



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2640

Introduced 2/21/2013, by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

740 ILCS 45/2
740 ILCS 45/6.1

from Ch. 70, par. 72
from Ch. 70, par. 76.1

Amends the Crime Victims Compensation Act. Changes the definition of "pecuniary loss" to include costs associated with trafficking tattoo removal by a person authorized or licensed to perform the specific removal procedure. Defines "trafficking tattoo" as a tattoo which is applied to a victim in connection with the commission of a violation of the Section of the Criminal Code of 2012 concerning trafficking in persons. Provides that a trafficking victim is entitled to reimbursement for the cost of removal of a trafficking tattoo if he or she files an affidavit on a form prescribed by the Attorney General attesting that the removed tattoo was applied in connection with the commission of human trafficking.

LRB098 08651 HEP 41241 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Crime Victims Compensation Act is amended by
5 changing Sections 2 and 6.1 and by adding Section 6.2 as
6 follows:

7 (740 ILCS 45/2) (from Ch. 70, par. 72)

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

10 (a) "Applicant" means any person who applies for
11 compensation under this Act or any person the Court of Claims
12 finds is entitled to compensation, including the guardian of a
13 minor or of a person under legal disability. It includes any
14 person who was a dependent of a deceased victim of a crime of
15 violence for his or her support at the time of the death of
16 that victim.

17 (b) "Court of Claims" means the Court of Claims created by
18 the Court of Claims Act.

19 (c) "Crime of violence" means and includes any offense
20 defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1,
21 10-2, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
22 11-11, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3,
23 12-3.1, 12-3.2, 12-3.3, 12-3.4, 12-4, 12-4.1, 12-4.2, 12-4.3,

1 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15,
2 12-16, 12-20.5, 12-30, 20-1 or 20-1.1, or Section 12-3.05
3 except for subdivision (a)(4) or (g)(1), or subdivision (a)(4)
4 of Section 11-14.4, of the Criminal Code of 1961 or the
5 Criminal Code of 2012, Sections 1(a) and 1(a-5) of the Cemetery
6 Protection Act, Section 125 of the Stalking No Contact Order
7 Act, Section 219 of the Civil No Contact Order Act, driving
8 under the influence as defined in Section 11-501 of the
9 Illinois Vehicle Code, a violation of Section 11-401 of the
10 Illinois Vehicle Code, provided the victim was a pedestrian or
11 was operating a vehicle moved solely by human power or a
12 mobility device at the time of contact, and a violation of
13 Section 11-204.1 of the Illinois Vehicle Code; so long as the
14 offense did not occur during a civil riot, insurrection or
15 rebellion. "Crime of violence" does not include any other
16 offense or accident involving a motor vehicle except those
17 vehicle offenses specifically provided for in this paragraph.
18 "Crime of violence" does include all of the offenses
19 specifically provided for in this paragraph that occur within
20 this State but are subject to federal jurisdiction and crimes
21 involving terrorism as defined in 18 U.S.C. 2331.

22 (d) "Victim" means (1) a person killed or injured in this
23 State as a result of a crime of violence perpetrated or
24 attempted against him or her, (2) the spouse or parent of a
25 person killed or injured in this State as a result of a crime
26 of violence perpetrated or attempted against the person, (3) a

1 person killed or injured in this State while attempting to
2 assist a person against whom a crime of violence is being
3 perpetrated or attempted, if that attempt of assistance would
4 be expected of a reasonable person under the circumstances, (4)
5 a person killed or injured in this State while assisting a law
6 enforcement official apprehend a person who has perpetrated a
7 crime of violence or prevent the perpetration of any such crime
8 if that assistance was in response to the express request of
9 the law enforcement official, (5) a person who personally
10 witnessed a violent crime, (5.1) solely for the purpose of
11 compensating for pecuniary loss incurred for psychological
12 treatment of a mental or emotional condition caused or
13 aggravated by the crime, any other person under the age of 18
14 who is the brother, sister, half brother, half sister, child,
15 or stepchild of a person killed or injured in this State as a
16 result of a crime of violence, (6) an Illinois resident who is
17 a victim of a "crime of violence" as defined in this Act
18 except, if the crime occurred outside this State, the resident
19 has the same rights under this Act as if the crime had occurred
20 in this State upon a showing that the state, territory,
21 country, or political subdivision of a country in which the
22 crime occurred does not have a compensation of victims of
23 crimes law for which that Illinois resident is eligible, (7) a
24 deceased person whose body is dismembered or whose remains are
25 desecrated as the result of a crime of violence, or (8) solely
26 for the purpose of compensating for pecuniary loss incurred for

1 psychological treatment of a mental or emotional condition
2 caused or aggravated by the crime, any parent, spouse, or child
3 under the age of 18 of a deceased person whose body is
4 dismembered or whose remains are desecrated as the result of a
5 crime of violence.

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

10 (f) "Relative" means a spouse, parent, grandparent,
11 stepfather, stepmother, child, grandchild, brother,
12 brother-in-law, sister, sister-in-law, half brother, half
13 sister, spouse's parent, nephew, niece, uncle or aunt.

14 (g) "Child" means an unmarried son or daughter who is under
15 18 years of age and includes a stepchild, an adopted child or a
16 child born out of wedlock.

