PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

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PENNSYLVANIA STATUTES
TITLE 18. CRIMES AND OFFENSES
CHAPTER 2. CRIME VICTIMS ACT
CHAPTER 1. PRELIMINARY PROVISIONS

§ 11.101. Short title

This act shall be known and may be cited as the Crime Victims Act.

§ 11.102. Legislative intent

The General Assembly finds and declares as follows:

(1) In recognition of the civic and moral duty of victims of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies and in further recognition of the continuing importance of victim cooperation to State and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this Commonwealth, all victims of crime are to be treated with dignity, respect, courtesy and sensitivity.

(2) The rights extended to victims of crime in Chapter 2 are to be honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

§ 11.103. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adult." Any of the following:

(1) An individual charged with a crime who is 18 years of age or older.

(2) An individual who is subject to criminal court jurisdiction following the transfer of a case to criminal proceedings.

(3) An individual who is subject to criminal court jurisdiction after having been charged with a crime excluded from the definition of

"delinquent act" pursuant to *42 Pa.C.S. § 6302* "delinquent act" (2)(i), (ii), (iii) or (v) (relating to definitions).

"Board." The Pennsylvania Board of Probation and Parole.

"Claimant." The person filing a claim under Chapter 7

"Commission." The Pennsylvania Commission on Crime and Delinquency.

"Committee." The Victims' Services Advisory Committee established in section 321

"Crime." An act which was committed:

(1) In this Commonwealth by a person, including a juvenile, without regard to legal exemption or defense which would constitute a crime under the following:

(i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. (relating to crimes and offenses).

30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).

30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).

The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).

75 Pa.C.S. § 3732 (relating to homicide by vehicle).

75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

(iii) The laws of the United States.

(2) Against a resident of this Commonwealth which would be a crime under paragraph (1) but for its occurrence in a location other than this Commonwealth.

(3) Against a resident of this Commonwealth which is an act of international terrorism.

"Department." The Department of Corrections of the Commonwealth.

"Direct victim." An individual against whom a crime has been committed or attempted and who as a direct result of the criminal act or attempt suffers physical or mental injury, death or the loss of earnings under this act. The term shall not include the alleged offender. The term includes a resident of this Commonwealth against whom an act has been committed or attempted which otherwise would constitute a crime as defined in this act but for its occurrence in a location other than this Commonwealth and for which the individual would otherwise be compensated by the crime victim compensation program of the location where the act occurred but for the ineligibility of such program under the provisions of the Victims of Crime Act of 1984 (Public Law 98-473, *42 U.S.C. § 10601* et seq.).

"Dispositional proceeding." A proceeding which occurs in open common pleas court which potentially could dispose of the case. The term includes Accelerated Rehabilitative Disposition, pleas, trial and sentence.

"Diversionary program." A program which is used to divert the defendant to an alternative form of disposition under the Pennsylvania Rules of Criminal Procedure or statutory authority. The term includes dispositions authorized by Rules 160, 176 and 314 of the Pennsylvania Rules of Criminal Procedure and sections 17 and 18 of the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Family." When used in reference to an individual:

(1) anyone related to that individual within the third degree of consanguinity or affinity;

(2) anyone maintaining a common-law relationship with that individual; or

(3) anyone residing in the same household with that individual.

"Injury." Includes physical or mental damages incurred as a direct result of the crime and aggravation of existing injuries if additional losses can be attributed to the direct result of the crime.

"International terrorism." Activities which meet all of the following:

(1) Involve violent acts or acts dangerous to human life that are a

violation of the criminal laws of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state.

(2) Appear to be intended:

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

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

"Intervenor." An individual who goes to the aid of another and suffers physical or mental injury or death as a direct result of acting not recklessly to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed such crime or to aid the victim of such crime.

"Juvenile." An individual who is alleged or has been determined to be a "delinquent child" as defined in *42 Pa.C.S. § 6302* (relating to definitions).

"Law enforcement agency." The Pennsylvania State Police and a local law enforcement agency.

"Local correctional facility." A jail, prison or detention facility operated by a county or jointly by more than one county and used for the confinement of individuals for safe custody. The term does not include any facility used for the detention or confinement of juveniles.

"Local law enforcement agency." A police department of a city, borough, incorporated town or township.

"Loss of earnings." Includes the loss of the cash equivalent of one month's worth of Social Security, railroad retirement, pension plan, retirement plan, disability, veteran's retirement, court- ordered child support or court-ordered spousal support payments if the payments are the primary source of the victim's income and the victim is deprived of money as a direct result of a crime.

"Office." The Office of Victim Advocate established in section 302

"Office of Victims' Services." The Office of Victims' Services in the Pennsylvania Commission on Crime and Delinquency.

"Out-of-pocket loss." The term includes the following losses which shall be reimbursed at a rate set by the Office of Victims' Services:

(1) expenses for unreimbursed and unreimbursable expenses or indebtedness incurred for medical care, nonmedical remedial care and treatment as approved by the Office of Victims' Services or other services;

(2) expenses for counseling, prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses or dental devices reasonably necessary as a result of the crime upon which the claim is based and for which the claimant either has paid or is liable;

(3) expenses related to the reasonable and necessary costs of cleaning the crime scene of a private residence. "Cleaning" means to remove or attempt to remove stains or blood caused by the crime or other dirt or debris caused by the processing of the crime scene;

(4) expenses resulting from the temporary or permanent relocation of a direct victim and individuals residing in the household of the direct victim due to the incident forming the basis of the victim's claim when there is an immediate need to protect the safety and health of the victim and individuals residing in the household, as verified by a medical provider, human services provider or law enforcement;

(5) expenses for physical examinations and materials used to obtain evidence; or

(6) other reasonable expenses which are deemed necessary as a direct result of the criminal incident.

Except as otherwise provided, the term does not include property damage or pain and suffering.

"Personal injury crime." An act, attempt or threat to commit an act which would constitute a misdemeanor or felony under the following:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. Ch. 27 (relating to assault).

18 Pa.C.S. Ch. 29 (relating to kidnapping).

18 Pa.C.S. Ch. 31 (relating to sexual offenses).

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. Ch. 37 (relating to robbery).

18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation).

30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).

The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) in cases involving bodily injury.

75 Pa.C.S. § 3732 (relating to homicide by vehicle).

75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs) in cases involving bodily injury.

The term includes violations of any protective order issued as a result of an act related to domestic violence.

"Preadjudication disposition." Any of the following:

(1) Disposition of an adult without a trial. This paragraph includes accelerated rehabilitative disposition.

(2) Disposition of a juvenile prior to an adjudication of delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including informal adjustment as set forth in *42 Pa.C.S. § 6323* (relating to informal adjustment), and consent decree as set forth in 42 Pa.C.S. § 6340 (relating to consent decree).

"Prosecutor's office." The Office of Attorney General or the office of a district attorney of a county.

"Victim." The term means the following:

(1) A direct victim.

(2) A parent or legal guardian of a child who is a direct victim, except when the parent or legal guardian of the child is the alleged offender.

