reasonable.

2. The hearing officer may order that an emergency award be made to the victim to avoid financial hardship. The hearing officer may order that the amount of the emergency award be deducted from the final award, or if the emergency award exceeds the amount finally awarded to the victim, that the victim repay the difference between the two awards. An award of compensation including any emergency award ordered to be paid in advance to assist the victim, may be made subject to such terms and conditions as the hearing officer considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

3. [No] Except as provided in this subsection, no award may be made for [less than \$100 or for more than \$15,000 except in the case of a minor who was involved in the production of pornography.] more than \$25,000. The board may

award not more than \$100,000 for medical expenses of the victim. Any amount in excess of \$25,000 must be paid directly to the provider of the medical care.

Sec. 2. NRS 217.260 is hereby amended to read as follows:

217.260 1. Money for payment of compensation as ordered by the board and for payment of salaries and other expenses incurred by the hearings division of the department of administration pursuant to NRS 217.010 to 217.270, inclusive, must be paid from the fund for the compensation of victims of crime, which is hereby created. Money in the fund must be disbursed on the order of the board in the same manner as other claims against the state are paid.

2. Money deposited in the fund which is recovered from a forfeiture of assets pursuant to NRS 200.760 and the interest and income earned on that money must be used for the counseling and medical treatment of minors who are involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730.

3. [If on June 30 of any year the fund contains more than \$350,000, excluding any money deposited which is recovered from a forfeiture of assets pursuant to NRS 200.760, the state treasurer shall distribute the excess to the counties in the same proportion that the money which each county paid to the fund bears to the amount paid to the fund by all

counties. The distribution must be made on or before July 31, and the money must be deposited in the general fund of each county.] The interest and income earned on the money in the fund for the compensation of victims of crime, after deducting any applicable charges, must be credited to the fund.

Sec. 3. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. When a defendant is found guilty of any crime or pleads guilty or nolo contendere, the judge or justice shall include in the sentence the sum of \$1 as an assessment for collective restitution.

2. The money collected for assessments for collective restitution must be paid to the fund for the compensation of victims of crime.

3. The purpose of the assessment for collective restitution is not to punish but to provide restitution to victims as a group from offenders as a group.

Sec. 4. NRS 176.059 is hereby amended to read as follows:

176.059 1. When a defendant pleads or is found guilty of a misdemeanor, including the violation of any municipal ordinance, except one regulating metered parking, the justice or judge shall include in the sentence the sum of [\$10]

\$12 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If the defendant is found not guilty or the charges are dropped, the money deposited with the court must be returned to the defendant.

3. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the 5th day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each [~~\$10~~] \$12 received:

(a) [~~Six~~] Eight dollars to the state treasurer for credit to a special account in the state general fund.

(b) One dollar to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders.

(c) Three dollars for credit to a special account in the municipal general fund for the use of the municipal courts.

4. The money collected for administrative assessments in justices' courts must be paid by the clerk of the court to the county treasurer on or before the 5th day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each [\$10] \$12 received:

(a) [~~Six~~] Eight dollars to the state treasurer for credit to a special account in the state general fund.

(b) One dollar for credit to a special account in the county general fund for the use of the county's juvenile court or for services for juvenile offenders.

(c) Three dollars for credit to a special account in the county general fund for the use of the justices' courts.

Sec. 5. NRS 176.061 is hereby amended to read as follows:

176.061 The state controller shall distribute the money received [to the following public agencies] in the following amounts for each [\$6] \$8 received, up to the amount authorized by the legislature:

1. Five dollars to the office of the court administrator for allocation as follows:

(a) Two dollars for the administration of the courts.

(b) Two dollars for the development of a uniform system for judicial records.

(c) One dollar for continuing judicial education.

2. One dollar for the peace officers' standards and training committee of the department of motor vehicles to be used for the continuing education of persons whose primary duty is law enforcement.

3. Two dollars to the fund for the compensation of victims of crime.

Any amounts received in excess of the amounts authorized for expenditure must be deposited to the credit of the state general fund.

Sec. 6. There is hereby appropriated from the state general fund to the fund for the compensation of victims of crime, created pursuant to NRS 217.260, the sum of \$150,000.

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To: Subcommittee to study problems of compensation for certain victims of criminal acts.

