

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 4-100

"Victims of Violent Crime Compensation Act
of 1981".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-361 on first and second readings, January 26, 1982 and February 9, 1982, respectively. Following the signature of the Mayor on February 22, 1982, this legislation was assigned Act No. 4-158, published in the March 5, 1982 edition of the D.C. Register, (Vol. 29 page 969) and transmitted to Congress on February 23, 1982 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-100, effective April 6, 1982.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

February	23, 24, 25, 26
March	1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31
April	1, 2, 5

D.C. LAW 4-100
EFFECTIVE DATE APR 06 1982

Enrolled Original

AN ACT
D.C. ACT 4-158

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEB 22 1982

To provide compensation to innocent victims of violent crime who have no other source of compensation, to establish a fund for the payment of such compensation, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Victims of Violent Crime Compensation Act of 1981".

Sec. 2. Definitions.

For the purposes of this act the term:

(1) "Claimant" means any person who claims for compensation under this act and who is:

(A) a victim;

(B) a surviving dependent of a deceased victim; or

(C) a person who is responsible for the maintenance and support of a victim and who incurs expenses on behalf of the victim for economic loss incurred as a result of the injury or death of the victim. The term "claimant" shall not include a collateral source.

(2) "Collateral source" means a source of

CODIFICATION
D.C. Code,
title 3,
new chapter 4
(1981 ed.)

D.C. Code,
sec. 3-401
(1981 ed.)

benefits or compensation received by or available to a claimant on account of economic loss which results directly or indirectly from a crime of violence and which is otherwise compensable under this act.

Collateral source includes, but is not limited to, payment or benefits from:

(A) the offender;

(B) the United States, the District of Columbia, a state or territory of the United States or any of its political subdivisions, or any agency of the foregoing, including, but not limited to, social security, Medicare, Medicaid, workers' compensation, and public employees' disability compensation;

(C) wage continuation programs of any employer; or

(D) any contract of life, health, disability, liability, or fire and casualty insurance, and any contract providing prepaid health benefits.

(3) "Crime of violence" or "crime" means any of the following or an attempt to commit any of the following offenses: arson, assault, forcible sodomy, kidnapping, maliciously disfiguring another, manslaughter, murder, mayhem, rape, riot, robbery, sodomy of a child less than sixteen (16) years of age, and unlawful use of explosives. The term "crime of violence" or "crime" shall include any of the preceding list of offenses notwithstanding that the offender

lacked capacity to commit the crime by reason of infancy, insanity, intoxication, or otherwise. The term "crime of violence" or "crime" shall not include the operation of an automobile, boat, aircraft, or other vehicle that results in injury or death unless the injury or death was intentionally inflicted through use of such automobile, boat, aircraft, or vehicle.

(4) "Dependent" means any person who is a survivor of a victim and who depended upon the victim for more than one-half ($\frac{1}{2}$) of his or her support at the time of the commission of the crime upon which the claim is based.

(5) "Economic loss" means:

(A) for a victim or person responsible for the maintenance of a victim as described in section 2(1)(C):

(i) all actual and reasonable expenses fairly incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including non-medical care and treatment rendered in accordance with a method of healing recognized by District of Columbia law;

(ii) all actual and reasonable expenses fairly incurred for physical and occupational therapy and rehabilitation; and

(iii) loss of net income; and

(B) for a dependent or person responsible for the maintenance of a victim as described in section 2(1)(C) of this act:

(i) actual expenses of the victim's funeral and burial but not to the extent that the expenses exceed two thousand dollars (\$2,000);

(ii) loss of the victim's support;

(iii) loss of the victim's services, including housekeeping and child care services; and

(iv) all actual and reasonable expenses incurred for medical treatment (including ambulance, hospital, surgical, nursing, and other medical and professional services and devices) of the victim prior to his or her death which results from a crime of violence.

The term "economic loss" shall not include pain and suffering.

(6) "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(7) "Victim" means any person, except a law enforcement or fire officer engaged in performance of his or her duties, who is killed or injured in the District of Columbia:

(A) as a result of a crime of violence;

(B) while assisting lawfully to apprehend a person reasonably suspected of having committed or attempted a crime of violence;

(C) while assisting a person against whom a crime of violence has been committed or attempted, provided that the assistance was rendered in a reasonable manner; or

(D) while attempting to prevent the commission of a crime of violence.

The term "victim" shall not include any person who committed or aided in the commission of the crime upon which a claim is based or who was injured or killed as an indirect result of his or her participation in an unlawful and criminal activity.

Sec. 3. Eligibility.

(a) Except as provided in subsection (b), a claimant is eligible for compensation under this act subject to the following conditions:

D.C. Code,
sec. 3-4
(1981 ed.)