(3) A minor child who is a material witness to any of the following crimes and offenses under 18 Pa.C.S. (relating to crimes and offenses) committed or attempted against a member of the child's family:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 3121 (relating to rape).

(4) A family member of a homicide victim, including stepbrothers or stepsisters, stepchildren, stepparents or a fiance, one of whom is to be identified to receive communication as provided for in this act, except where the family member is the alleged offender.

"Victim advocate." The victim advocate in the Office of Victim Advocate within the Pennsylvania Board of Probation and Parole.

§ 11.201. Rights

Victims of crime have the following rights:

(1) To receive basic information concerning the services available for victims of crime.

(2) To be notified of certain significant actions and proceedings within the criminal and juvenile justice systems pertaining to their case. This paragraph includes all of the following:

(i) Access to information regarding whether the juvenile was detained or released following arrest and whether a petition alleging delinquency has been filed.

(ii) Immediate notification of a juvenile's preadjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension.

(iii) Access to information regarding the grant or denial of bail to an adult.

(iv) Immediate notification of an adult offender's pretrial escape

from a local correctional facility and of the offender's subsequent apprehension.

(3) To be accompanied at all criminal and all juvenile proceedings in accordance with *42 Pa.C.S. § 6336* (relating to conduct of hearings) by a family member, a victim advocate or other person providing assistance or support.

(4) In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or changing of a plea in a criminal or delinquency proceeding, or, diversion of any case, including an informal adjustment or consent decree.

(5) To have opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition or presentence report submitted to the court. Victim-impact statements shall be considered by a court when determining the disposition of a juvenile or sentence of an adult.

(5.1) To have notice and to provide prior comment on a judicial recommendation that the defendant participate in a motivational boot camp pursuant to the act of December 19, 1990 (P.L. 1391, No. 215), known as the Motivational Boot Camp Act.

(5.2) Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment or present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.

(6) To be restored, to the extent possible, to the precrime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

(7) In personal injury crimes where the adult is sentenced to a State correctional facility, to be:

(i) given the opportunity to provide prior comment on and to receive State postsentencing release decisions, including work release, furlough, parole, pardon or community treatment center placement;

(ii) provided immediate notice of an escape of the adult and of subsequent apprehension; and

(iii) given the opportunity to receive notice of and to provide prior comment on a recommendation sought by the Department of Corrections that the offender participate in a motivational boot camp pursuant to the Motivational Boot Camp Act.

(8) In personal injury crimes where the adult is sentenced to a local correctional facility, to:

(i) receive notice of the date of the release of the adult, including work release, furlough, parole, release from a boot camp or community treatment center placement; and

(ii) be provided with immediate notice of an escape of the adult and of subsequent apprehension.

(8.1) If, upon the request of the victim of a personal injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility or a detention center, to:

(i) Receive prior notice of the date of the release of the juvenile, including temporary leave or home pass.

(ii) Be provided with:

(A) immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and

(B) immediate notice of reapprehension of the juvenile.

(iii) Be provided with notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility that is contrary to a previous court order or placement plan approved at a disposition review hearing and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.

(9) If the adult is subject to an order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and is committed to a local correctional facility for a violation of the order or for a personal injury crime against a victim protected by the order, to receive immediate notice of the release of the adult on bail.

(10) To receive notice if an adult is committed to a mental health

facility from a State correctional institution and notice of the discharge, transfer or escape of the adult from the mental health facility.

(11) To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the bureau.

(12) To be notified of the details of the final disposition of the case of a juvenile consistent with *42 Pa.C.S. § 6336(f)* (relating to conduct of hearings).

(13) Upon the request of the victim of a personal injury crime, to be notified of the termination of the courts' jurisdiction.

§ 11.211. Responsibilities of victims of crime under basic bill of rights

A victim shall provide a valid address and telephone number and any other required information to all agencies responsible for providing information and notice to the victim. The victim shall be responsible for providing timely notice of any changes in the status of the information. The information provided shall not be disclosed to any person other than a law enforcement agency, corrections agency or prosecutor's office without the prior written consent of the victim.

§ 11.212. Responsibilities of State and local law enforcement agencies

(a) Training. A law enforcement agency shall insure that all of its officers and employees are familiar with crime victims' compensation as provided for in Chapter 7 Instruction concerning crime victims' compensation shall be made a part of the training curriculum for all trainee officers.

(b) Notice.

(1) Law enforcement agencies shall within 48 hours of reporting give notice to the direct victim or, if appropriate, a member of the direct victim's family of the availability of crime victims' compensation. The notice required under this subsection shall be in writing and in a manner and form developed by the Office of Victims' Services.

(2) Law enforcement agencies shall provide basic information on the rights and services available for crime victims. The information shall be in writing and shall be provided to the victim within 24 hours of the law enforcement agency's first contact with the victim in a manner and form to be developed by the Office of Victims' Services.

(c) Application. The written notification provided for in subsection (b)(1) shall be accompanied by one copy of the application form for crime victims' compensation. Application forms shall be supplied by the Office of Victims' Services to law enforcement agencies. A record of the date of notification shall be maintained by the law enforcement agency. The Office of Victims' Services

shall maintain a mailing list of all local law enforcement agencies and provide law enforcement agencies with forms by which they can order additional claim forms. The Office of Victims' Services shall also provide updates to law enforcement agencies on changes which affect their responsibilities under this act.

(d) Deleted.

(e) Forms. The form developed by the Office of Victims' Services shall be attached to the police report and shall include a victim checkoff signifying that the information has been provided to the crime victim.

(f) Notice in personal injury crimes.

(1) In personal injury crimes, the law enforcement agency shall make reasonable efforts to notify the victim of the arrest of the suspect and of the filing or forwarding of a complaint relating to the crime as soon as possible. Unless the victim cannot be located, notice of the arrest shall be provided not more than 24 hours after the preliminary arraignment. In cases alleging delinquency, notice of the filing or forwarding of a complaint shall be provided not more than 24 hours after the complaint has been filed or forwarded to the juvenile probation office or district attorney.

(2) In personal injury crimes, a law enforcement agency, sheriff, deputy sheriff or constable shall notify the victim of an inmate's escape from the custody of the law enforcement agency, sheriff, deputy sheriff or constable.

(g) Return of property. The appropriate law enforcement agency shall return to the victim property seized as evidence if the prosecutor's office determines that the evidence is no longer needed for prosecution.

§ 11.213. Responsibilities of prosecutor's office

(a) FORMS.-- The prosecutor's office shall provide the victim of a personal injury crime with all forms developed pursuant to sections 214 and 215.

(b) PLEADING.-- In a personal injury crime or burglary, the prosecutor's office shall provide notice of and offer the opportunity to submit prior comment on the potential reduction or dropping of any charge or changing of a plea, a diversion of any case, including informal adjustment and consent decree, unless such notice is provided by the juvenile probation office.

(c) SENTENCING.-- The prosecutor's office shall provide notice of the opportunity to offer prior comment on the sentencing of an adult and disposition of a juvenile. This prior comment includes the submission of oral and written victim impact statements. The prosecutor's office shall assist a victim who requests assistance to prepare this comment.