We have drafted at the request of the subcommittee BDR 16-98, which creates new sources of money for the fund for the compensation of victims of crime. It is the opinion of this office that sections 3 and 5 of the draft violate section 3 of article 11 of the constitution of the State of Nevada which provides in relevant part that:

"all fines collected under the penal laws of this state * * * are hereby solemnly pledged for educational purposes, and shall not be transferred to any other funds for other uses * * *".

The central issue is whether the assessment for collective restitution imposed in section 3 and the portion of the administrative assessment in section 5 which is allocated to the fund for compensation of victims of crime constitute "fines" as that term is used in section 3 of article 11 of our constitution. The ordinary meaning of "fine" in this context is "a certain payment of money imposed as punishment for an offense." Webster's New International Dictionary 949 (2nd ed. 1960). In the common sense of the word, both assessments constitute fines. In section 451 of his "Commentaries on the Constitution of the United States," Joseph Story states:


In the first place, then, every word employed in the Constitution is to be expounded in its plain, obvious, and common sense, unless the context furnishes some ground to control, qualify, or enlarge it. Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or judicial research. They are instruments of a practical nature, founded on the common

business of human life, adapted to common wants, designed for common use, and fitted for common understandings. The people make them, the people adopt them, the people must be supposed to read them, with the help of common-sense, and cannot be presumed to admit in them any recondite meaning or any extraordinary gloss.

The fact that these assessments are not labeled "fines" does not avoid the constitutional prohibition. A payment of money imposed as punishment for an offense is a fine, and fines are pledged for educational purposes.

Very truly yours,

Frank W. Daykin
Legislative Counsel

By 
Lorne Malkiewich
Deputy Legislative Counsel

LM:dc

SUMMARY--Expands eligibility for compensation for victims of crime. (BDR 16-99)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to compensation for victims of crime; expanding eligibility for compensation; providing for reduction of the compensation to the extent of the victim's responsibility; extending the limit on the time for application by certain minors; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

A victim who is not a resident of Nevada is eligible for compensation pursuant to NRS 217.010 to 217.270, inclusive, if a resident of Nevada is eligible for compensation under the laws of the state of which the victim is a resident.

Sec. 2. NRS 217.180 is hereby amended to read as follows:

217.180 1. In determining whether to make an order for compensation, the hearing officer [shall consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim,

need of the victim or his dependents for financial aid and other relevant matters.] may consider any circumstances which he determines to be relevant. The hearing officer shall:

(a) Consider the behavior of the victim and whether, because of provocation or otherwise, the victim bears responsibility for the crime that caused his injury or death; and

(b) Reduce the amount of compensation in proportion to the amount of responsibility attributable to the victim.

2. If the claimant has received or is likely to receive any amount on account of his injuries or the death of another from:

(a) The person who committed the crime which caused the victim's injury or from anyone paying on behalf of the offender;

(b) Insurance;

(c) The employer of the victim; or

(d) Any other private or public source or program of assistance,

he shall report the amounts received or which he is likely to receive to the compensation officer and the hearing officer shall reduce the award of compensation by that amount. Any of those sources which is obligated to pay any amount

after the award of compensation shall pay the board any amount of compensation which has been paid to the claimant and pay the remainder of the amount due to the claimant.

3. An order for compensation may be made whether or not any person is prosecuted or convicted of any offense arising from the act on which the claim for compensation is based.

Sec. 3. NRS 217.200 is hereby amended to read as follows:

217.200 1. The hearing officer may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in NRS 217.070 for:

(a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support not to exceed \$200 per week and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(e) Any other loss which results from the personal injury

or death of the victim and which the hearing officer determines to be reasonable.

2. The hearing officer may order that an emergency award be made to the victim to avoid financial hardship. The hearing officer may order that the amount of the emergency award be deducted from the final award, or if the emergency award exceeds the amount finally awarded to the victim, that the victim repay the difference between the two awards. An award of compensation including any emergency award ordered to be paid in advance to assist the victim, may be made subject to such terms and conditions as the hearing officer considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

3. The hearing officer may order the payment of compensation as provided in subsection 1 and the award of the governor's certificate for meritorious citizen's service to a person who attempts to prevent the commission of a crime, defend another person or protect property.

4. No award may be made for less than \$100 or for more than \$15,000 except in the case of [a] :

(a) A minor who was involved in the production of pornography [.] ; or

(b) An award pursuant to subsection 3, in which case there is no limitation upon the minimum award which may be made.

