



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3693

Introduced 2/10/2012, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Unified Code of Corrections. Provides that when a victim's out-of-pocket expenses have been paid under the Crime Victims Compensation Act, the court shall order restitution to be paid to the compensation program. Amends the Crime Victims Compensation Act. Adds to the definition of "crime of violence" certain offenses under the Criminal Code of 1961 relating to the death of an unborn child, the Stalking No Contact Order Act, the Civil No Contact Order Act, and the Illinois Vehicle Code. Adds to the definition of "victim" the spouse of a person killed or injured as a result of a crime of violence. Defines "parent". Adds categories of benefits, payments, or awards that a victim must report on the compensation program application. Sets forth a procedure for a rehearing before the Court of Claims. Provides that an applicant must report if an offender is ordered by a court to pay restitution. Provides that only the Court of Claims may reduce the State's lien under the Crime Victims Compensation Act. Amends the Health Care Services Lien Act to provide that under that Act only the Court of Claims may reduce a lien created under the Crime Victims Compensation Act. Makes other changes.

LRB097 17927 AJ0 65626 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning crime victims compensation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 5-5-6 as follows:

6 (730 ILCS 5/5-5-6) (from Ch. 38, par. 1005-5-6)

7 Sec. 5-5-6. In all convictions for offenses in violation of  
8 the Criminal Code of 1961 or of Section 11-501 of the Illinois  
9 Vehicle Code in which the person received any injury to his or  
10 her person or damage to his or her real or personal property as  
11 a result of the criminal act of the defendant, the court shall  
12 order restitution as provided in this Section. In all other  
13 cases, except cases in which restitution is required under this  
14 Section, the court must at the sentence hearing determine  
15 whether restitution is an appropriate sentence to be imposed on  
16 each defendant convicted of an offense. If the court determines  
17 that an order directing the offender to make restitution is  
18 appropriate, the offender may be sentenced to make restitution.  
19 The court may consider restitution an appropriate sentence to  
20 be imposed on each defendant convicted of an offense in  
21 addition to a sentence of imprisonment. The sentence of the  
22 defendant to a term of imprisonment is not a mitigating factor  
23 that prevents the court from ordering the defendant to pay

1 restitution. If the offender is sentenced to make restitution  
2 the Court shall determine the restitution as hereinafter set  
3 forth:

4 (a) At the sentence hearing, the court shall determine  
5 whether the property may be restored in kind to the  
6 possession of the owner or the person entitled to  
7 possession thereof; or whether the defendant is possessed  
8 of sufficient skill to repair and restore property damaged;  
9 or whether the defendant should be required to make  
10 restitution in cash, for out-of-pocket expenses, damages,  
11 losses, or injuries found to have been proximately caused  
12 by the conduct of the defendant or another for whom the  
13 defendant is legally accountable under the provisions of  
14 Article V of the Criminal Code of 1961.

15 (b) In fixing the amount of restitution to be paid in  
16 cash, the court shall allow credit for property returned in  
17 kind, for property damages ordered to be repaired by the  
18 defendant, and for property ordered to be restored by the  
19 defendant; and after granting the credit, the court shall  
20 assess the actual out-of-pocket expenses, losses, damages,  
21 and injuries suffered by the victim named in the charge and  
22 any other victims who may also have suffered out-of-pocket  
23 expenses, losses, damages, and injuries proximately caused  
24 by the same criminal conduct of the defendant, and  
25 insurance carriers who have indemnified the named victim or  
26 other victims for the out-of-pocket expenses, losses,

1 damages, or injuries, provided that in no event shall  
2 restitution be ordered to be paid on account of pain and  
3 suffering. When a victim's out-of-pocket expenses have  
4 been paid pursuant to the Crime Victims Compensation Act,  
5 the court shall order restitution be paid to the  
6 compensation program. If a defendant is placed on  
7 supervision for, or convicted of, domestic battery, the  
8 defendant shall be required to pay restitution to any  
9 domestic violence shelter in which the victim and any other  
10 family or household members lived because of the domestic  
11 battery. The amount of the restitution shall equal the  
12 actual expenses of the domestic violence shelter in  
13 providing housing and any other services for the victim and  
14 any other family or household members living at the  
15 shelter. If a defendant fails to pay restitution in the  
16 manner or within the time period specified by the court,  
17 the court may enter an order directing the sheriff to seize  
18 any real or personal property of a defendant to the extent  
19 necessary to satisfy the order of restitution and dispose  
20 of the property by public sale. All proceeds from such sale  
21 in excess of the amount of restitution plus court costs and  
22 the costs of the sheriff in conducting the sale shall be  
23 paid to the defendant. The defendant convicted of domestic  
24 battery, if a person under 18 years of age was present and  
25 witnessed the domestic battery of the victim, is liable to  
26 pay restitution for the cost of any counseling required for

1 the child at the discretion of the court.

2 (c) In cases where more than one defendant is  
3 accountable for the same criminal conduct that results in  
4 out-of-pocket expenses, losses, damages, or injuries, each  
5 defendant shall be ordered to pay restitution in the amount  
6 of the total actual out-of-pocket expenses, losses,  
7 damages, or injuries to the victim proximately caused by  
8 the conduct of all of the defendants who are legally  
9 accountable for the offense.

10 (1) In no event shall the victim be entitled to  
11 recover restitution in excess of the actual  
12 out-of-pocket expenses, losses, damages, or injuries,  
13 proximately caused by the conduct of all of the  
14 defendants.