(d) RELEASE.-- In a personal injury crime, the prosecutor's office shall provide notice of the opportunity to submit input into State correctional release decisions, to receive notice of any release of an adult from a State or local correctional facility and to receive notice of the commitment to a mental health institution from a State or local correctional institution.

(e) DISPOSITION.-- In a personal injury crime, if the prosecutor's office has advance notice of dispositional proceeding, the prosecutor shall make reasonable efforts to notify a victim of the time and place of the proceeding.

(f) NOTICE.-- The prosecutor's office shall provide all of the following to the victim:

(1) Upon request of the victim, notice of the disposition and sentence of an adult, including sentence modifications.

(2) Upon request in a personal injury crime, reasonable attempts to notify the victim as soon as possible when the adult is released from incarceration at sentencing.

(3) If the prosecutor's office is prosecuting a personal injury crime, notice prior to the entry of a consent decree.

(4) Prior notice of delinquency adjudication hearings unless such hearings are scheduled by the juvenile probation office.

(5) Notification of hearings related to the transfer of a juvenile to and from criminal proceedings.

(6) Upon request in a personal injury crime, notice of the filing, hearing or disposition of appeals.

(7) Notice of the details of the final disposition of their case consistent with *42 Pa.C.S. § 6336(f)* (relating to conduct of hearings) unless provided by the juvenile probation office.

(g) ASSISTANCE.-- The prosecutor's office shall provide assistance to the victim in all of the following:

(1) Preparation of statements under section 201(5)

(2) Preparation of, submission of and follow-up on financial assistance claims filed with the bureau.

(h) RETURN OF PROPERTY.-- The prosecutor's office shall return to the victim any property seized as evidence if the prosecutor's office determines that the evidence is no longer needed for prosecution.

§ 11.214. Responsibilities of department, local correctional facilities and board

(a) FORMS.-- The department and the board shall develop standardized forms regarding victim notification. The form shall include the address where the form is to be sent. The department shall develop a standardized form which may be used by local correctional facilities. In the case of counties with victim-witness coordinators, the local correctional facility shall perform its responsibilities under this section in cooperation with the county's victim-witness coordinator.

(b) NOTICE.-- If the department and board have received notice of a victim's desire to have input under section 201(7), the appropriate agency shall notify the victim sufficiently in advance of a pending release decision to extend an opportunity for prior comment. The local correctional facility's notice to the victim under section 201(9) shall occur immediately.

(c) COMMENT.-- The victim's prior comment may be oral or written and shall be considered by the department or the board as to the advisability of release and any conditions of release which may be imposed.

(d) ESCAPE NOTIFICATION.-- If the department or local correctional facility has received notice of a victim's desire to receive notification regarding escape of the offender as provided for in section 201(8), the superintendent of the State correctional institution or warden of a local correctional facility shall immediately notify the victim of the escape.

(e) MENTAL HEALTH.-- If the department or local correctional facility has received notice of a victim's desire to receive notification as provided for in section 201(10), the superintendent of the State correctional institution or warden of a local correctional facility shall notify the victim of the commitment of the offender to a mental health facility and the location of the facility within 24 hours of the commitment.

(f) RECORDS.-- Records maintained by the department, the local correctional facility and the board pertaining to victims shall be kept separate. Current address, telephone number and any other personal information of the victim and family members shall be deemed confidential.

(g) RELEASE OF OFFENDER.-- The department, the local correctional facility or the board shall notify the victim of the final decision rendered, the date of any release and relevant conditions imposed prior to the release of the offender.

§ 11.215. Responsibilities of Department of Public Welfare and mental health institutions under basic bill of rights

(a) FORMS.-- The Department of Public Welfare shall develop standardized forms, which shall include the address where the completed form is to be sent, for the receipt of notice from the victim concerning the victim's interest in discharge decisions and notification of an escape. Sufficient copies of the forms shall be provided to the office of the district attorney for distribution to victims upon court-ordered commitment of the offender to a mental health institution in the State system.

(b) DESIGNATED STAFF.-- If the Department of Public Welfare has received notice of a victim's desire to receive notification as provided for in section 201(10) regarding release, placement or escape of the offender, the Department of Public Welfare shall designate the appropriate official to notify the victim of the discharge of the offender from the mental health institution and the facility to which the offender was discharged within 24 hours of the discharge. The Department of Public Welfare or the designated official shall immediately notify the victim of an escape of the offender from the mental health institution.

§ 11.216. Responsibilities of juvenile probation office

(a) NOTICE.-- The juvenile probation office shall provide the following to victims:

(1) Prior notice of delinquency adjudication hearings unless such hearings have been scheduled by the prosecutor's office.

(2) Notification of disposition hearings.

(3) Notice of a juvenile's preadjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension.

(4) Upon request, notice of whether the juvenile probation office has detained or released the juvenile following arrest and whether a delinquency petition has been filed.

(5) Notice of the details of the final disposition of the case consistent with *42 Pa.C.S. § 6336(f)* (relating to conduct of hearings) unless provided by the prosecutor's office.

(b) ADDITIONAL NOTICE IN CASES INVOLVING A PERSONAL INJURY CRIME OR BURGLARY.-- In cases involving a personal injury crime or burglary, the juvenile probation office shall provide notice and the opportunity to provide prior comment on the potential reduction or dropping of a charge or diversion of any case, including informal adjustment and consent decree, unless such notice and opportunity is provided by the prosecutor's office. Upon request, the victim shall also receive notification of a review of disposition hearing.

(c) DISPOSITIONS.-- The juvenile probation office shall:

(1) Offer the victim the opportunity to provide a written victim impact statement to be considered in the disposition of any case and included as part of any predisposition report submitted to the court.

(2) Notify the victim of the right to provide an oral victim impact statement at the time of disposition in cases of juveniles who have been adjudicated delinquent.

(d) POSTDISPOSITION NOTICE.-- Upon the request of the victim of a personal injury crime, the juvenile probation office shall:

(1) Provide prior notice to the victim when an adjudicated delinquent ordered into residential placement or official detention will be granted temporary leave or home pass or release.

(2) Notify the victim of a proposed release or transfer of an adjudicated delinquent from placement that is contrary to a previous court order or placement plan approved at a disposition review hearing and shall extend the victim the opportunity to provide a written objection prior to the release or transfer of the juvenile from placement.

(3) Notify the victim immediately of a juvenile's escape from official detention or failure to return from temporary leave or home pass and of the juvenile's subsequent apprehension.

(4) Notify the victim of the termination of the juvenile court jurisdiction.

(5) Provide the opportunity to submit written comment and of their right to provide oral testimony at a disposition review hearing.

§ 11.301. Office

(a) ESTABLISHMENT.-- There is established within the board the Office of Victim Advocate to represent the interests of crime victims before the board or department. The office shall operate under the direction of the victim advocate as provided in this section.