Sec. 4. NRS 217.210 is hereby amended to read as follows:

217.210 1. [No] Except as provided in subsection 3, no
order for the payment of compensation may be made unless the
application is made within 1 year after the date of the per-
sonal injury or death on which the claim is based, and the
personal injury or death was the result of an incident or
offense which was reported to the police within 5 days of
its occurrence or, if the incident or offense could not rea-
sonably have been reported within that period, within 5 days
of the time when a report could reasonably have been made.

2. A claim with respect to which information has been
requested from a claimant by the compensation officer or
hearing officer remains open for 1 year after the request is
made. If a claimant does not submit the requested informa-
tion within 1 year after the request is made, the claim must
be denied.

3. The limitations upon payment of compensation estab-
lished in subsection 1 do not apply to a minor who is sexu-
ally abused or who is involved in the production of pornog-
raphy. Such a minor must apply for compensation before
reaching 18 years of age.

Sec. 5. NRS 217.220 is hereby amended to read as follows:

217.220 1. Except as otherwise provided in [subsection

2,] section 1 of this act or in subsection 2, 3 or 4 of this section, compensation must not be awarded if the victim:

(a) Is a relative of the offender;

(b) Was, at the time of the personal injury or death of the victim, living with the offender in a continuing relationship;

(c) [Violated a penal law of this state, which caused or contributed to his injuries or death;

(d)] Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim;

[(e)] (d) Was not a resident of the State of Nevada at the time the incident upon which the claim is based occurred; or

[(f)] (e) Was a coconspirator, codefendant or accomplice of the offender whose crime caused the victim's injuries.

2. The provisions of subsection 1 do not apply to a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730.

3. A victim who is a relative of the offender or who, at the time of the personal injury or death of the victim, was living with the offender in a continuing relationship may be awarded compensation if:

(a) The offender would not profit by the compensation of the victim; and

(b) The victim cooperates with agencies of law enforcement. Such cooperation does not require prosecution of the offender.

4. A victim who was injured or killed as a result of the operation of a motor vehicle may be awarded compensation if the offender:

(a) Was driving while under the influence of alcohol;

(b) Left the scene of an accident in which the victim was injured or killed in violation of NRS 484.219; or

(c) Was fleeing from the scene of a crime.

5. The hearing officer may deny an award if he determines that the claimant will not suffer serious financial hardship. In determining whether a claimant will suffer serious financial hardship, the hearing officer shall not consider:

(a) The value of the victim's dwelling;

(b) The value of one motor vehicle owned by the victim; or

(c) The savings and investments of the victim up to an amount equal to the victim's annual salary.

SUMMARY--Revises requirements for emergency awards for victims of crime. (BDR 16-100)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to compensation for victims of crime; revising requirements for granting emergency awards; authorizing limited emergency awards for nonresidents; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who is not a resident of Nevada is eligible for an emergency award to replace money which was lost as a direct result of a criminal act.

2. A person who is eligible for an award pursuant to subsection 1 must submit an application to the board. The application must contain information which establishes:

(a) That the applicant lost money as the direct result of a criminal act; and

(b) The amount of the loss.

The board shall refer the application to a hearing officer as soon as practicable.

3. A hearing officer may:

(a) If he determines that an applicant is entitled to an emergency award, immediately order an award without holding a hearing; or

(b) Hold a hearing as provided in NRS 217.113 to determine whether the applicant is eligible for an award.

4. An emergency award pursuant to this section must not exceed \$200.

Sec. 2. NRS 217.095 is hereby amended to read as follows:

217.095 1. A person is eligible for [a preliminary] an emergency award under this section if [his income, including any benefits or pensions, is not more than \$750 per month. The board may require an applicant to submit proof of his monthly income.] he lacks financial resources which would allow him to pay compensable costs before a final award is made.

2. A person may request [a preliminary] an emergency award in his application to the board for compensation. [A preliminary] An emergency award may be made to:

(a) Replace money lost as a direct consequence of criminal action if the applicant needs to replace the lost money to pay his expenses for the next 30 days. An award pursuant to this paragraph must not exceed \$400.

(b) Pay for the replacement or repair of lost or damaged property which is essential to the physical or psychological health of the applicant. Such property includes eyeglasses, dentures and other prosthetic devices, and locks, windows and doors of the victim's dwelling. An award pursuant to this paragraph must not exceed \$1,000.