15 (2) As between the defendants, the court may  
16 apportion the restitution that is payable in  
17 proportion to each co-defendant's culpability in the  
18 commission of the offense.

19 (3) In the absence of a specific order apportioning  
20 the restitution, each defendant shall bear his pro rata  
21 share of the restitution.

22 (4) As between the defendants, each defendant  
23 shall be entitled to a pro rata reduction in the total  
24 restitution required to be paid to the victim for  
25 amounts of restitution actually paid by co-defendants,  
26 and defendants who shall have paid more than their pro

1           rata share shall be entitled to refunds to be computed  
2           by the court as additional amounts are paid by  
3           co-defendants.

4           (d) In instances where a defendant has more than one  
5           criminal charge pending against him in a single case, or  
6           more than one case, and the defendant stands convicted of  
7           one or more charges, a plea agreement negotiated by the  
8           State's Attorney and the defendants may require the  
9           defendant to make restitution to victims of charges that  
10          have been dismissed or which it is contemplated will be  
11          dismissed under the terms of the plea agreement, and under  
12          the agreement, the court may impose a sentence of  
13          restitution on the charge or charges of which the defendant  
14          has been convicted that would require the defendant to make  
15          restitution to victims of other offenses as provided in the  
16          plea agreement.

17          (e) The court may require the defendant to apply the  
18          balance of the cash bond, after payment of court costs, and  
19          any fine that may be imposed to the payment of restitution.

20          (f) Taking into consideration the ability of the  
21          defendant to pay, including any real or personal property  
22          or any other assets of the defendant, the court shall  
23          determine whether restitution shall be paid in a single  
24          payment or in installments, and shall fix a period of time  
25          not in excess of 5 years, except for violations of Sections  
26          16-1.3 and 17-56 of the Criminal Code of 1961, or the

1 period of time specified in subsection (f-1), not including  
2 periods of incarceration, within which payment of  
3 restitution is to be paid in full. Complete restitution  
4 shall be paid in as short a time period as possible.  
5 However, if the court deems it necessary and in the best  
6 interest of the victim, the court may extend beyond 5 years  
7 the period of time within which the payment of restitution  
8 is to be paid. If the defendant is ordered to pay  
9 restitution and the court orders that restitution is to be  
10 paid over a period greater than 6 months, the court shall  
11 order that the defendant make monthly payments; the court  
12 may waive this requirement of monthly payments only if  
13 there is a specific finding of good cause for waiver.

14 (f-1) (1) In addition to any other penalty prescribed by  
15 law and any restitution ordered under this Section that did  
16 not include long-term physical health care costs, the court  
17 may, upon conviction of any misdemeanor or felony, order a  
18 defendant to pay restitution to a victim in accordance with  
19 the provisions of this subsection (f-1) if the victim has  
20 suffered physical injury as a result of the offense that is  
21 reasonably probable to require or has required long-term  
22 physical health care for more than 3 months. As used in  
23 this subsection (f-1) "long-term physical health care"  
24 includes mental health care.

25 (2) The victim's estimate of long-term physical health  
26 care costs may be made as part of a victim impact statement

1 under Section 6 of the Rights of Crime Victims and  
2 Witnesses Act or made separately. The court shall enter the  
3 long-term physical health care restitution order at the  
4 time of sentencing. An order of restitution made under this  
5 subsection (f-1) shall fix a monthly amount to be paid by  
6 the defendant for as long as long-term physical health care  
7 of the victim is required as a result of the offense. The  
8 order may exceed the length of any sentence imposed upon  
9 the defendant for the criminal activity. The court shall  
10 include as a special finding in the judgment of conviction  
11 its determination of the monthly cost of long-term physical  
12 health care.

13 (3) After a sentencing order has been entered, the  
14 court may from time to time, on the petition of either the  
15 defendant or the victim, or upon its own motion, enter an  
16 order for restitution for long-term physical care or modify  
17 the existing order for restitution for long-term physical  
18 care as to the amount of monthly payments. Any modification  
19 of the order shall be based only upon a substantial change  
20 of circumstances relating to the cost of long-term physical  
21 health care or the financial condition of either the  
22 defendant or the victim. The petition shall be filed as  
23 part of the original criminal docket.

24 (g) In addition to the sentences provided for in  
25 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,  
26 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14,



1 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of  
2 Section 11-14.4, of the Criminal Code of 1961, the court  
3 may order any person who is convicted of violating any of  
4 those Sections or who was charged with any of those  
5 offenses and which charge was reduced to another charge as  
6 a result of a plea agreement under subsection (d) of this  
7 Section to meet all or any portion of the financial  
8 obligations of treatment, including but not limited to  
9 medical, psychiatric, or rehabilitative treatment or  
10 psychological counseling, prescribed for the victim or  
11 victims of the offense.

12 The payments shall be made by the defendant to the  
13 clerk of the circuit court and transmitted by the clerk to  
14 the appropriate person or agency as directed by the court.  
15 Except as otherwise provided in subsection (f-1), the order  
16 may require such payments to be made for a period not to  
17 exceed 5 years after sentencing, not including periods of  
18 incarceration.

19 (h) The judge may enter an order of withholding to  
20 collect the amount of restitution owed in accordance with  
21 Part 8 of Article XII of the Code of Civil Procedure.