(1) The crime of violence upon which the claim is based was reported to the Metropolitan Police Department not more than seven (7) days after it occurred, except that this requirement may be waived for good cause shown.

(2) The claimant files a claim on a form supplied by the Mayor and submits all information and documents as may be required, within one hundred eighty (180) days after the crime occurred, except that this time limit may be extended for good cause shown.

(3) The claimant was, at the time of the commission of the crime upon which the claim is based,

either:

(A) a resident of the District of Columbia; or

(B) a resident of a state or territory that provides compensation to residents of the District of Columbia who are killed or injured in that state or territory as a result of a crime of violence.

(4) The claimant has suffered economic loss in an amount exceeding one hundred dollars (\$100) as a result of the crime of violence upon which the claim is based.

(5) The offender will not be unjustly enriched by an award of compensation to the claimant, except that this requirement may be waived in cases involving extraordinary circumstances where the interests of justice so require.

(b) A claimant shall not be eligible for compensation under this act if the claimant committed or aided in the commission of the crime upon which the claim is based.

Sec. 4. Awards of Compensation.

(a) Limitation on award of compensation.

Claims shall be processed and maintained in the order of their filing, but no final award of compensation shall be made unless the Crime Victim's Compensation Fund contains sufficient monies to pay the award.

D.C. Code,
sec. 3-403
(1981 ed.)

(b) Amount of award.

Subject to the provisions of subsection (c), the amount of compensation awarded shall be equal to the amount of the claimant's economic loss, decreased by all amounts received by or available to the claimant from collateral sources. No compensation shall be awarded under this act in an amount exceeding twenty-five thousand dollars (\$25,000).

(c) Reduction or denial of award.

(1) An award of compensation shall be denied if it is determined that the claimant will not suffer undue financial hardship if not granted financial assistance pursuant to this act. A claimant suffers undue financial hardship if the claimant cannot maintain the customary level of health, safety, and education for himself or herself or his or her dependents. In determining whether the claimant will suffer undue financial hardship, all relevant factors shall be taken into consideration, including, but not limited to: (A) the number of the claimant's dependents; (B) the usual and ordinary living expenses of the claimant and the claimant's dependents; (C) any special needs of the claimant and the claimant's dependents; (D) the claimant's income and potential earning capacity; and (E) the claimant's resources. If the claimant is sixty-five (65) years of age or older, the value of the claimant's house and any savings up to

an amount of ten thousand dollars (\$10,000) shall not be taken into consideration in determining whether the claimant will suffer undue financial hardship.

(2) An award of compensation may be reduced, reconsidered, or denied because of misconduct of the victim or claimant that contributed to the crime or the amount of economic loss.

(3) An award of compensation may be reduced, reconsidered, or denied if the victim or claimant has not reasonably cooperated with law enforcement officials to apprehend and prosecute the offender, except that refusal of a victim or claimant to testify against the offender may be excused if testifying would subject the victim or claimant to a substantial risk of serious physical or emotional injury. It is not necessary that an offender either be apprehended or convicted in order for compensation to be awarded under this act.

(d) Manner of payment.

(1) Compensation awarded under this act may be paid in lump sum or in installments.

(2) Payments for allowable expenses may be paid directly to a service provider.

(3) If there are two (2) or more claimants entitled to an award of compensation as a result of the death or injury of a victim, the award shall be apportioned among the claimants.

Sec. 5. Emergency Awards.

If it appears likely that a final award will be made and that the claimant will suffer undue hardship if immediate financial assistance is not granted, an emergency award in an amount not to exceed one thousand dollars (\$1,000) may be made prior to a final determination on a claim. The amount of the emergency award shall be deducted from the final award or repaid by the claimant if it is determined that no compensation will be awarded.

D.C.Code,
sec. 3-404
(1981 ed.)

Sec. 6. Attorney's Fees.

(a) In addition to the amount of compensation awarded to a successful claimant, a reasonable fee may be awarded to the claimant's attorney for services rendered in connection with any claim under this act. The fee may not exceed ten percentum (10%) of the amount of the claimant's award or one thousand dollars (\$1,000), whichever is less.

D.C.Code,
sec. 3-405
(1981 ed.)

(b) Except for necessary costs, an attorney shall not charge, demand, receive, or collect any fee for services rendered in connection with any claim under this act in an amount larger than permitted by this section.

Sec. 7. Subrogation and Preservation of Civil Actions.

(a) Nothing in this act shall deprive the claimant or the claimant's successors in interest of

D.C.Code,
sec. 3-406
(1981 ed.)

the right to recover damages or restitution from the offender.

(b) The District of Columbia shall be subrogated to the claimant's right against the offender to the extent of any compensation awarded under this act. The District of Columbia may initiate a suit against the offender for damages or restitution. The District of Columbia shall be notified by the plaintiff of the institution of any suit against the offender for damages or restitution and may intervene in such suit. The District of Columbia shall have a lien on any recovery made from such suit. All monies recovered through such subrogation shall be deposited in the District of Columbia Treasury to the credit of the Crime Victims' Compensation Fund.