(b) APPOINTMENT.-- The victim advocate must be an individual who by reason of training and experience, is qualified to represent the interests of individual crime victims before the board. The victim advocate shall be appointed by the Governor, by and with the consent of a majority of all of the members of the Senate. The victim advocate shall hold office for a term of six years and until a successor shall have been duly appointed and qualified but in no event more than 90 days beyond the expiration of the appointed term. A vacancy occurring for any reason shall be filled in the manner provided by *section 8 of Article IV of the Constitution of Pennsylvania* for the remainder of the term. Whenever the victim advocate's term expires, that position shall be immediately deemed a vacancy, and the Governor shall nominate a person to fill that position within 90 days of the date of expiration even if the victim advocate continues in office. To be eligible to be appointed by the Governor as victim advocate, an individual must have at least six years of professional experience in victim advocacy, social work or related areas, including one year in a supervisory or administrative capacity, and a bachelor's degree. Any equivalent combination of experience and training shall be acceptable. Compensation shall be set by the Executive Board as defined by the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.

(c) SERVICE AND EMPLOYEES.-- The victim advocate shall operate from the central office of the board with such clerical, technical and professional staff as may be available within the budget of the board. The compensation of employees of the office shall be set by the Executive Board.

§ 11.302. Powers and duties of victim advocate

The victim advocate has the following powers and duties:

(1) To represent the interests of individual crime victims before the board, department or hearing examiner.

(2) To supervise the victim notification duties presently conducted by the board.

(3) To assist in and coordinate the preparation of testimony by the crime victims as set forth in sections 501(c) and 502 or the submission of oral, written or videotaped comments by crime victims prior to a release decision.

(4) To represent the interests of a crime victim under section 502.

(5) To act as a liaison with the victim notification program director in the department to coordinate victim notification and services for the department and the board. The victim advocate is authorized to address the interests of all victims before the board, department or hearing examiner concerning any issues determined appropriate by the victim advocate.

§ 11.311. Office of Victims' Services

(a) Establishment. There is established within the commission the Office of Victims' Services. The Office of Victims' Services shall be responsible for administering Chapter 7 The Office of Victims' Services shall also be responsible for the disposition of all claims for compensation filed under Chapter 7.

(b) Director. A director of the Office of Victims' Services shall be appointed by the chairman of the commission. The director shall be paid compensation as the executive board may determine.

(c) Staff. The director of the Office of Victims' Services may employ personnel and contract for services as necessary and authorized to carry out the purposes of the Office of Victims' Services.

§ 11.312. Powers and duties of Office of Victims' Services

The Office of Victims' Services, subject to approval of the commission, has the following powers and duties:

(1) To establish and maintain a principal office in or near Harrisburg and such other offices within this Commonwealth as it may deem necessary.

(2) To appoint counsel, clerks, claims verifiers, hearing officers and other employees and agents as it may deem necessary, to fix their compensation within the limits provided by law and to prescribe their duties.

(3) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of Chapter 7 These regulations shall provide for the approval of attorney fees for representation before the Office of Victims' Services, a hearing examiner or before the Commonwealth Court upon judicial review under section 705 Awards of the attorney fees shall be in addition to awards made to direct victims. Awards of attorney fees shall in no case exceed 15% of the award to the direct victim or victims. It shall be unlawful for an attorney to contract for or receive any sum larger than the amount allowed. Regulations under this paragraph shall include policies, procedures and standards of review regarding claims for compensation; approval or denial of claims, including contributory conduct by direct victims; verification of information and documents; prioritization of review; and all other matters related to the processing.

(4) To request and review from law enforcement agencies and from any other state or municipal department, agency or public authority assistance and data as will enable the Office of Victims' Services to carry out its powers and duties.

(5) To determine all claims for awards filed with the Office of Victims' Services under Chapter 7 and to reinvestigate or reopen cases as the Office of Victims' Services deems necessary.

(6) To direct medical examinations of direct victims.

(7) To appoint hearing officers authorized to administer oaths or affirmations, to examine any person under oath or affirmation and to issue subpoenas requiring attendance of witnesses, testimony of witnesses and production of evidence. Except where a claim is determined to be frivolous, claimants shall receive reimbursement at a rate to be determined by the Office of Victims' Services for attending hearings, regardless of the disposition of the claim.

(8) To take or cause to be taken affidavits or depositions in or outside of this Commonwealth.

(9) To render each year to the Governor and to the General Assembly a written report of its activities.

(10) To arrange with the heads of other Commonwealth agencies for the performance of any of its functions under this act with or without reimbursement and with the approval of the Governor to delegate and authorize the redelegation of any of its powers under this act.

(11) To establish a program to assure extensive and continuing publicity of information regarding the compensation provisions under Chapter 7. This information shall include the right to file a claim, the scope of coverage and procedures to be utilized incident thereto.

(12) To administer the funds under section 1101(b) for the payment of claims filed under Chapter 7 and for all reasonable and necessary administrative expenses.

(13) To establish compensation limits and reimbursement rates for the purpose of carrying out the provisions of Chapter 7. The Office of Victims' Services shall publish a schedule of these compensation limits and reimbursement rates in the Pennsylvania Bulletin provided that the Office of Victims' Services shall, within two years of such publication, promulgate a regulation setting forth the schedule of compensation limits and reimbursement.

§ 11.321. Committee

(a) ESTABLISHMENT.-- There is established the Victims' Services Advisory Committee within the commission.

(b) MEMBERSHIP.-- The committee shall consist of 15 members:

(1) The Secretary of Aging or a designee.

(2) The Secretary of Corrections or a designee.

(3) The Secretary of Public Welfare or a designee.

(4) The Commissioner of the Pennsylvania State Police.

(5) The victim advocate.

(6) A district attorney appointed by the Governor.

(7) Nine individuals appointed by the Governor.

Members under this paragraph must represent direct victims, Statewide victims' coalitions, prosecution-based victim/witness programs and other victim service or victim advocacy organizations, the courts, members of local government and other victims' organizations or organizations involved in the coordination or delivery of services to direct victims. At least one of the Governor's appointees must be a representative of a victims' services agency working directly with children.

(c) TERMS.-- A member under subsection (b)(1) through (5) shall serve ex officio. A member under subsection (b)(6) or (7) shall serve for a four-year term and may be appointed for no more than one additional consecutive term.

(d) RESTRICTIONS.-- The committee and its members are subject to the same limitations and conditions imposed upon the commission as prescribed in section 2 of the act of November 22, 1978 (P.L. 1166, No. 274), referred to as the Pennsylvania Commission on Crime and Delinquency Law.

(e) QUORUM.-- A majority of the members shall constitute a quorum. A vote of the majority of the members present shall be sufficient for all actions.

(f) CHAIR.-- The Governor shall appoint a chairperson from among the members of the committee. The chairperson shall serve at the pleasure of the Governor. A vice chairperson shall be designated by the chairperson and preside at meetings in the absence of the chairperson.

(g) MEETING.-- The committee shall meet at the call of the chair but no fewer than four times a year.

§ 11.322. Powers and duties of committee

The committee has the following powers and duties:

(1) To serve in an advisory capacity to the commission, including the Office of Victims' Services, through the committee's participation in the development of that part of the commission's plan relating to direct victims' services and compensation.