22 (i) A sentence of restitution may be modified or  
23 revoked by the court if the offender commits another  
24 offense, or the offender fails to make restitution as  
25 ordered by the court, but no sentence to make restitution  
26 shall be revoked unless the court shall find that the

1 offender has had the financial ability to make restitution,  
2 and he has wilfully refused to do so. When the offender's  
3 ability to pay restitution was established at the time an  
4 order of restitution was entered or modified, or when the  
5 offender's ability to pay was based on the offender's  
6 willingness to make restitution as part of a plea agreement  
7 made at the time the order of restitution was entered or  
8 modified, there is a rebuttable presumption that the facts  
9 and circumstances considered by the court at the hearing at  
10 which the order of restitution was entered or modified  
11 regarding the offender's ability or willingness to pay  
12 restitution have not materially changed. If the court shall  
13 find that the defendant has failed to make restitution and  
14 that the failure is not wilful, the court may impose an  
15 additional period of time within which to make restitution.  
16 The length of the additional period shall not be more than  
17 2 years. The court shall retain all of the incidents of the  
18 original sentence, including the authority to modify or  
19 enlarge the conditions, and to revoke or further modify the  
20 sentence if the conditions of payment are violated during  
21 the additional period.

22 (j) The procedure upon the filing of a Petition to  
23 Revoke a sentence to make restitution shall be the same as  
24 the procedures set forth in Section 5-6-4 of this Code  
25 governing violation, modification, or revocation of  
26 Probation, of Conditional Discharge, or of Supervision.

1           (k) Nothing contained in this Section shall preclude  
2           the right of any party to proceed in a civil action to  
3           recover for any damages incurred due to the criminal  
4           misconduct of the defendant.

5           (1) Restitution ordered under this Section shall not be  
6           subject to disbursement by the circuit clerk under Section  
7           27.5 of the Clerks of Courts Act.

8           (m) A restitution order under this Section is a  
9           judgment lien in favor of the victim that:

10           (1) Attaches to the property of the person subject  
11           to the order;

12           (2) May be perfected in the same manner as provided  
13           in Part 3 of Article 9 of the Uniform Commercial Code;

14           (3) May be enforced to satisfy any payment that is  
15           delinquent under the restitution order by the person in  
16           whose favor the order is issued or the person's  
17           assignee; and

18           (4) Expires in the same manner as a judgment lien  
19           created in a civil proceeding.

20           When a restitution order is issued under this Section,  
21           the issuing court shall send a certified copy of the order  
22           to the clerk of the circuit court in the county where the  
23           charge was filed. Upon receiving the order, the clerk shall  
24           enter and index the order in the circuit court judgment  
25           docket.

26           (n) An order of restitution under this Section does not

1 bar a civil action for:

2 (1) Damages that the court did not require the  
3 person to pay to the victim under the restitution order  
4 but arise from an injury or property damages that is  
5 the basis of restitution ordered by the court; and

6 (2) Other damages suffered by the victim.

7 The restitution order is not discharged by the completion  
8 of the sentence imposed for the offense.

9 A restitution order under this Section is not discharged by  
10 the liquidation of a person's estate by a receiver. A  
11 restitution order under this Section may be enforced in the  
12 same manner as judgment liens are enforced under Article XII of  
13 the Code of Civil Procedure.

14 The provisions of Section 2-1303 of the Code of Civil  
15 Procedure, providing for interest on judgments, apply to  
16 judgments for restitution entered under this Section.

17 (Source: P.A. 96-290, eff. 8-11-09; 96-1551, eff. 7-1-11;  
18 97-482, eff. 1-1-12.)

19 Section 10. The Crime Victims Compensation Act is amended  
20 by changing Sections 2, 4.1, 6.1, 7.1, 10.1, 10.2, 13.1, 17,  
21 and 18 as follows:

22 (740 ILCS 45/2) (from Ch. 70, par. 72)

23 Sec. 2. Definitions. As used in this Act, unless the  
24 context otherwise requires:

1 (a) "Applicant" means any person who applies for  
2 compensation under this Act or any person the Court of Claims  
3 finds is entitled to compensation, including the guardian of a  
4 minor or of a person under legal disability. It includes any  
5 person who was a dependent of a deceased victim of a crime of  
6 violence for his or her support at the time of the death of  
7 that victim.

8 (b) "Court of Claims" means the Court of Claims created by  
9 the Court of Claims Act.

10 (c) "Crime of violence" means and includes any offense  
11 defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1,  
12 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11,  
13 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.1,  
14 12-3.2, 12-3.3, 12-3.4, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5,  
15 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
16 12-20.5, 12-30, 20-1 or 20-1.1, or Section 12-3.05 except for  
17 subdivision (a) (4) or (g) (1), ~~7~~ or subdivision (a) (4) of Section  
18 11-14.4, of the Criminal Code of 1961, Sections 1(a) and 1(a-5)  
19 of the Cemetery Protection Act, Section 125 of the Stalking No  
20 Contact Order Act, Section 219 of the Civil No Contact Order  
21 Act, driving under the influence ~~of intoxicating liquor or~~  
22 ~~narcotic drugs~~ as defined in Section 11-501 of the Illinois  
23 Vehicle Code, ~~and~~ a violation of Section 11-401 of the Illinois  
24 Vehicle Code, provided the victim was a pedestrian or was  
25 operating a vehicle moved solely by human power or a mobility  
26 device at the time of contact, and a violation of Section

1 11-204.1 of the Illinois Vehicle Code; so long as the offense  
2 did not occur during a civil riot, insurrection or rebellion.  
3 "Crime of violence" does not include any other offense or  
4 accident involving a motor vehicle except those vehicle  
5 offenses specifically provided for in this paragraph. "Crime of  
6 violence" does include all of the offenses specifically  
7 provided for in this paragraph that occur within this State but  
8 are subject to federal jurisdiction and crimes involving  
9 terrorism as defined in 18 U.S.C. 2331.