17 (h) "Pecuniary loss" means, in the case of injury,
18 appropriate medical expenses and hospital expenses including
19 expenses of medical examinations, rehabilitation, medically
20 required nursing care expenses, appropriate psychiatric care
21 or psychiatric counseling expenses, expenses for care or
22 counseling by a licensed clinical psychologist, licensed
23 clinical social worker, licensed professional counselor, or
24 licensed clinical professional counselor and expenses for
25 treatment by Christian Science practitioners and nursing care
26 appropriate thereto; transportation expenses to and from

1 medical and counseling treatment facilities; prosthetic
2 appliances, eyeglasses, and hearing aids necessary or damaged
3 as a result of the crime; costs associated with trafficking
4 tattoo removal by a person authorized or licensed to perform
5 the specific removal procedure; replacement costs for clothing
6 and bedding used as evidence; costs associated with temporary
7 lodging or relocation necessary as a result of the crime,
8 including, but not limited to, the first month's rent and
9 security deposit of the dwelling that the claimant relocated to
10 and other reasonable relocation expenses incurred as a result
11 of the violent crime; locks or windows necessary or damaged as
12 a result of the crime; the purchase, lease, or rental of
13 equipment necessary to create usability of and accessibility to
14 the victim's real and personal property, or the real and
15 personal property which is used by the victim, necessary as a
16 result of the crime; the costs of appropriate crime scene
17 clean-up; replacement services loss, to a maximum of \$1,250 per
18 month; dependents replacement services loss, to a maximum of
19 \$1,250 per month; loss of tuition paid to attend grammar school
20 or high school when the victim had been enrolled as a student
21 prior to the injury, or college or graduate school when the
22 victim had been enrolled as a day or night student prior to the
23 injury when the victim becomes unable to continue attendance at
24 school as a result of the crime of violence perpetrated against
25 him or her; loss of earnings, loss of future earnings because
26 of disability resulting from the injury, and, in addition, in

1 the case of death, expenses for funeral, burial, and travel and
2 transport for survivors of homicide victims to secure bodies of
3 deceased victims and to transport bodies for burial all of
4 which may not exceed a maximum of \$7,500 and loss of support of
5 the dependents of the victim; in the case of dismemberment or
6 desecration of a body, expenses for funeral and burial, all of
7 which may not exceed a maximum of \$7,500. Loss of future
8 earnings shall be reduced by any income from substitute work
9 actually performed by the victim or by income he or she would
10 have earned in available appropriate substitute work he or she
11 was capable of performing but unreasonably failed to undertake.
12 Loss of earnings, loss of future earnings and loss of support
13 shall be determined on the basis of the victim's average net
14 monthly earnings for the 6 months immediately preceding the
15 date of the injury or on \$1,250 per month, whichever is less
16 or, in cases where the absences commenced more than 3 years
17 from the date of the crime, on the basis of the net monthly
18 earnings for the 6 months immediately preceding the date of the
19 first absence, not to exceed \$1,250 per month. If a divorced or
20 legally separated applicant is claiming loss of support for a
21 minor child of the deceased, the amount of support for each
22 child shall be based either on the amount of support pursuant
23 to the judgment prior to the date of the deceased victim's
24 injury or death, or, if the subject of pending litigation filed
25 by or on behalf of the divorced or legally separated applicant
26 prior to the injury or death, on the result of that litigation.

1 Real and personal property includes, but is not limited to,
2 vehicles, houses, apartments, town houses, or condominiums.
3 Pecuniary loss does not include pain and suffering or property
4 loss or damage.

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

10 (j) "Dependents replacement services loss" means loss
11 reasonably incurred by dependents or private legal guardians of
12 minor dependents after a victim's death in obtaining ordinary
13 and necessary services in lieu of those the victim would have
14 performed, not for income, but for their benefit, if he or she
15 had not been fatally injured.

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

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

20 (m) "Trafficking tattoo" is a tattoo which is applied to a
21 victim in connection with the commission of a violation of
22 Section 10-9 of the Criminal Code of 2012.

23 (Source: P.A. 96-267, eff. 8-11-09; 96-863, eff. 3-1-10;
24 96-1551, Article 1, Section 980, eff. 7-1-11; 96-1551, Article
25 2, Section 1090, eff. 7-1-11; 97-817, eff. 1-1-13; 97-1109,
26 eff. 1-1-13; 97-1150, eff. 1-25-13.)

1 (740 ILCS 45/6.1) (from Ch. 70, par. 76.1)

2 Sec. 6.1. Right to compensation. A person is entitled to
3 compensation under this Act if:

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

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

25 (b-1) For victims of offenses defined in Sections

1 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,
2 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 or
3 the Criminal Code of 2012, the appropriate law enforcement
4 officials were notified within 7 days of the perpetration
5 of the crime allegedly causing death or injury to the
6 victim or, in the event that the notification was made more
7 than 7 days after the perpetration of the crime, the
8 applicant establishes that the notice was timely under the
9 circumstances. If the applicant or victim has obtained an
10 order of protection, a civil no contact order, or a
11 stalking no contact order, or has presented himself or
12 herself to a hospital for sexual assault evidence
13 collection and medical care, such action shall constitute
14 appropriate notification under this subsection (b-1) or
15 subsection (b) of this Section.

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

24 (d) The applicant is not the offender or an accomplice
25 of the offender and the award would not unjustly benefit
26 the offender or his accomplice.

1 (e) The injury to or death of the victim was not
2 substantially attributable to his own wrongful act and was
3 not substantially provoked by the victim.

4 (f) For victims of offenses defined in Section 10-9 of
5 the Criminal Code of 2012, the victim submits a statement
6 under oath on a form prescribed by the Attorney General
7 attesting that the removed tattoo was applied in connection
8 with the commission of the offense.

9 (Source: P.A. 96-1551, eff. 7-1-11; 97-817, eff. 1-1-13;
10 97-1150, eff. 1-25-13.)