

A-Engrossed
Senate Bill 252

Ordered by the Senate March 14
Including Senate Amendments dated March 14

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Amends definitions of "compensable crime" and "injury" for purposes of crime victims' compensation. **Allows family of victim of custodial interference or kidnapping to be compensated for counseling expenses.**

A BILL FOR AN ACT

Relating to crime victims; creating new provisions; and amending ORS 147.005 and 147.035.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 147.005 is amended to read:

147.005. As used in ORS 135.905 and 147.005 to 147.367 unless the context requires otherwise:

(1) "Applicant" means:

(a) Any victim of a compensable crime who applies to the Department of Justice for compensation under ORS 135.905 and 147.005 to 147.367;

(b) Any person who was a dependent of a deceased victim at the time of the death of that victim;

(c) Any person who is a survivor of a deceased victim; or

(d) Any person eligible for compensation under ORS 147.025.

(2) "Board" means the Workers' Compensation Board.

(3) "Child" means an unmarried person who is under 18 years of age and includes a posthumous child, stepchild or an adopted child.

(4) "Compensable crime" means abuse of corpse in any degree or an intentional, knowing or reckless act that results in *[serious bodily]* injury or death of another person and *[which]* **that**, if committed by a person of full legal capacity, would be punishable as a crime in this state.

(5) "Dependent" means such relatives of a deceased victim who wholly or partially were dependent upon the victim's income at the time of death or would have been so dependent but for the victim's incapacity due to the injury from which the death resulted.

(6) "Department" means the Department of Justice.

(7) "Funeral expenses" means expenses of the funeral, burial, cremation or other chosen method of interment, including plot or tomb and other necessary incidents to the disposition of the remains and also including, in the case of abuse of corpse in any degree, reinterment.

[(8) "Injury" means abuse of a corpse or actual bodily harm and, with respect to a victim, includes pregnancy and mental or nervous shock.]

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(8) “Injury” means abuse of a corpse, substantial physical injury, pregnancy or substan-**
2 **tial psychological injury.**

3 (9) “International terrorism” means activities that:

4 (a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws
5 of the United States or any state or that would be a criminal violation if committed within the ju-
6 risdiction of the United States or of any state;

7 (b) Appear to be intended to:

8 (A) Intimidate or coerce a civilian population;

9 (B) Influence the policy of a government by intimidation or coercion; or

10 (C) Affect the conduct of a government by assassination or kidnapping; and

11 (c) Occur primarily outside the territorial jurisdiction of the United States or transcend national
12 boundaries in terms of the means by which they are accomplished, the persons they appear intended
13 to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

14 (10) “Law enforcement official” means a sheriff, constable, marshal, municipal police officer or
15 member of the Oregon State Police and such other persons as may be designated by law as a peace
16 officer.

17 (11) “Relative” means a person related to the victim within the third degree as determined by
18 the common law, a spouse, or an individual related to the spouse within the third degree as so de-
19 termined and includes an individual in an adoptive relationship.

20 (12) “Survivor” means any spouse, parent, grandparent, guardian, sibling, child or other imme-
21 diate family member or household member of a deceased victim.

22 (13) “Victim” means:

23 (a) A person:

24 (A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted
25 against that person;

26 (B) Killed or injured in this state while attempting to assist a person against whom a
27 compensable crime is being perpetrated or attempted, if that attempt of assistance would be ex-
28 pected of a reasonable person under the circumstances;

29 (C) Killed or injured in this state while assisting a law enforcement official to apprehend a
30 person who has perpetrated a crime or to prevent the perpetration of any such crime, if that as-
31 sistance was in response to the express request of the law enforcement official;

32 (D) Killed or injured in another state as a result of a criminal episode that began in this state;

33 (E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated
34 or attempted against the person in a state, within the United States, without a reciprocal crime
35 victims’ compensation program; or

36 (F) Who is an Oregon resident killed or injured by an act of international terrorism committed
37 outside the United States; or

38 (b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse.