10 (d) "Victim" means (1) a person killed or injured in this  
11 State as a result of a crime of violence perpetrated or  
12 attempted against him or her, (2) the spouse or parent of a  
13 person killed or injured in this State as a result of a crime  
14 of violence perpetrated or attempted against the person, (3) a  
15 person killed or injured in this State while attempting to  
16 assist a person against whom a crime of violence is being  
17 perpetrated or attempted, if that attempt of assistance would  
18 be expected of a reasonable person under the circumstances, (4)  
19 a person killed or injured in this State while assisting a law  
20 enforcement official apprehend a person who has perpetrated a  
21 crime of violence or prevent the perpetration of any such crime  
22 if that assistance was in response to the express request of  
23 the law enforcement official, (5) a person who personally  
24 witnessed a violent crime, (5.1) solely for the purpose of  
25 compensating for pecuniary loss incurred for psychological  
26 treatment of a mental or emotional condition caused or

1 aggravated by the crime, any other person under the age of 18  
2 who is the brother, sister, half brother, half sister, child,  
3 or stepchild of a person killed or injured in this State as a  
4 result of a crime of violence, (6) an Illinois resident who is  
5 a victim of a "crime of violence" as defined in this Act  
6 except, if the crime occurred outside this State, the resident  
7 has the same rights under this Act as if the crime had occurred  
8 in this State upon a showing that the state, territory,  
9 country, or political subdivision of a country in which the  
10 crime occurred does not have a compensation of victims of  
11 crimes law for which that Illinois resident is eligible, (7) a  
12 deceased person whose body is dismembered or whose remains are  
13 desecrated as the result of a crime of violence, or (8) solely  
14 for the purpose of compensating for pecuniary loss incurred for  
15 psychological treatment of a mental or emotional condition  
16 caused or aggravated by the crime, any parent, spouse, or child  
17 under the age of 18 of a deceased person whose body is  
18 dismembered or whose remains are desecrated as the result of a  
19 crime of violence.

20 (e) "Dependent" means a relative of a deceased victim who  
21 was wholly or partially dependent upon the victim's income at  
22 the time of his or her death and shall include the child of a  
23 victim born after his or her death.

24 (f) "Relative" means a spouse, parent, grandparent,  
25 stepfather, stepmother, child, grandchild, brother,  
26 brother-in-law, sister, sister-in-law, half brother, half

1 sister, spouse's parent, nephew, niece, uncle or aunt.

2 (g) "Child" means an unmarried son or daughter who is under  
3 18 years of age and includes a stepchild, an adopted child or a  
4 child born out of wedlock.

5 (h) "Pecuniary loss" means, in the case of injury,  
6 appropriate medical expenses and hospital expenses including  
7 expenses of medical examinations, rehabilitation, medically  
8 required nursing care expenses, appropriate psychiatric care  
9 or psychiatric counseling expenses, expenses for care or  
10 counseling by a licensed clinical psychologist, licensed  
11 clinical social worker, licensed professional counselor, or  
12 licensed clinical professional counselor and expenses for  
13 treatment by Christian Science practitioners and nursing care  
14 appropriate thereto; transportation expenses to and from  
15 medical and counseling treatment facilities; prosthetic  
16 appliances, eyeglasses, and hearing aids necessary or damaged  
17 as a result of the crime; replacement costs for clothing and  
18 bedding used as evidence; costs associated with temporary  
19 lodging or relocation necessary as a result of the crime,  
20 including, but not limited to, the first month's rent and  
21 security deposit of the dwelling that the claimant relocated to  
22 and other reasonable relocation expenses incurred as a result  
23 of the violent crime; locks or windows necessary or damaged as  
24 a result of the crime; the purchase, lease, or rental of  
25 equipment necessary to create usability of and accessibility to  
26 the victim's real and personal property, or the real and



1 personal property which is used by the victim, necessary as a  
2 result of the crime; the costs of appropriate crime scene  
3 clean-up; replacement services loss, to a maximum of \$1000 per  
4 month; dependents replacement services loss, to a maximum of  
5 \$1000 per month; loss of tuition paid to attend grammar school  
6 or high school when the victim had been enrolled as a student  
7 prior to the injury, or college or graduate school when the  
8 victim had been enrolled as a day or night student prior to the  
9 injury when the victim becomes unable to continue attendance at  
10 school as a result of the crime of violence perpetrated against  
11 him or her; loss of earnings, loss of future earnings because  
12 of disability resulting from the injury, and, in addition, in  
13 the case of death, expenses for funeral, burial, and travel and  
14 transport for survivors of homicide victims to secure bodies of  
15 deceased victims and to transport bodies for burial all of  
16 which may not exceed a maximum of \$5,000 and loss of support of  
17 the dependents of the victim; in the case of dismemberment or  
18 desecration of a body, expenses for funeral and burial, all of  
19 which may not exceed a maximum of \$5,000. Loss of future  
20 earnings shall be reduced by any income from substitute work  
21 actually performed by the victim or by income he or she would  
22 have earned in available appropriate substitute work he or she  
23 was capable of performing but unreasonably failed to undertake.  
24 Loss of earnings, loss of future earnings and loss of support  
25 shall be determined on the basis of the victim's average net  
26 monthly earnings for the 6 months immediately preceding the