Sec. 8. Execution and Attachment.

Any agreement by a person to waive, release, or commute his or her rights under this act is void. Compensation awarded under this act is exempt from execution, attachment, or other remedy for recovery or collection of debt, except for expenses resulting from injury or death which is the basis for the claim.

D.C.Code,
sec. 3-407
(1981 ed.)

Sec. 9. False Claims.

(a) Any person who knowingly submits false information in support of a claim under this act or knowingly suppresses relevant information concerning a claim under this act shall be guilty of a misdemeanor

D.C.Code,
sec. 3-408
(1981 ed.)

and, upon conviction, shall be fined not more than two thousand dollars (\$2,000) or imprisoned for not more than one (1) year, or both. A person convicted of an offense under subsection (a), shall forfeit any compensation under this act and shall reimburse and repay to the District of Columbia any compensation received pursuant to this act.

Sec. 10. Administration; Annual Report to Council.

(a) The Mayor shall administer the provisions of this act, and shall issue such rules as may be necessary to carry out the provisions and purposes of this act.

(b) The Mayor shall report annually to the Council of the District of Columbia on the status and activities of the victims' compensation program. The report shall include, but is not limited to, the following information: total number of claims filed, the number of claims approved and the amount of each award, the number of claims denied, the number of contested cases, the number of cases in which the claimant was represented by an attorney, the cumulative total of attorneys' fees paid, the number of cases pending, and the future liability of the Crime Victims' Compensation Fund.

Sec. 11. Duties and Powers of Mayor.

The Mayor shall:

D.C.Code,
sec. 3-409
(1981 ed.)

D.C.Code,
sec. 3-410
(1981 ed.)

(1) Investigate claims filed pursuant to this act and request from any agency or department of the District of Columbia government such information, data, and assistance as will enable the Mayor to determine if, in fact, a crime was committed or attempted and the extent, if any, to which the victim or claimant was responsible for his or her injury or death.

(2) Determine all claims filed pursuant to this act and reinvestigate or reopen cases as deemed necessary.

(3) Conduct hearings as provided in section 12(b); administer oaths or affirmations; examine any witnesses; issue subpoenas to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence; and take or cause to be taken depositions or affidavits.

(4) Require and direct medical examination of victims if deemed necessary.

(5) Do all things in conformity with the law which may be necessary to discharge the administration of this act effectively.

Sec. 12. Procedure.

(a) Filing.

(1) A claim shall be initiated when the claimant timely submits to the Mayor a completed claim form under oath or affirmation.

D.C. Code,
sec. 3-411
(1981 ed.)

(2) Each claim shall be accompanied by a filing fee of five dollars (\$5), which shall be deposited to the credit of the Crime Victims' Compensation Fund. The filing fee may be waived or reduced for good cause shown.

(3) Claims may be filed in person or by mail.

(4) A claim may be filed by a person eligible for compensation as provided in section 3, or if such person is a minor or legally incompetent, by his or her parent, guardian, or personal representative.

(b) Determination of claim.

(1) Upon receipt of a claim, the Mayor shall examine all written information submitted by the claimant and other such documentary evidence. The Mayor may require from the claimant such additional information and shall conduct such investigation as is necessary to enable the Mayor to determine whether the claimant is eligible for compensation, and the amount, if any, of compensation to be awarded.

(2) The Mayor shall make a preliminary determination of the claimant's eligibility and the amount, if any, of compensation to be awarded. A notice of the preliminary determination shall be sent to the claimant by first class mail. The notice shall also include the date, time, and place of a hearing to

be held not less than fourteen (14) days after the notice is mailed. If the claimant chooses to forgo the hearing, the preliminary determination shall be made final. If new evidence is obtained which would change the determination, the determination may be modified. If the determination is modified, notice of the revised determination and notice of hearing shall be mailed to the claimant. If the claimant chooses to forgo the hearing or does not appear, the modified determination shall be made final.

(3) If the claimant chooses to contest the preliminary or modified determination, the case shall be determined by the Mayor in accordance with section 109 (contested cases) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1969; D.C. Code, sec. 1-1509).

(4) The claimant may agree in writing to a final determination at any time.

(5) The claimant shall be given written notice of the final determination of the claim. If the final determination was made pursuant to a hearing, the notice shall state findings of fact and conclusions of law.

(6) A case may be reopened at any time if new evidence reveals that the claimant was not eligible, was guilty of misconduct that contributed to the crime or to the economic loss, knowingly provided

false information, or suppressed relevant information concerning a claim.

(c) Confidentiality.