(2) To advise the commission on the development of direct services for minor children who are material witnesses to any of the following crimes and offenses under 18 Pa.C.S. (relating to crimes and offenses) committed or attempted against a member of the child's family:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 3121 (relating to rape).

(3) To perform those functions related to the direct approval and

disbursement of financial assistance in an advisory capacity only. The committee shall have the opportunity to review and comment on applications other than applications for claims for compensation pursuant to sections 702 and 706 within 30 days after receipt of the application from the commission.

(4) To advise the commission on the definition, development and correlation of programs and projects and the establishment of priorities for direct victims' services and compensation.

(5) To develop standards, methods and procedures for evaluating and monitoring direct victims' services.

(6) Upon request, to provide assistance and advice to the commission on any other matters relating to direct victims' services and compensation.

(7) To receive staff support from the commission and the Office of Victims' Services in order to adequately perform the duties provided for in this section.

§ 11.501. Preparole notification to victim

(a) PERSONS TO BE NOTIFIED.-- No later than 90 days prior to the parole date of an offender, the victim advocate shall notify the victim of the offense for which the offender was sentenced, the parent or legal guardian of a victim who is a minor or a member of the family if the victim is incapable of communicating or has died and shall provide the appropriate person with an opportunity to submit a preparole statement expressing concerns or recommendations regarding the parole or parole supervision of the offender.

(b) ENROLLMENT.-- A victim or member of the family is responsible for notifying the victim advocate of the victim's or family member's intent to submit a preparole statement regarding the parole or parole supervision of the offender. The notice shall include a mailing address or change of address notification.

(c) PROCEDURE.-- The victim advocate shall notify the person at the person's last known mailing address. The person shall submit the oral, written or videotaped preparole statement to the victim advocate within 30 days of the date of notice. The preparole statement shall be considered by the board during preparation of the parole plan.

§ 11.502. Petitions to deny parole upon expiration of minimum sentence

(a) PETITION.-- Upon the request of a victim who has notified the board in writing of the victim's desire to have input and make comment prior to a parole release decision, the victim advocate shall either petition the board as to the special conditions of release which may be imposed or that the offender not be paroled based upon the statement that the victim submitted under section 501

(b) APPEARANCE.-- The victim or the victim's representative shall be permitted to appear in person before the board or hearing examiner or, in the alternative, the victim's testimony may be presented by conference call. The testimony of a victim before the board shall be confidential. Records maintained by the department and the board pertaining to victims shall be kept separate. Current address, telephone number and any other personal information of the victim and family members shall be deemed confidential.

(c) ACTION.-- The board, upon petition and after an interview, may do any of the following:

(1) Order that special conditions of parole be placed upon the offender or the offender not be paroled based upon the continuing effect of the crime on the victim.

(2) Order that the offender not be paroled if the board finds that:

(i) the offender would pose a risk or danger to the victim or the family of the victim if the offender were released on parole; or

(ii) the interests of the Commonwealth would otherwise be injured.

(d) NOTICE.-- The board shall notify the victim of its decision prior to a release of the offender.

(e) DISTRICT ATTORNEY.-- Notwithstanding any other statutory provision, the office of the district attorney of the sentencing county may notify a crime victim of a pending release decision and act on the victim's behalf or on its own initiative to submit comments and represent the interests of a crime victim before the board prior to a release decision.

§ 11.701. Persons eligible for compensation

(a) General rule. Except as otherwise provided in this act, the following persons shall be eligible for compensation:

(1) A direct victim.

(2) An intervenor.

(3) A surviving spouse, parent or child of a deceased direct victim or intervenor.

(4) Any other individual dependent for principal support upon a deceased direct victim or intervenor.

(5) Deleted.

(6) Any person who assumes the obligation or who pays for the crime

scene cleanup, funeral or burial expenses incurred as a direct result of the crime.

(b) Exception. A person who is criminally responsible for the crime upon which a claim is based or an accomplice of the person shall not be eligible to receive compensation with respect to the claim. A member of the family of the individual who committed the crime shall not be eligible if the offender is living in the same household as the direct victim and will substantially benefit from the award. The Attorney General may at any time sue the offender or the direct victim, or both, to recover the award if the offender benefits from the award.

§ 11.702. Filing of claims for compensation

(a) General rule. Except as otherwise provided in this act, a claim for compensation may be filed by an individual eligible for compensation as provided in section 701 or as follows:

(1) If the individual is a minor, the claim may be filed by a parent or guardian. If the parent or guardian of a minor who is eligible for compensation is unavailable or fails to assume financial responsibility for the minor's care, a person who assumes financial responsibility for services eligible for compensation and who is not a provider of services or an insurance company may file a claim on behalf of the minor and may receive compensation for eligible services provided to the minor.

(2) If the individual is mentally incompetent, the claim may be filed by a guardian or legal representative. If the guardian or legal representative of a mentally incompetent individual who is eligible for compensation is unavailable or fails to assume financial responsibility for the individual's care, a person who assumes financial responsibility for services eligible for compensation and who is not a provider of services or an insurance company may file a claim on behalf of the individual and may receive compensation for eligible services provided to the individual.

(b) Time.

(1) Except as set forth in paragraph (2), a claim must be filed not later than two years after the discovery of the occurrence of the crime upon which the claim is based or not later than two years after the death of the direct victim or intervenor as a result of the crime or the discovery and identification of the body of a murder victim.

(2) Exceptions shall be as follows:

(i) Deleted.

(ii) If a direct victim is under 18 years of age at the time of the occurrence of the crime and the alleged offender is the direct victim's parent or a person responsible for the direct victim's welfare, an individual residing in the same home as the direct victim or a paramour of the direct victim's parent, all of the following shall apply:

(A) The limitation period under this subsection is tolled until the direct victim reaches 21 years of age.

(B) The limitation period shall run until the later of:

(I) the end of the limitation period for the offense as set forth in 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal proceedings); or

(II) the end of the limitation period under paragraph (1).

(ii.1) If a direct victim is under 18 years of age at the time of the occurrence of the crime and the direct victim is seeking reimbursement for counseling services only, all of the following shall apply:

(A) The limitation period under this subsection is tolled until the direct victim reaches 21 years of age.

(B) The limitation period shall run until the later of:

(I) the end of the limitation period for the offense as set forth in 42 Pa.C.S. Ch. 55 Subch. C; or

(II) the end of the limitation period under paragraph (1).

(b.1) Returned claims. If a claim has been filed but subsequently returned to the claimant for correction or for additional verification or information, the date the claim was first received by the bureau shall be the permanent filing date for purposes of subsection (b). The correction or additional verification or information must be filed within a period of time established by the Office of Victims' Services.

(c) Manner. Claims must be filed with the bureau in person, by mail or by any electronic means authorized by the Office of Victims' Services.

§ 11.703. Minimum allowable claim

(a) General rule. Except as set forth in subsection (b), no award shall be made on a claim unless the claimant has incurred an aggregate minimum out-of-pocket loss, loss of earnings or loss of support of $ 100.