1 date of the injury or on \$1000 per month, whichever is less or,  
2 in cases where the absences commenced more than 3 years from  
3 the date of the crime, on the basis of the net monthly earnings  
4 for the 6 months immediately preceding the date of the first  
5 absence, not to exceed \$1,000 per month. If a divorced or  
6 legally separated applicant is claiming loss of support for a  
7 minor child of the deceased, the amount of support for each  
8 child shall be based either on the amount of support pursuant  
9 to the judgment prior to the date of the deceased victim's  
10 injury or death, or, if the subject of pending litigation filed  
11 by or on behalf of the divorced or legally separated applicant  
12 prior to the injury or death, on the result of that litigation.  
13 Real and personal property includes, but is not limited to,  
14 vehicles, houses, apartments, town houses, or condominiums.  
15 Pecuniary loss does not include pain and suffering or property  
16 loss or damage.

17 (i) "Replacement services loss" means expenses reasonably  
18 incurred in obtaining ordinary and necessary services in lieu  
19 of those the injured person would have performed, not for  
20 income, but for the benefit of himself or herself or his or her  
21 family, if he or she had not been injured.

22 (j) "Dependents replacement services loss" means loss  
23 reasonably incurred by dependents or private legal guardians of  
24 minor dependents after a victim's death in obtaining ordinary  
25 and necessary services in lieu of those the victim would have  
26 performed, not for income, but for their benefit, if he or she

1 had not been fatally injured.

2 (k) "Survivor" means immediate family including a parent,  
3 step-father, step-mother, child, brother, sister, or spouse.

4 (l) "Parent" means a natural parent, adopted parent,  
5 step-parent, or permanent legal guardian of another person.

6 (Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10;  
7 96-1551, Article 1, Section 980, eff. 7-1-11; 96-1551, Article  
8 2, Section 1090, eff. 7-1-11; revised 9-30-11.)

9 (740 ILCS 45/4.1) (from Ch. 70, par. 74.1)

10 Sec. 4.1. In addition to other powers and duties set forth  
11 in this Act and other powers exercised by the Attorney General,  
12 the Attorney General shall ~~promulgate rules necessary for him~~  
13 ~~to carry out his duties under this Act,~~ investigate all claims  
14 and prepare and present a report of each applicant's claim to  
15 the Court of Claims prior to the issuance of an order by the  
16 Court of Claims, prescribe and furnish all applications,  
17 ~~notices of intent to file a claim~~ and other forms required to  
18 be filed in the office of the Attorney General by the terms of  
19 this Act, and represent the interests of the State of Illinois  
20 in any hearing before the Court of Claims.

21 (Source: P.A. 81-1013.)

22 (740 ILCS 45/6.1) (from Ch. 70, par. 76.1)

23 Sec. 6.1. Right to compensation. A person is entitled to  
24 compensation under this Act if:

1           (a) Within 2 years of the occurrence of the crime, or  
2           within one year after a criminal charge ~~indictment~~ of a  
3           person for an offense, upon which the claim is based, he  
4           files an application, under oath, with the Court of Claims  
5           and on a form prescribed in accordance with Section 7.1  
6           furnished by the Attorney General. If the person entitled  
7           to compensation is under 18 years of age or under other  
8           legal disability at the time of the occurrence or becomes  
9           legally disabled as a result of the occurrence, he may file  
10          the application required by this subsection within 2 years  
11          after he attains the age of 18 years or the disability is  
12          removed, as the case may be. Legal disability includes a  
13          diagnosis of posttraumatic stress disorder.

14          (b) For all crimes of violence, except those listed in  
15          subsection (b-1) of this Section, the appropriate law  
16          enforcement officials were notified within 72 hours of the  
17          perpetration of the crime allegedly causing the death or  
18          injury to the victim or, in the event such notification was  
19          made more than 72 hours after the perpetration of the  
20          crime, the applicant establishes that such notice was  
21          timely under the circumstances.

22          (b-1) For victims of offenses defined in Sections  
23          11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,  
24          12-14.1, 12-15, and 12-16 of the Criminal Code of 1961, the  
25          appropriate law enforcement officials were notified within  
26          7 days of the perpetration of the crime allegedly causing

1 death or injury to the victim or, in the event that the  
2 notification was made more than 7 days after the  
3 perpetration of the crime, the applicant establishes that  
4 the notice was timely under the circumstances. If the  
5 applicant or victim has obtained an order of protection, ~~or~~  
6 a civil no contact order, or a stalking no contact order,  
7 or has presented himself or herself to a hospital for  
8 sexual assault evidence collection and medical care, such  
9 action shall constitute appropriate notification under  
10 this subsection (b-1) or subsection (b) of this Section.

11 (c) The applicant has cooperated with law enforcement  
12 officials in the apprehension and prosecution of the  
13 assailant. If the applicant or victim has obtained an order  
14 of protection, ~~or~~ a civil no contact order, or a stalking  
15 no contact order or has presented himself or herself to a  
16 hospital for sexual assault evidence collection and  
17 medical care, such action shall constitute cooperation  
18 under this subsection (c).

19 (d) The applicant is not the offender or an accomplice  
20 of the offender and the award would not unjustly benefit  
21 the offender or his accomplice.

22 (e) The injury to or death of the victim was not  
23 substantially attributable to his own wrongful act and was  
24 not substantially provoked by the victim.