39 **SECTION 2.** ORS 147.035 is amended to read:

40 147.035. (1) Losses compensable under ORS 135.905 and 147.005 to 147.367 resulting from death
41 or injury to a victim include:

42 (a) In the case of injury:

43 (A) Reasonable medical and hospital expenses, including psychiatric, psychological or counseling
44 expenses and further including, in cases of:

45 (i) Child sexual abuse, rape of a child and exploitation described in ORS 419B.005 (1)(a)(C), (D)

1 or (E), **custodial interference, as defined in ORS 163.245 or 163.257, or kidnapping, as defined**
2 **in ORS 163.225 or 163.235, when the victim is a child**, counseling expenses of the victim's family
3 up to a maximum amount of \$20,000;

4 (ii) Domestic violence, as defined in ORS 135.230, counseling expenses of children who witnessed
5 the domestic violence up to a maximum amount of \$10,000; or

6 (iii) International terrorism, counseling expenses of a relative of the victim up to a maximum
7 amount of \$1,000;

8 (B) Loss of earnings, not exceeding \$400 per week up to a maximum amount of \$20,000;

9 (C) Rehabilitation up to a maximum amount of \$4,000; and

10 (D) Transportation for medical care and mental health counseling when the treatment is
11 compensable under this section, the treatment is provided more than 30 miles away from the victim's
12 residence and adequate treatment is not available closer to the victim's residence. Payment will be
13 made at a rate set by the Department of Justice up to a maximum amount of \$3,000.

14 (b) In the case of death:

15 (A) Reasonable funeral expenses up to a maximum amount of \$5,000;

16 (B) Reasonable medical and hospital expenses up to a maximum amount of \$20,000;

17 (C) Loss of support to the dependents of the victim not exceeding \$400 per week up to a maxi-
18 mum amount of \$20,000, less any amounts paid for loss of earnings;

19 (D) Reasonable counseling expenses for the survivors of a deceased victim up to a maximum
20 amount of \$20,000 for each deceased victim; and

21 (E) Transportation for mental health counseling when the treatment is compensable under this
22 section, the treatment is provided more than 30 miles away from the survivor's or dependent's resi-
23 dence and adequate treatment is not available closer to the survivor's or dependent's residence.
24 Payment will be made at a rate set by the Department of Justice up to a maximum amount of \$3,000.

25 (2) Compensable losses do not include:

26 (a) Pain and suffering or property damage; or

27 (b) Aggregate damages to the victim and to the dependents of a victim exceeding \$44,000.

28 (3) Notwithstanding subsections (1) and (2) of this section, in the case of abuse of corpse in any
29 degree, losses compensable under ORS 135.905 and 147.005 to 147.367 resulting from the abuse of the
30 corpse include:

31 (a) Reasonable funeral expenses up to a maximum amount of \$5,000; and

32 (b) Reasonable counseling expenses for emotional distress up to a maximum amount of \$5,000 for
33 each incident.

34 (4) Except as provided in subsection (5) of this section, a claim for benefits expires and no fur-
35 ther payments may be made with regard to the claim when three years have elapsed since the entry
36 of a determination order under ORS 147.135 or when the victim, survivor or dependent attains 21
37 years of age, whichever comes later. The extension of benefits and payments until the victim, sur-
38 vivor or dependent attains 21 years of age applies to claims filed on or after August 4, 1991.

39 (5) If the victim has suffered catastrophic injuries, a claim for benefits and payments may con-
40 tinue beyond the period described in subsection (4) of this section. The Department of Justice shall
41 adopt rules defining catastrophic injuries and establishing the length of time that a claim for bene-
42 fits and payments may continue.

43 (6) The department shall adopt rules for medical fee schedules. The schedules shall represent
44 at least the 75th percentile of the usual and customary fees charged to the public as determined by
45 the department. An applicant or victim may not be charged for the percentile amount reduced by

1 the department.

2 **SECTION 3. The amendments to ORS 147.005 and 147.035 by sections 1 and 2 of this 2005**
3 **Act apply to applications for compensation filed under ORS 147.105 on or after the effective**
4 **date of this 2005 Act.**

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