[A preliminary] An emergency award must be granted if the applicant submits sufficient evidence to establish a prima facie case for granting compensation pursuant to NRS 217.010 to 217.270, inclusive, and to satisfy the requirements of this section.

3. The board shall refer the application for [a preliminary] an emergency award and any supporting documents to a compensation officer within 2 working days after the application is received. The compensation officer shall investigate the application and [:

(a) Grant a preliminary award; or

(b) Submit] submit a report to a hearing officer [recommending that the application be denied,] within 5 days after receiving the application. The hearing officer shall render a decision on any report submitted to him within 3 days after its receipt.

4. No award may be made pursuant to this section unless

the application is submitted within 45 days after the date of the personal injury or death on which the claim is based or, if an application could not reasonably been submitted within that period, within 15 days after an application could reasonably have been submitted.

5. The amount of any [preliminary] emergency award must be deducted from any award subsequently granted.

Sec. 3. NRS 217.200 is hereby amended to read as follows:

217.200 1. The hearing officer may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in NRS 217.070 for:

(a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support not to exceed \$200 per week and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(e) Any other loss which results from the personal injury or death of the victim and which the hearing officer determines to be reasonable.

2. [The hearing officer may order that an emergency award be made to the victim to avoid financial hardship. The hearing officer may order that the amount of the emergency award be deducted from the final award, or if the emergency award exceeds the amount finally awarded to the victim, that the victim repay the difference between the two awards. An award of compensation including any emergency award ordered to be paid in advance to assist the victim, may be made subject to such terms and conditions as the hearing officer considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

3.] No award may be made for less than \$100 or for more than \$15,000 except in the case of [a] :

(a) A minor who was involved in the production of pornography [.] ; or

(b) An emergency award, in which case there is no limitation upon the minimum award which may be made.

Sec. 4. NRS 217.220 is hereby amended to read as follows:

217.220 1. Except as otherwise provided in [subsection

2,] subsections 2 and 3, compensation must not be awarded if the victim:

(a) Is a relative of the offender;

(b) Was, at the time of the personal injury or death of the victim, living with the offender in a continuing relationship;

(c) Violated a penal law of this state, which caused or contributed to his injuries or death;

(d) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim;

(e) Was not a resident of the State of Nevada at the time the incident upon which the claim is based occurred; or

(f) Was a coconspirator, codefendant or accomplice of the offender whose crime caused the victim's injuries.

2. The provisions of subsection 1 do not apply to a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730.

3. A person who is not a resident of Nevada may receive an emergency award pursuant to section 1 of this act unless he is otherwise precluded pursuant to subsection 1 from receiving an award.

4. The hearing officer may deny an award if he determines

that the claimant will not suffer serious financial hardship.

SUMMARY--Expands coverage for compensation for victims of sexual assault or sexual abuse. (BDR 16-101)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to victims of sexual assault or sexual abuse; expanding eligibility for compensation and treatment; authorizing depositions on video tape of victims of sexual abuse; defining emergency medical care for victims of sexual assault; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners of each county shall provide by ordinance for the counseling of victims of sexual abuse and any relatives living with the victims. A relative is not eligible to receive counseling if he committed the sexual abuse for which counseling is sought. The counseling may be provided only upon request by the victim or eligible relative.

2. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 200.5011.

Sec. 2. NRS 217.070 is hereby amended to read as follows:

217.070 "Victim" means:

1. A person who is physically injured or killed as the direct result of a criminal act; [or]

2. A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730 [.] ;
or

3. A minor who was sexually abused, as "sexual abuse" is defined in NRS 200.5011.

Sec. 3. NRS 217.200 is hereby amended to read as follows:

217.200 1. The hearing officer may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in NRS 217.070 for:

(a) Medical expenses, including expenses for the treatment of venereal disease or pregnancy, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support not to exceed \$200 per week and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(e) Any other loss which results from the personal injury or death of the victim and which the hearing officer determines to be reasonable.

2. The hearing officer may order that an emergency award be made to the victim to avoid financial hardship. The hearing officer may order that the amount of the emergency award be deducted from the final award, or if the emergency award exceeds the amount finally awarded to the victim, that the victim repay the difference between the two awards. An award of compensation including any emergency award ordered to be paid in advance to assist the victim, may be made subject to such terms and conditions as the hearing officer considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

3. No award may be made for less than \$100 or for more than \$15,000 except in the case of a minor who was involved in the production of pornography.