25 (Source: P.A. 95-250, eff. 1-1-08; 95-331, eff. 8-21-07;  
26 96-1551, eff. 7-1-11.)

1 (740 ILCS 45/7.1) (from Ch. 70, par. 77.1)

2 Sec. 7.1. (a) The application shall set out:

3 (1) the name and address of the victim;

4 (2) if the victim is deceased, the name and address of the  
5 applicant and his relationship to the victim, the names and  
6 addresses of other persons dependent on the victim for their  
7 support and the extent to which each is so dependent, and other  
8 persons who may be entitled to compensation for a pecuniary  
9 loss;

10 (3) the date and nature of the crime on which the  
11 application for compensation is based;

12 (4) the date and place where and the law enforcement  
13 officials to whom notification of the crime was given;

14 (5) the nature and extent of the injuries sustained by the  
15 victim, and the names and addresses of those giving medical and  
16 hospitalization treatment to the victim;

17 (6) the pecuniary loss to the applicant and to such other  
18 persons as are specified under item (2) resulting from the  
19 injury or death;

20 (7) the amount of benefits, payments, or awards, if any,  
21 payable under:

22 (a) the Workers' Compensation Act,

23 (b) the Dram Shop Act,

24 (c) any claim, demand, or cause of action based upon the  
25 crime-related injury or death,

1 (d) the Federal Medicare program,  
2 (e) the State Public Aid program,  
3 (f) Social Security Administration burial benefits,  
4 (g) Veterans administration burial benefits,  
5 (h) life, health, accident or liability insurance,  
6 (i) the Criminal Victims' Escrow Account Act, ~~or~~  
7 (j) the Sexual Assault Survivors Emergency Treatment Act,  
8 (k) restitution, or  
9 (l) ~~(j)~~ from any other source.

10 (8) releases authorizing the surrender to the Court of  
11 Claims or Attorney General of reports, documents and other  
12 information relating to the matters specified under this Act  
13 and rules promulgated in accordance with the Act.

14 (9) such other information as the Court of Claims or the  
15 Attorney General reasonably requires.

16 (b) The Attorney General may require that materials  
17 substantiating the facts stated in the application be submitted  
18 with that application.

19 (c) An applicant, on his own motion, may file an amended  
20 application or additional substantiating materials to correct  
21 inadvertent errors or omissions at any time before the original  
22 application has been disposed of by the Court of Claims. In  
23 either case, the filing of additional information or of an  
24 amended application shall be considered for the purpose of this  
25 Act to have been filed at the same time as the original  
26 application.

1 (Source: P.A. 82-956.)

2 (740 ILCS 45/10.1) (from Ch. 70, par. 80.1)

3 Sec. 10.1. Amount of compensation. The amount of  
4 compensation to which an applicant and other persons are  
5 entitled shall be based on the following factors:

6 (a) A victim may be compensated for his or her pecuniary  
7 loss.

8 (b) A dependent may be compensated for loss of support.

9 (c) Any person, even though not dependent upon the victim  
10 for his or her support, may be compensated for reasonable  
11 ~~funeral, medical and hospital~~ expenses of the victim to the  
12 extent to which he or she has paid or become obligated to pay  
13 such expenses and only after compensation for reasonable  
14 funeral, medical and hospital expenses of the victim have been  
15 awarded may compensation be made for reasonable expenses of the  
16 victim incurred for psychological treatment of a mental or  
17 emotional condition caused or aggravated by the crime.

18 (d) An award shall be reduced or denied according to the  
19 extent to which the victim's acts or conduct provoked or  
20 contributed to his or her injury or death, or the extent to  
21 which any prior criminal conviction or conduct of the victim  
22 may have directly or indirectly contributed to the injury or  
23 death of the victim.

24 (e) An award shall be reduced by the amount of benefits,  
25 payments or awards payable under those sources which are



1 required to be listed under item (7) of Section 7.1(a) and any  
2 other sources except annuities, pension plans, Federal Social  
3 Security payments payable to dependents of the victim and the  
4 net proceeds of the first \$25,000 of life insurance that would  
5 inure to the benefit of the applicant, which the applicant or  
6 any other person dependent for the support of a deceased  
7 victim, as the case may be, has received or to which he or she  
8 is entitled as a result of injury to or death of the victim.

9 (f) A final award shall not exceed \$10,000 for a crime  
10 committed prior to September 22, 1979, \$15,000 for a crime  
11 committed on or after September 22, 1979 and prior to January  
12 1, 1986, \$25,000 for a crime committed on or after January 1,  
13 1986 and prior to August 7, 1998, or \$27,000 for a crime  
14 committed on or after August 7, 1998. If the total pecuniary  
15 loss is greater than the maximum amount allowed, the award  
16 shall be divided in proportion to the amount of actual loss  
17 among those entitled to compensation.

18 (g) Compensation under this Act is a secondary source of  
19 compensation and the applicant must show that he or she has  
20 exhausted the benefits reasonably available under the Criminal  
21 Victims' Escrow Account Act or any governmental or medical or  
22 health insurance programs, including but not limited to  
23 Workers' Compensation, the Federal Medicare program, the State  
24 Public Aid program, Social Security Administration burial  
25 benefits, Veterans Administration burial benefits, and life,  
26 health, accident or liability insurance.

1 (Source: P.A. 92-427, eff. 1-1-02; 92-651, eff. 7-11-02.)