(b) Exception. Subsection (a) shall not apply if the direct victim was 60 years of age or older at the time the crime occurred.

§ 11.704. Determination of claims

(a) Processing. The Office of Victims' Services shall establish functional procedures for the intake, verification and processing of claims.

(b) Review.

(1) The Office of Victims' Services shall review the claim and all supporting documents and investigate the validity of the claim. The investigation shall include an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based. The Office of Victims' Services may not request or review counseling notes of mental health service providers. The Office of Victims' Services shall request an assessment from the mental health service provider as to the extent the service provided is needed as a direct result of the crime.

(2) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended, prosecuted or adjudicated for the crime in question.

(c) Determination. The Office of Victims' Services shall determine whether to grant an award, increase or decrease an award or deny the claim based on the supporting documents, the report of the investigation and staff recommendations. If the Office of Victims' Services is unable to determine if a claim is justified based upon the supporting documents, it may direct a hearing before a hearing examiner designated by the commission. At the hearing, any relevant evidence not legally privileged shall be admissible.

(d) Notice. The Office of Victims' Services shall promptly notify the claimant of its final decision.

(e) Records. The Office of Victims' Services shall maintain complete records and histories on all claims filed, supplemental awards paid to claimants, claims status and third-party entitlements and recoveries.

§ 11.705. Judicial review

Within 30 days after receipt of a copy of the report containing a final decision of the Office of Victims' Services, the claimant may appeal the final decision of the Office of Victims' Services in

the manner provided for appeals from administrative agencies as provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 11.706. Emergency awards

(a) Authorization. Notwithstanding the provisions of sections 704 and 707, if it appears to the Office of Victims' Services that the claim is one with respect to which an award probably will be made and that undue hardship will result to the claimant if immediate payment is not made, the Office of Victims' Services may make an emergency award to the claimant pending a final decision in the case. The following shall apply:

(1) The total amount of the emergency award shall not exceed $ 1,500 per claim or at a rate set by the Office of Victims' Services.

(2) The amount of the emergency award shall be deducted from any final award made to the claimant.

(3) The excess of the amount of the emergency award over the amount of the final award or the full amount of the emergency award if no final award is made shall be repaid by the claimant to the Office of Victims' Services.

(b) Reconsideration. The Office of Victims' Services may reconsider an emergency award at any time prior to the final decision in the case and increase previous orders for emergency compensation up to the overall limit of $ 1,500 per claim or at a rate set by the Office of Victims' Services.

(c) Compilation. The Office of Victims' Services shall compute the total number and amount of emergency awards given in each fiscal year for inclusion in the annual report.

§ 11.707. Awards

(a) REQUIREMENTS.-- No award shall be made unless it is determined by a preponderance of the evidence that:

(1) A crime was committed.

(2) The person injured or killed was a direct victim or intervenor.

(3) The crime was promptly reported to the proper authorities. In no case may an award be made if the record shows that the report was made more than 72 hours after the occurrence of the crime unless:

(i) the victim is under 18 years of age at the time of the occurrence of the crime and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent;

or

(ii) the Office of Victims' Services finds the delay to have been justified, consistent with bureau regulations.

(4) The direct victim, intervenor or claimant has fully cooperated with all law enforcement agencies and the Office of Victims' Services unless the Office of Victims' Services finds the noncompliance to have been justified consistent with Office of Victims' Services regulations.

(A.1) PROTECTION FROM ABUSE.-- A claimant who satisfies the eligibility requirements of subsection (a)(1), (2) and (4) may satisfy the eligibility requirement under subsection (a)(3) for reporting a crime to the proper authorities by commencing an action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and as provided for in the Pennsylvania Rules of Civil Procedure. In no case may an award be made if the record shows that the petition was:

(1) Withdrawn, unless the Office of Victim Services finds the withdrawal to have been justified, consistent with regulations of the Office of Victim Services.

(2) Filed more than 72 hours after the occurrence of the criminal conduct leading to the commencement of the action, unless:

(i) the victim is under 18 years of age at the time of the occurrence of the criminal conduct and the alleged offender is the victim's parent or a person responsible for the victim's welfare, an individual residing in the same home as the victim or a paramour of the victim's parent; or

(ii) the Office of Victim Services finds the delay to have been justified, consistent with regulations of the Office of Victim Services.

(b) AMOUNT.--

(1) Any award made under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed $ 35,000 except for payment of the following:

(i) counseling, the maximum amount of which shall be in accordance with paragraph (4.1);

(ii) forensic rape examination and medications directly related to the sexual assault or rape, the amount of which shall not exceed $

1,000; or

(iii) reasonable and necessary costs of cleaning the crime scene of a private residence, the amount of which shall not exceed $ 500.

(2) An award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter, be in an amount equal to the actual loss sustained. The following shall apply:

(i) No such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1), known as the Unemployment Compensation Law, in this Commonwealth as determined annually by the Department of Labor and Industry for each week of lost earnings or support.

(ii) Except as set forth in subparagraph (iii), the aggregate award for the loss shall not exceed $ 15,000.

(iii) In the case of death of a direct victim or intervenor, the aggregate award shall not exceed $ 20,000.

(3) If an order of restitution has been entered on behalf of the direct victim, those amounts actually collected shall be applied first to property losses incident to the crime and secondly to personal injury losses as set forth in subsection (f).

(4) An award for counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker and subject to the provisions of paragraph (4.1) may be made to:

(i) a direct victim;

(ii) an individual responsible for the direct victim's welfare;

(iii) an individual who is physically present at the crime scene and witnesses a violent crime;

(iv) in the case of a homicide, an individual who discovers the body;

(v) anyone related to the direct victim within the second degree of consanguinity or affinity;

(vi) anyone maintaining a common-law relationship with the direct victim;

(vii) anyone residing in the same household with the direct victim; or

(viii) anyone engaged to be married to the direct victim.

(4.1) In the case of an award made pursuant to paragraph (4), the following shall apply:

(i) The amount of an award under paragraph (4)(i) shall not exceed $ 5,000 where the direct victim is an adult and shall not exceed $ 10,000 where the direct victim is a minor.

(ii) The amount of an award under paragraph (4)(ii), (v), (vi), (vii) or (viii) shall not exceed $ 2,500 except in the case of a homicide whereby the amount of this award shall not exceed $ 5,000.

(iii) The amount of an award under paragraph (4)(iii) or

(iv) shall not exceed $ 1,500.

(5) An award for the reasonable and necessary costs for the replacement of prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications damaged or stolen as a result of the crime shall be at a rate set by the Office of Victims' Services. Expenses for prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses, dental devices or prescription medications needed as a result of the crime shall be counted against the $ 35,000 award limitation.

(c) PUBLIC ASSISTANCE.--PROVISIONS OF AWARDS MADE PURSUANT TO A STATUTE COMPENSATING OR BENEFITING A DIRECT VICTIM OR CLAIMANT SHALL IN NO WAY AFFECT THE CLAIMANT'S OR DIRECT VICTIM'S ELIGIBILITY UNDER PUBLIC ASSISTANCE OR ANY OTHER FEDERAL OR COMMONWEALTH SOCIAL BENEFIT OR ASSISTANCE PROGRAM.