Sec. 4. NRS 217.220 is hereby amended to read as follows:

217.220 1. Except as otherwise provided in [subsection

2,] subsections 2 and 3, compensation must not be awarded if the victim:

(a) Is a relative of the offender;

(b) Was, at the time of the personal injury or death of the victim, living with the offender in a continuing relationship;

(c) Violated a penal law of this state, which caused or contributed to his injuries or death;

(d) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim;

(e) Was not a resident of the State of Nevada at the time the incident upon which the claim is based occurred; or

(f) Was a coconspirator, codefendant or accomplice of the offender whose crime caused the victim's injuries.

2. The provisions of subsection 1 do not apply to a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720 or 200.730.

3. The provisions of paragraphs (a) and (b) of subsection 1 do not apply to a minor who was a victim of sexual abuse, as that term is defined in NRS 200.5011.

4. The hearing officer may deny an award if he determines

that the claimant will not suffer serious financial hardship.

Sec. 5. NRS 217.300 is hereby amended to read as follows:

217.300 1. Any victim of sexual assault may request and receive initial emergency medical care at a hospital for any physical injuries which resulted from the sexual assault.

2. Any costs incurred for such treatment shall be charged to and paid by the county in whose jurisdiction the offense was committed.

3. As used in this section, "initial emergency medical care" means medical care which is provided in the emergency area of a hospital not later than 72 hours after a victim first arrives at the hospital.

Sec. 6. NRS 217.310 is hereby amended to read as follows:

217.310 1. If any victim of sexual assault requires medical treatment for physical injuries as a result of the sexual assault, in addition to any initial emergency medical care provided, or if any victim or spouse of such a victim suffers emotional trauma as a result of the sexual assault, the victim or spouse may, upon submitting an affidavit as required by subsection 2, apply to the board of county commissioners in the county where the sexual assault occurred for treatment at county expense.

2. The board shall approve an application for treatment

upon receiving an affidavit from the applicant declaring that:

(a) The applicant is a victim of sexual assault or spouse of such a victim;

(b) The sexual assault occurred in the county; and

(c) The victim requires medical treatment for physical injuries, or the victim or spouse has suffered emotional trauma,

as a result of the sexual assault.

3. A victim who has suffered emotional trauma may select a relative or close friend to receive counseling with the victim. If the victim's application for treatment is approved, counseling for the relative or friend must also be approved.

4. The filing of a report with the appropriate law enforcement agency is a prerequisite to qualify for treatment under the provisions of this section.

Sec. 7. NRS 217.320 is hereby amended to read as follows:

217.320 1. Upon approval by the board of county commissioners as provided in NRS 217.310, medical treatment for the victim's physical injuries or treatment in the form of psychological, psychiatric and marital counseling for the victim [and] , the victim's spouse and any other eligible person must be made available at a county hospital or other

facility with which the board may contract for the purpose of providing such treatment.

2. Any costs for treatment provided pursuant to this section, not exceeding \$1,000, shall be paid by the county which authorized the treatment.

Sec. 8. Chapter 50 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any criminal action in which the defendant is charged with a crime which constitutes sexual abuse, as that term is defined in NRS 200.5011, the court may order the taking of a deposition of the victim on video tape upon a showing that he may be unable to testify without suffering unreasonable and unnecessary mental or emotional harm. A district judge must attend the taking of the deposition and may order such protection of the victim as he deems necessary.

2. The court may order that a deposition taken pursuant to subsection 1 be admitted at trial if:

(a) The victim is unable to testify without suffering unnecessary mental or emotional harm;

(b) The deposition was presided over by a district judge;

(c) The defendant was present and represented by counsel or waived counsel; and

(d) The defendant was given an adequate opportunity to

cross-examine the victim subject to such protection of the victim as the judge deemed necessary.

Sec. 9. NRS 449.244 is hereby amended to read as follows:

449.244 1. Any costs incurred by a hospital for:

(a) The examination of the victim of a sexual offense, when such examination is performed for the purposes of gathering evidence for possible prosecution of the person who committed the offense; or

(b) Initial emergency medical care for the victim, shall not be charged directly or indirectly to the victim. Such costs shall be charged to the county in whose jurisdiction the offense was committed.