2 (740 ILCS 45/10.2)

3 Sec. 10.2. Emergency awards.

4 (a) If it appears, prior to taking action on an  
5 application, that the claim is one for which compensation is  
6 probable, and undue hardship will result to the applicant if  
7 immediate payment is not made, the Attorney General may  
8 recommend and the Court may make an emergency award of  
9 compensation to the applicant, pending a final decision in the  
10 case, provided the amount of emergency compensation does not  
11 exceed \$2,000. ~~The amount of emergency compensation for funeral~~  
12 ~~and burial expenses may not exceed \$1,000.~~ The amount of  
13 emergency compensation shall be deducted from any final award  
14 made as a result of the claim. The full amount of the emergency  
15 award if no final award is made shall be repaid by the  
16 applicant to the State of Illinois.

17 (b) Emergency award applicants must satisfy all  
18 requirements under Section 6.1 of this Act.

19 (Source: P.A. 92-286, eff. 1-1-02.)

20 (740 ILCS 45/13.1) (from Ch. 70, par. 83.1)

21 Sec. 13.1. (a) A hearing before a Commissioner of the Court  
22 of Claims shall be held for those claims in which:

23 (1) the Court of Claims on its own motion sets a hearing;

24 (2) the Attorney General petitions the Court of Claims for

1 a hearing;

2 (3) a claim has been disposed of without a hearing and an  
3 applicant has been denied compensation or has been awarded  
4 compensation which he thinks is inadequate and he petitions the  
5 Court of Claims for a hearing within 30 days of the date of  
6 issuance of the order sought to be reviewed. The petition shall  
7 set forth the reasons for which review is sought and a  
8 recitation of any additional evidence the applicant desires to  
9 present to the Court. A copy of the petition shall be provided  
10 to the Attorney General. Documentation to be presented at a  
11 hearing of the Court of Claims must be submitted to the  
12 Attorney General at least 10 working days before the hearing  
13 date. Failure to do so may result in a continuance of the  
14 hearing.

15 (b) At hearings held under this Act before Commissioners of  
16 the Court of Claims, any statement, document, information or  
17 matter may be received in evidence if in the opinion of the  
18 Court or its Commissioner such evidence would contribute to a  
19 determination of the claim, regardless of whether such evidence  
20 would be admissible in a court of law.

21 (c) Petition for rehearing.

22 (1) The Court of Claims may order a rehearing of a  
23 matter decided after a hearing, if, in reaching its  
24 decision:

25 (A) the court has overlooked, misapplied, or  
26 failed to consider a statute, decision, or directly

1 controlling principle;

2 (B) the court has overlooked or misconceived some  
3 material fact or proposition of law; or

4 (C) the court has overlooked or misconceived a  
5 material question in the case.

6 (2) A rehearing may not be granted if it is sought  
7 merely for the purpose of obtaining a reargument on and  
8 reconsideration of matters which have already been fully  
9 considered by the court.

10 (3) The petition shall specify which of the grounds in  
11 paragraph (1) of this subsection (c) exists and shall  
12 specifically designate that portion of the opinion, or the  
13 record, or that particular authority, which the petitioner  
14 wishes the court to consider. A copy of the petition shall  
15 be served on the opposing party. No petition for rehearing  
16 shall exceed 10 typewritten pages. No memoranda or briefs  
17 in support of a petition for rehearing, and no response to  
18 a petition for rehearing, shall be received unless  
19 requested by the court.

20 (Source: P.A. 83-298.)

21 (740 ILCS 45/17) (from Ch. 70, par. 87)

22 Sec. 17. (a) Subrogation. The Court of Claims may award  
23 compensation on the condition that the applicant subrogate to  
24 the State his rights to collect damages from the assailant or  
25 any third party who may be liable in damages to the applicant.

1 In such a case the Attorney General may, on behalf of the  
2 State, bring an action against an assailant or third party for  
3 money damages, but must first notify the applicant and give him  
4 an opportunity to participate in the prosecution of the action.  
5 The excess of the amount recovered in such action over the  
6 amount of the compensation offered and accepted or awarded  
7 under this Act plus costs of the action and attorneys' fees  
8 actually incurred shall be paid to the applicant.

9 (b) Nothing in this Act affects the right of the applicant  
10 to seek civil damages from the assailant and any other party,  
11 but that applicant must give written notice to the Attorney  
12 General within 10 days after ~~of~~ the making of a claim or the  
13 filing of an action for such damages, and within 10 days after  
14 the conclusion of the claim or action. The applicant must  
15 attach to the written notice a copy of the complaint,  
16 settlement agreement, jury verdict, or judgment. Failure to  
17 timely notify the Attorney General of such claims and actions  
18 ~~at the time they are instituted or at the time an application~~  
19 ~~is filed~~ is a willful omission of fact and the applicant  
20 thereby becomes subject to the provisions of Section 20 of this  
21 Act.

22 (c) The State has a charge for the amount of compensation  
23 paid under this Act upon all claims or causes of action against  
24 an assailant and any other party to recover for the injuries or  
25 death of a victim which were the basis for that payment of  
26 compensation. At the time compensation is ordered to be paid

1 under this Act, the Court of Claims shall give written notice  
2 of this charge to the applicant. The charge attaches to any  
3 verdict or judgment entered and to any money or property which  
4 is recovered on account of the claim or cause of action against  
5 the assailant or any other party after the notice is given. On  
6 petition filed by the Attorney General on behalf of the State  
7 or by the applicant, the circuit court, on written notice to  
8 all interested parties, shall adjudicate the right of the  
9 parties and enforce the charge. This subsection does not affect  
10 the priority of a lien under "AN ACT creating attorney's lien  
11 and for enforcement of same", filed June 16, 1909, as amended.