(d) APPORTIONMENT.--IF THERE ARE TWO OR MORE INDIVIDUALS ENTITLED TO AN AWARD AS A RESULT OF THE DEATH OF A DIRECT VICTIM OR INTERVENOR, THE AWARD SHALL BE APPORTIONED AMONG THE CLAIMANTS.

(e) REDUCTION.--EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, AN AWARD MADE UNDER THIS CHAPTER SHALL BE REDUCED BY THE AMOUNT OF ANY PAYMENTS RECEIVED OR TO BE RECEIVED BY THE CLAIMANT AS A RESULT OF THE INJURY:

(1) from or on behalf of the individual who committed the crime;

(2) under any insurance or health and welfare programs, including those mandated by law;

(3) under any contract of insurance wherein the claimant is the beneficiary;

(4) from public funds;

(5) as an emergency award under section 706;

(6) under any pension program, including those providing for disability or survivor's benefits; or

(7) under a settlement or award made by or on behalf of a party alleged to be responsible in whole or in part for the injury, without regard to the party's criminal culpability.

(f) DIRECT VICTIM RESPONSIBILITY.--

(1) Except as set forth in paragraphs (2) and (3), in determining the amount of an award, the Office of Victims' Services shall determine whether the direct victim or intervenor, because of conduct, contributed to the infliction of the injury. The Office of Victims' Services shall reduce the amount or deny the claim altogether in accordance with the determination.

(2) If the crime involved is rape or sexual assault, the conduct of the direct victim shall not be considered. If the crime involved is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor.

(3) If the crime involved is a homicide, the conduct of the direct victim shall not be considered for claims by eligible claimants for counseling.

(g) INTERVENOR RESPONSIBILITY.--IN DETERMINING THE AMOUNT OF AN AWARD TO AN INTERVENOR, THE OFFICE OF VICTIMS' SERVICES MAY CONSIDER WHETHER THE INTERVENOR, BECAUSE OF CONDUCT, CONTRIBUTED TO THE INFLICTION OF THE INJURY. THE OFFICE OF VICTIMS' SERVICES SHALL REDUCE THE AMOUNT OR DENY THE CLAIM ALTOGETHER IN ACCORDANCE WITH THE DETERMINATION.

(h) FORENSIC RAPE INVESTIGATION.--

(1) A hospital or other licensed health care provider may submit a claim for reimbursement for the cost of a forensic rape examination if

the cost is not covered by insurance or if the victim requests that the insurance carrier not be billed. Upon filing of a claim, the Office of Victims' Services shall promptly notify the prosecutor of the county where the crime is alleged to have occurred. The reimbursement, where applicable, shall be at a rate set by the Office of Victims' Services.

(2) The cost of a forensic rape examination and the cost of medications prescribed to the direct victim shall not be charged to the victim.

(3) A sexual assault or rape victim need not be an applicant for any other compensation under this chapter.

§ 11.708. Manner of payment

(a) Lump sum. The award shall be paid in a lump sum, except that, in the case of death or protracted disability, the award may provide for periodic payments. No award made under this chapter shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim. All awards shall be paid by or under the authority of the State Treasurer. An award shall not be considered as compensation taxable as income under Article III of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971. The Office of Victims' Services shall reconsider at least annually every award being paid in installments. The Office of Victims' Services may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a direct victim or one or more surviving dependents.

(b) Medical expenses. Medical expenses, except as otherwise provided, shall be paid to a hospital or other licensed health care provider on behalf of the victim at a rate set by the Office of Victims' Services. If the Office of Victims' Services accepts a claim, the hospital or other licensed health care provider shall accept such payment as payment in full and may not attempt to collect from the victim any amount exceeding the amount of reimbursement made by the Office of Victims' Services.

§ 11.709. Confidentiality of records

(a) General rule. All reports, records or other information obtained or produced by the bureau during the processing or investigation of a claim shall be confidential and privileged, shall not be subject to subpoena or discovery, shall be used for no purpose other than the processing of a claim and, except as otherwise provided by law or as provided in this section, shall not be introduced into evidence in any judicial or administrative proceeding.

(b) Disclosure restricted. Except as otherwise provided by law, no person who has had access to a report, record or any other information under this subsection shall disclose the content of such a report, record or other information or testify in a judicial or administrative proceeding without the written consent of the direct victim or intervenor or, if the direct victim or intervenor is deceased, the claimant.

(c) Construction. This section shall not be construed to preclude or limit introduction of the contents of a report, record or other information in an appeal hearing before the Office of Victims' Services or in an investigation, prosecution or judicial proceeding enforcing section 1303 or in communicating with the prosecutor's office regarding restitution.

§ 11.710. Responsibilities of employers, service providers and insurance companies

(a) Response. Employers, insurance companies or providers of services to direct victims, intervenors or claimants, including, but not limited to, doctors, hospitals and counselors, shall respond in writing to the Office of Victims' Services' request for confirmation or other information under this chapter within 30 days of receipt of the Office of Victims' Services' request.

(b) Penalty. Any person who fails to respond to a request under subsection (a) shall be subject to a penalty of not more than $ 50 per day, up to and including the date of compliance.

(c) Enforcement. The office of the district attorney of the county in which the crime occurred and the Office of Victims' Services shall be charged with enforcement of this section and the collection of penalties, which may be given to local victim service agencies or used for the enforcement and collection of penalties under this section.

§ 11.901. Eligibility of victims

A victim has the rights and is eligible for the services under sections 201 and 902 only if the victim reported the crime to law enforcement authorities without unreasonable delay after its occurrence or discovery, unless the victim had a reasonable excuse not to do so.

§ 11.902. Establishment of basic services for victims of crime

The commission shall provide technical assistance to and make grants to district attorneys, other criminal justice agencies or victim service agencies which provide crime victims with the following services:

(1) Notification services, including all of the following:

(i) Information concerning financial assistance and other social services available as a result of being a victim of crime.

(ii) Notification that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the victim an unnecessary trip to court.

(iii) Notification of the final disposition of the case.

(2) Protection services, including all of the following:

(i) Protection from harm and threats of harm arising out of

cooperation with law enforcement and prosecution efforts.

(ii) A secure waiting area during court proceedings which does not require them to be in close proximity to defendants and families and friends of defendants.

(3) Procedures for the expedited return by law enforcement officials of personal property of victims which is held for prosecutorial purposes.

(4) Services related to the rights of victims under Chapter 2

(5) Other services as defined by the commission.

§ 11.903. Grant program for services

(a) AUTHORITY.-- The commission has the authority to make grants to district attorneys and other criminal justice agencies for the provision of the services under section 902.

(b) REGULATIONS.-- The commission shall promulgate regulations necessary to ensure the cost-effective delivery of victim services or victim and witness services consistent with section 902.

(c) PARTICIPATION.-- In determining grant awards, the commission shall promote broad-based participation by a maximum number of criminal justice agencies Statewide.