2. Whenever costs are incurred by a hospital for treatment which has been approved by the board of county commissioners pursuant to NRS 217.310 for the victim of a sexual assault [or the spouse of such a victim, or both,] and any other person eligible for treatment, the costs of the treatment, not to exceed \$1,000, must be charged to the county which authorized the treatment. Any remainder must be handled the same as other hospital costs.

SUMMARY--Expands rights of victims in litigation against offenders.
(BDR 3-102)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to victims of crime; requiring actions against offenders by victims to be brought to trial within 90 days; providing that judgment of conviction is conclusive evidence in action by victim; prohibiting actions against victims by offenders; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SEN-
ATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Any action brought by a victim of a crime against the offender for injuries suffered as a result of the crime must be brought to trial within 90 days after commencement of the action.

2. If the offender has been convicted of the crime which resulted in the injury to the victim, the judgment of conviction is conclusive evidence of all facts necessary to sustain the conviction.

Sec. 3. A person who is convicted of committing or attempting to commit sexual assault, kidnaping, arson, robbery, burglary, sexual molestation of a child under the age of 14 years or any criminal homicide may not bring an action against the victim or the victim's estate for injuries sustained by the offender in the course of the crime.

SUMMARY--Urges Congress to provide money for compensation
for victims of crime. (BDR 103)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial
Insurance: No.

JOINT RESOLUTION--Urging the Congress of the
United States to enact promptly legislation which would
make money available to the states for compensation and
assistance for victims of crime.

WHEREAS, It is the policy of this state to provide assistance to persons who are victims of violent crimes or the dependents of victims of violent crimes; and

WHEREAS, Local agencies which provide assistance to victims of crime lack the money and organization to satisfy all of the needs of victims of crime; and

WHEREAS, Programs operated by states for compensating and assisting victims of crime could provide more complete assistance to victims of crime if the Federal Government provided financial assistance to the states; and

WHEREAS, State programs which provide compensation and assistance to victims of crime help to reinforce confidence in our system of criminal justice by recognizing that victims of crime, and not merely the offenders who have injured

them, have rights which must be protected; now, therefore,
be it

RESOLVED BY THE AND THE OF THE STATE OF
NEVADA, JOINTLY, That the Nevada legislature urges the Con-
gress of the United States to enact promptly appropriate
legislation to make money available to the states for pro-
grams which provide compensation and for organizations which
provide assistance to victims of crime; and be it further

RESOLVED, That a copy of this joint resolution be trans-
mitted by the legislative counsel to the President of the
United States, the Vice President as presiding officer of
the Senate, the Speaker of the House of Representatives and
each member of the Nevada congressional delegation; and be
it further

RESOLVED, That this resolution becomes effective upon pas-
sage and approval.

other to ensure that the needs of victims are satisfied quickly and courteously; and be it further

RESOLVED, That copies of this resolution be immediately transmitted by the legislative counsel to all district attorneys, agencies for law enforcement, hospitals, organizations which assist elderly persons and public and private agencies which assist victims of crime in this state.

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial
Insurance: Yes.

RESOLVED BY THE AND THE OF THE STATE
OF NEVADA, JOINTLY, That section 3 of article 11 of the con-
stitution of the State of Nevada be amended to read as fol-
lows:

291

among the several states of the union, approved A.D. eighteen hundred and forty-one; provided, that Congress make provision for or authorize such diversion to be made for the purpose herein contained; all estates that may escheat to the state; all of such per centum as may be granted by Congress on the sale of lands; [all fines collected under the penal laws of the state;] all property given or bequeathed to the state for educational purposes, and all proceeds derived from any or all of said sources shall be and the same are hereby solemnly pledged for educational purposes, and shall not be transferred to any other funds for other uses; and the interest thereon shall, from time to time, be apportioned among the several counties as the legislature may provide by law; and the legislature shall provide for the sale of floating land warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above-mentioned sources; provided, that the interest only of the aforesaid proceeds shall be used for educational purposes, and any surplus interest shall be added to the principal sum; and provided further, that such portion of said interest as may be necessary may be appropriated for the support of the state university.

2. All fines collected under the penal laws of this state are hereby solemnly pledged for the purposes of education

and compensation of victims of crime. The interest only on
such fines may be used in accordance with a formula estab-
lished by the legislature for dividing the interest between
the authorized purposes. The legislature shall apportion the
interest used for education among the several counties.