12 Only the Court of Claims may reduce the State's lien under  
13 this Act. The Court of Claims may consider the nature and  
14 extent of the injury, economic loss, settlements, hospital  
15 costs, physician costs, attorney's fees and costs, and all  
16 other appropriate costs. The burden of producing evidence  
17 sufficient to support the exercise by the Court of Claims of  
18 its discretion to reduce the amount of a proven charge sought  
19 to be enforced against the recovery shall rest with the party  
20 seeking such reduction. The charges of the State described in  
21 this Section, however, shall take priority over all other liens  
22 and charges existing under the laws of the State of Illinois.

23 (d) Where compensation is awarded under this Act and the  
24 person receiving same also receives any sum required to be, and  
25 that has not been deducted under Section 10.1, he shall refund  
26 to the State the amount of compensation paid to him which would

1 have been deducted at the time the award was made.

2 (e) An amount not to exceed 25% of all money recovered  
3 under subsections (b) or (c) of this Section shall be placed in  
4 the Violent Crime Victims Assistance Fund to assist with costs  
5 related to recovery efforts. "Recovery efforts" means those  
6 activities that are directly attributable to obtaining  
7 restitution, civil suit recoveries, and other reimbursements.

8 (f) The applicant must give written notice to the Attorney  
9 General within 10 days after an offender is ordered by a court  
10 to pay restitution. The applicant shall attach a copy of the  
11 restitution order or judgment to the written notice. Failure to  
12 timely notify the Attorney General of court-ordered  
13 restitution is a willful omission of fact and the applicant  
14 thereby becomes subject to the provisions of Section 20 of this  
15 Act. The Attorney General may file a written copy of the Court  
16 of Claims' decision awarding crime victims compensation in a  
17 criminal case in which the offender has been ordered to pay  
18 restitution for the victim's expenses incurred as a result of  
19 the same criminal conduct. Upon the filing of the order, the  
20 circuit court clerk shall send restitution payments directly to  
21 the compensation program for any paid expense reflected in the  
22 Court of Claims' decision.

23 (Source: P.A. 92-286, eff. 1-1-02.)

24 (740 ILCS 45/18) (from Ch. 70, par. 88)

25 Sec. 18. Claims against awards.

1 (a) An award is not subject to enforcement, attachment,  
2 garnishment, or other process, except that an award is not  
3 exempt from a claim of a creditor to the extent that he or she  
4 provided products, services, or accommodations the costs of  
5 which are included in the award.

6 (b) An assignment or agreement to assign a right to  
7 compensation for loss accruing in the future is unenforceable,  
8 except:

9 (1) an assignment of a right to compensation for work  
10 loss to secure payment of maintenance or child support; or

11 (2) an assignment of a right to compensation to the  
12 extent of the cost of products, services, or accommodations  
13 necessitated by the injury or death on which the claim is  
14 based and are provided or to be provided by the assignee.

15 (c) The court may order that all or a portion of an award  
16 be paid jointly to the applicant and another person or solely  
17 and directly to another person to the extent that such other  
18 person has provided products, services or accommodations, the  
19 costs of which are included in the award, or to another person  
20 to the extent that such other person paid or became obligated  
21 to pay expenses incurred by the victim or applicant. ~~The~~  
22 ~~provisions of this amendatory Act of 1994 apply to all pending~~  
23 ~~claims in existence on the effective date of this amendatory~~  
24 ~~Act of 1994.~~

25 (d) If an award under subsection (c) of this Section is  
26 offset by the Comptroller, pursuant to the Uncollected State



1 Claims Act, the intended individual or entity must credit the  
2 applicant's or victim's account for the amount ordered by the  
3 Court of Claims, and the intended individual or entity is  
4 prohibited from pursuing payment from the applicant or victim  
5 for any portion that is offset. The Comptroller shall provide  
6 notice as provided in Section 10.05 of the State Comptroller  
7 Act.

8 (Source: P.A. 92-286, eff. 1-1-02.)

9 Section 15. The Health Care Services Lien Act is amended by  
10 changing Section 30 as follows:

11 (770 ILCS 23/30)

12 Sec. 30. Adjudication of rights. On petition filed by the  
13 injured person or the health care professional or health care  
14 provider and on the petitioner's written notice to all  
15 interested adverse parties, the circuit court shall adjudicate  
16 the rights of all interested parties and enforce their liens. A  
17 lien created under the Crime Victims Compensation Act may be  
18 reduced only by the Court of Claims.

19 (Source: P.A. 93-51, eff. 7-1-03.)

1		INDEX
2		Statutes amended in order of appearance
3	730 ILCS 5/5-5-6	from Ch. 38, par. 1005-5-6
4	740 ILCS 45/2	from Ch. 70, par. 72
5	740 ILCS 45/4.1	from Ch. 70, par. 74.1
6	740 ILCS 45/6.1	from Ch. 70, par. 76.1
7	740 ILCS 45/7.1	from Ch. 70, par. 77.1
8	740 ILCS 45/10.1	from Ch. 70, par. 80.1
9	740 ILCS 45/10.2	
10	740 ILCS 45/13.1	from Ch. 70, par. 83.1
11	740 ILCS 45/17	from Ch. 70, par. 87
12	740 ILCS 45/18	from Ch. 70, par. 88
13	770 ILCS 23/30	