The record of a hearing conducted pursuant to subsection (b)(3) shall be a public record. However, any record or report obtained by the Mayor, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

Sec. 13. Judicial Review.

A final determination by the Mayor under this act may be appealed to the District of Columbia Court of Appeals in accordance with section 110 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Code, sec. 1-1510).

D.C. Code,
sec. 3-412
(1981 ed.)

Sec. 14. Crime Victims' Compensation Fund.

(a) A fund is established in the District of Columbia, to be known as the Crime Victims' Compensation Fund ("fund"), for the purpose of accounting for the financial operations of this act. The fund shall be classified by the Mayor pursuant to section 6 of the District of Columbia Fund Accounting Act of 1980, effective June 14, 1980 (D.C. Law 3-70; D.C. Code, sec. 47-375). The fund shall be administered by the Mayor.

D.C. Code,
sec. 3-413
(1981 ed.)

(b) All compensation and attorneys' fees awarded

under sections 4, 5, and 6 shall be paid from and be subject to the availability of monies in the fund. All administrative costs necessary to carry out this act shall be borne by the General Fund.

(c) The monies in the fund shall consist of, and there shall be deposited in the District Treasury to the credit of the fund, any appropriations to the funds under section 16, monies recovered through subrogation under section 7, repayments under sections 5 and 9, costs imposed under section 15, filing fees under section 12, and monies received from the federal government or any other public or private source for the purposes of the fund. Monies in the fund may be invested by the Mayor in accordance with section 3 of the District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32; D.C. Code, sec. 47-342).

Sec. 15. Costs.

In addition to and separate from any punishment imposed, a cost of at least twenty dollars (\$20) and not more than five hundred dollars (\$500) for each felony charge, and a cost of ten dollars (\$10) for each misdemeanor charge, shall be imposed upon each person convicted of or pleading guilty or nolo contendere to such charge in the Superior Court of the District of Columbia ("Court"). The amount of costs assessed under this section for felonies shall be determined by the

D.C. Code,
sec. 3-414
(1981 ed.)

courts on the basis of the estimated severity of the injury or loss caused by the crime. The decision of the court regarding costs shall be final. If at the time of conviction or plea any such person is indigent, as determined by the court, and is later employed for wages, salary or other compensation while released on probation or parole, or is incarcerated in any facility of the Department of Corrections and is paid wages for work performed therein, the amount of the cost shall be paid from such wages, salary or other compensation. All such costs shall be payable to the District of Columbia Treasurer for deposit to the credit of the Crime Victims' Compensation Fund.

Sec. 16. Authorization of Appropriations.

Funds are authorized to be appropriated as necessary to carry out the purposes of this act.

D.C.Code,
sec. 3-415
(1981 ed.)

Sec. 17. Severability.

If any portion of this act is held invalid for any reason by a court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision, and such holding shall not affect the validity of any remaining provisions.

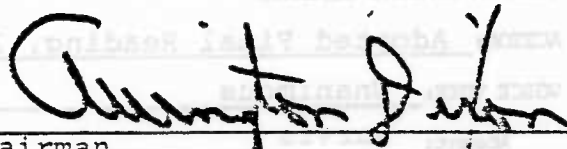
D.C.Code,
sec. 3-416
(1981 ed.)

Sec. 18. Effective Dates.

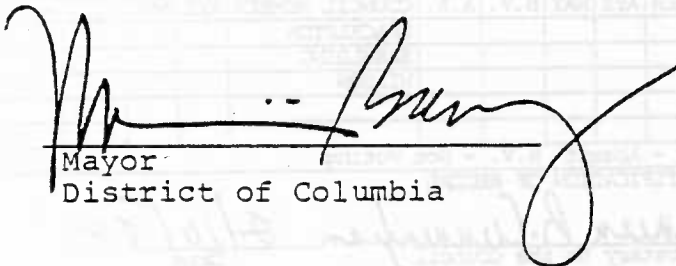
(a) Claims for compensation may be initiated under this act for economic loss sustained as the result of crimes of violence committed after September 30, 1982.

D.C.Code,
sec. 3-417
(1981 ed.)

(b) This act shall take effect after a thirty (30)-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: February 22, 1982



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Four

First Session

DOCKET NO: B 4-361

Item on Consent Calendar

ACTION: Adopted First Reading, 1-26-82

VOICE VOTE: Unanimous

Absent: Crawford, Wilson and Moore

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD
Vivian B. Cunningham 2/10/82
Secretary to the Council Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 2-9-82

VOICE VOTE: Unanimous

Absent: Jarvis

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD
Vivian B. Cunningham 2/10/82
Secretary to the Council Date

Item on Consent Calendar

ACTION: _____

VOICE VOTE: _____

Absent: _____

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHM. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

Secretary to the Council Date