SUMMARY--Urges sheriffs and police departments to train officers to provide assistance to victims of crime. (BDR 106)

CONCURRENT RESOLUTION--Urging sheriffs and police departments to train their officers to provide assistance to victims of crime.

WHEREAS, A person who is a victim of crime may not be aware of his rights or of the programs which may benefit him; and

WHEREAS, A victim's first contact with the system of criminal justice is usually with a peace officer; and

WHEREAS, Local training of peace officers in the areas of the needs of victims, victims' rights and compensation for victims would improve their ability to aid victims of crime; now, therefore, be it

RESOLVED BY THE OF THE STATE OF NEVADA,
THE CONCURRING, That sheriffs and police departments in this state are urged to provide training to their peace officers on the needs of victims, victims' rights and programs for compensating victims of crime; and be it further

RESOLVED, That copies of this resolution be immediately transmitted by the legislative counsel to the sheriffs and police departments of this state.

SUMMARY--Exempts compensation for victims of crime from execution and related remedies for collection of debts. (BDR 16-107)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to compensation for victims of crime; exempting compensation from execution and related remedies for the collection of debts; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

Compensation which is awarded pursuant to NRS 217.010 to 217.270, inclusive, is exempt from levy, execution, attachment, or any other remedy provided for the collection of all debts, except debts incurred for necessities furnished to the person or his spouse or dependents.

SUMMARY--Requires notice to victim of crime of release or escape of offender. (BDR 16-108)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to victims of crime; requiring notification of victim upon release or escape of offender; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SEN-
ATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a victim of an offender provides his current address to the director and makes a written request for notification of the offender's release or escape, the director shall notify the victim if the offender:

(a) Will be released into the community for the purpose of employment, training or education, or for any other purpose for which release is authorized; or

(b) Has escaped from the custody of the department of prisons.

2. An offender must not be temporarily released into the community for any purpose unless notification of the release

has been given to every victim of the offender who has requested notification and has provided his current address. The director may not be held responsible for releasing an offender without giving notice to the victim if the address provided to the director is inaccurate or is not current.

3. As used in this section, "victim" has the meaning ascribed to it in NRS 213.005.

SUMMARY--Requires dissemination of information concerning compensation for victims of crime. (BDR 16-109)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to victims of crime; requiring the chief of the hearings division of the department of administration to disseminate information concerning benefits available to victims; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

The chief of the hearings division of the department of administration shall prepare and disseminate information describing the benefits available pursuant to this chapter to victims of crime.

SUMMARY--Requires training of peace officers in victims' rights. (BDR 14-110)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to peace officers' standards and training; requiring training concerning rights of victims; requiring allocation of additional amounts of money to peace officers' standards and training committee; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.061 is hereby amended to read as follows:

176.061 The state controller shall distribute the money received to the following public agencies in the following amounts for each \$6 received, up to the amount authorized by the legislature:

1. Five dollars to the office of the court administrator for allocation as follows:

- (a) Two dollars for the administration of the courts.
- (b) Two dollars for the development of a uniform system for judicial records.
- (c) One dollar for continuing judicial education.

2. One dollar for the peace officers' standards and training committee of the department of motor vehicles to be used for the continuing education of persons whose primary duty is law enforcement.

Any amounts received in excess of the amounts authorized for expenditure must be [deposited to the credit of the state general fund.] allocated to the peace officers' standards and training committee to be used for the continuing education of persons whose primary duty is law enforcement.

Sec. 2. NRS 481.053 is hereby amended to read as follows:

481.053 1. The director shall appoint the peace officers' standards and training committee.

2. The committee consists of three members, one appointed from Clark County, one from Washoe County and one from any other county. Members shall serve terms of 2 years from the date of appointment.

3. The committee shall:

(a) Meet at the call of the director.

(b) Provide for and encourage training and education of peace officers in order to improve the system of criminal justice.

(c) Adopt regulations establishing minimum standards for recruitment, selection and training of peace officers.

(d) Make necessary inquiries to determine whether agencies of the state and of local governments are complying with standards set forth in its regulations.

4. Regulations adopted by the committee:

(a) Apply to all agencies of the state and of local governments which employ persons as peace officers; and

(b) May require that training be carried on at institutions which it approves in those regulations.

5. Training for peace officers must include 4 hours of instruction concerning the needs of victims, victims' rights and programs which provide compensation for victims.

6. The director may adopt regulations necessary for the operation of the committee and the enforcement of laws administered by the committee.