(d) DATA.-- An agency which makes application for awards under this section shall provide data in support of the request as the commission requires. An agency which receives an award shall provide the commission with reports as the commission determines necessary to assess the agency's progress in the development of victim services.

(e) REPORT.-- The commission shall submit an annual report to the General Assembly on the progress of services provided for in section 902. The report shall include:

(1) The number of participating agencies and population served.

(2) The extent of services provided.

(3) Any impediments to the progress of the program.

(4) Recommendations for reform.

(f) ALLOCATION.-- In the allocation of funds for services under section 902, the commission shall consider the revenue collected by potential grant recipients under the penalty assessments authorized in section 1203 of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code, pertaining to domestic violence and rape crisis services and the extent to which crime victims' compensation claims assistance is made available.

§ 11.1101. Costs

(a) IMPOSITION.

(1) A person who pleads guilty or nolo contendere or who is convicted of a crime shall, in addition to costs imposed under 42 Pa.C.S. § 3571(c) (relating to Commonwealth portion of fines, etc.), pay costs of at least $ 60 and may be sentenced to pay additional costs in an amount up to the statutory maximum monetary penalty for the offense committed.

(2) A person placed in a diversionary program shall pay costs of at least $ 60 in addition to costs imposed pursuant to 42 Pa.C.S. § 3571(c).

(3) A juvenile shall pay costs of at least $ 25 if any of the following apply to the case:

(i) There is a consent decree.

(ii) There is an adjudication of delinquency.

(b) DISPOSITION.

(1) There is established a special nonlapsing fund, known as the Crime Victim's Compensation Fund. This fund shall be used by the Office of Victims' Services for payment to claimants and technical assistance. Thirty-five dollars of the costs imposed under subsection (a)(1) and (2) plus 30% of the costs imposed under subsection (a)(1) which exceed $ 60 shall be paid into this fund. All costs imposed under subsection (a)(3) shall be paid into this fund.

(2) There is established a special nonlapsing fund, known as the Victim Witness Services Fund. This fund shall be used by the commission for victim-witness services and technical assistance in nonvictim compensation-related areas in accordance with this section. Twenty-five dollars of the costs imposed under subsection (a)(1) and (2) plus 70% of the costs imposed under subsection (a)(1) and (2) which exceed $ 60 shall be paid into this fund.

(c) PAYMENT. This cost shall be imposed notwithstanding any statutory provision to the contrary.

(d) MANDAMUS. The district attorney, the Office of Victims' Services, the commission or any victim shall have standing to seek a mandamus order requiring the county to collect the costs imposed by this section.

(e) COURT ORDER. No court order shall be necessary in order for the defendant to incur liability for costs under this section. Costs under this section must be paid in order for the defendant to be eligible for probation, parole or accelerated rehabilitative disposition.

§ 11.1102. Costs for offender supervision programs

(a) COUNTY FUND.-- The county treasurer of each county shall establish and administer a county offender supervision fund consisting of the fees collected under this section. The county treasurer shall disperse money from this fund only at the discretion of the president judge of the court of common pleas. The money in this fund shall be used to pay the salaries and employee benefits of all probation and parole personnel employed by the county probation and parole department and the operational expenses of that department. Money from this fund shall be used to supplement Federal, State or county appropriations for the county adult probation and parole department. The president judge shall by August 31 provide the board with an annual statement which fully reflects all collections deposited into and expenditures from the offender supervision fund for the preceding fiscal year. The board shall promulgate regulations to provide for the permanent administration of this program.

(b) STATE FUND.-- There is established a State Offender Supervision Fund to be administered by the board and comprised of the supervision fees collected by the board under this section. The money in this fund shall be used to supplement the Federal or State funds appropriated for the improvement of adult probation services.

(c) COURT.-- The court shall impose as a condition of supervision a monthly supervision fee of at least $ 25 on any offender placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment unless the court finds that the fee should be reduced, waived or deferred based on the offender's present inability to pay. Of the fee collected, 50% shall be deposited into the County Offender Supervision Fund established in each county pursuant to this section, and the remaining 50% shall be deposited into the State Offender Supervision Fund established pursuant to this section.

(d) BOARD.-- The board shall impose as a condition of supervision a monthly supervision fee of at least $ 25 on any offender under the board's supervision unless the board finds that such fee should be reduced, waived or deferred based on the offender's present inability to pay. All fees collected shall be deposited into the State Offender Supervision Fund established under subsection (b).

(e) CONTINUATION.--

(1) For offenders under supervision of a county probation department or the board as of August 14, 1991, the fee shall automatically become a part of the supervision conditions as if the court or board had imposed it unless the court or board makes a finding that the offender is presently unable to pay.

(2) The court or board may make a finding that the offender is unable to pay based on any of the following factors:

(i) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(ii) The offender is a student in a school, a college, a university or a course of vocational or technical training designed to fit the student for gainful employment.

(iii) The offender has an employment handicap as determined by an examination acceptable to or ordered by the court or board.

(iv) The offender's age prevents employment.

(v) The offender is responsible for the support of dependents, and the payment of the assessment constitutes an undue hardship on the offender.

(vi) Other extenuating circumstances as determined by the court or board.

§ 11.1301. Subrogation

(a) GENERAL RULE. Payment of an award made under Chapter 7 shall subrogate the Commonwealth, to the extent of the payment, to any right of action against any person accruing to the claimant, the direct victim or the intervenor to recover losses resulting from the crime with respect to which the award is made. In such a case, the Commonwealth shall be entitled to bring an action against the person causing or otherwise liable for the personal injuries or death for which the payment was made. Money recovered under this section shall be deposited in the Crime Victim's Compensation Fund established in section 1101(b)(1).

(b) EXCESS. If an amount greater than that paid under Chapter 7 is recovered and collected in such an action, the Commonwealth shall pay the balance to the claimant. The Attorney General shall enforce any subrogation. A claimant who fails to notify the Office of Victims' Services of the receipt of funds from any other claim or award arising out of the crime shall forfeit and pay to the Commonwealth an amount equal to all awards paid by the bureau to the claimant or on the claimant's behalf.

§ 11.1302. Restitution

To the extent that restitution is ordered either prior to or subsequent to the making of an award by the Office of Victims' Services, the restitution shall be paid to the Commonwealth to the extent of the award by the Office of Victims' Services.

§ 11.1303. Penalty

An individual who asserts a false claim under Chapter 7 commits a misdemeanor of the third degree and shall, upon conviction, forfeit any benefit and reimburse and repay the Commonwealth for payments received or paid on the individual's behalf under Chapter 7.

§ 11.5101. Effect on legal actions

Nothing in Chapters 2, 3, 5 and 9 creates a cause of action or defense in favor of any person arising out of the failure to comply with any of these chapters.

§ 11.5102. Continuation of existing law

This act is a codification of the statutory provisions repealed in section 5103 and, except where clearly different from current law, shall be deemed to be a continuation of prior law. Funds, programs, regulations and Commonwealth agencies governed by the repealed provisions shall be deemed continued by this act.