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CRIME VICTIM COMPENSATION PROGRAM

Financial Assistance
for
Victims of Violent Crime



Iowa Department of Justice

May, 1994

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INTRODUCTION

The Compensation Program is administered by the Crime Victim Assistance Division of the Attorney General's office. The Division also administers the Sexual Assault Examination Program and the Victim Grants Program.

While no amount of compensation can erase the physical and emotional trauma of crime, the Compensation Program strives to alleviate the financial burdens suffered by crime victims.

A variety of crime related expenses are compensable under state law including:

- * Medical
- * Lost wages
- * Counseling for victims and homicide survivors
- * Loss of support for dependents of disabled or deceased victims
- * Clothing and bedding replacement
- * Clean-up of a residential homicide site
- * Funeral and burial expenses

No tax dollars are used to fund the Compensation Program. All funding comes from criminal fines and penalties, offender restitution, monies recovered through civil suits involving the offender or other liable third parties, and the federal Victims of Crime Act (VOCA), which is also funded entirely by federal fines and penalties.

You may contact the Compensation Program at the following address if you would like additional information or need program brochures or applications:

Crime Victim Compensation Program
Old Historical Building
Des Moines, IA 50319

(515) 281-5044

Toll-free outside of Des Moines
1-800-373-5044

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ELIGIBILITY REQUIREMENTS

To receive compensation for crime related injuries or death an applicant must meet the following criteria as defined in Iowa Code Chapter 912:

1. The applicant must be a victim or survivor of a victim who has suffered personal injury or death as the result of:

- a. A covered crime;
- b. The good faith effort of a person attempting to prevent a crime; or
- c. The good faith effort of a person to apprehend a person suspected of committing a crime. §912.1(5)

Covered crimes include the following:

Assault

Domestic abuse

Sexual assault

Child physical and sexual abuse

Drunk driving, Hit and run driving, Reckless driving, Homicide by Motor Vehicle, Drunk boating

Other violent crimes, such as robbery, burglary, or arson if an injury or threat of injury occurred. §912.1(2)

2. The victim must report the crime to law enforcement or the Department of Human Services within 72 hours of it's occurrence or within 72 hours of when it could reasonably be reported. §912.4(2)

The reporting requirement is defined as providing a true and accurate report of the incident, including:

- a. the nature of the crime;
- b. the location of crime;
- c. the name, description and whereabouts of suspect, if known; and
- d. the names of witnesses.

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The requirement is not met if the victim only provides his/her name and the fact that they were victimized.

3. **The victim must cooperate with the reasonable requests of law enforcement in the investigation or prosecution of the crime. §912.4(6)**

Reasonable cooperation includes, but is not limited to the following:

- a. Providing law enforcement with a true and accurate report of the crime;
- b. Participating in the investigation of the crime to assist in identification of the suspect as requested;
- c. Participating in deposition and trial testimony as requested.

Reasonable cooperation is determined on a case by case basis taking into consideration the victim's age, physical condition and psychological state, and any compelling health or safety reasons that would jeopardize the well being of the victim.

4. **An application for compensation must be filed within two years of the date of the crime, the discovery of the crime or the date of the death of the victim. §912.4(1)**
5. **The crime for which compensation is sought must have occurred in Iowa. §912.5(4)**

The Compensation Program will provide benefits to Iowa residents who were injured in states which do NOT have an eligible compensation program. Currently, all 50 states have compensation programs, however, Nevada will not provide benefits to non-residents.

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CLAIM DENIALS

Claims will be denied if the application does not meet the above eligibility criteria.

Additionally, pursuant to Iowa Code §912.7 the claim will be denied if the injury or death was caused by either of the following:

- a. Consent, provocation or incitement by the victim; or
- b. The victim was assisting, attempting or committing a criminal act.

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COMPENSATION BENEFITS

Effective July 1, 1994

The Compensation Program can provide benefits to eligible victims for the following crime related costs:

- ▼ Medical care, including psychiatric, dental or nursing care (up to \$10,500)
- ▼ Crime related mental health counseling provided by a licensed psychologist or a person holding at least a master's degree in social work or counseling and guidance or a victim counselor as defined in Iowa Code §236A.1 (up to \$3,000)
- ▼ Wages lost by the victim due to crime related injuries (up to \$2,000)
- ▼ Loss of support for dependents of deceased victims or victims who are unable to work for sixty days or longer (up to \$2,000 per dependent/\$6,000 total)
- ▼ Funeral and burial costs for homicide victims (up to \$5,000)
- ▼ Grief counseling for survivors of a homicide victim (up to \$3,000 per survivor/\$6,000 total)
- ▼ Cleaning the homicide location in a residence (up to \$1,000)
- ▼ Replacement of clothing held as evidence (up to \$100)

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BENEFIT REDUCTIONS

The Compensation Program is the payor of last resort. Compensation benefits are intended to supplement and not replace other programs or benefits that the victim may be eligible to receive.

Pursuant to Iowa Code §912.7 compensation payments must be reduced by the following:

- a. Payment received from or on behalf of the person who committed the crime (restitution, dramshop or other liable third parties);
- b. Payment received from an insurance program (health or auto insurance, workers' compensation, or unemployment benefits); and
- c. Payment from other public funds (Medicaid, Medicare, State Papers, General Relief, etc.)

Restitution

Compensation benefits will be reduced by the amount of restitution received by the victim at the time a claim is processed for payment.

If restitution is ordered to the victim, but has not received by the victim, the Compensation Program will seek to have the court order amended to direct restitution to the program.

Civil Settlements

Compensation will be reduced by any civil settlement received by the victim at the time the claim is processed for payment.

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If a civil suit is pending at the time the claim is processed for payment the civil attorney and victim are advised that the program has a subrogation interest in the pending civil settlement.

Insurance

Crime related bills must be submitted to the victim's insurance carrier for payment determination.

If a victim has insurance, compensation will be paid for the victim's out-of-pocket expenses, including any required deductible or co-payment.

Public Funds

Victims may be asked to apply for other public benefit programs such as Medicaid, State Papers or General Relief if it appears that they would meet the income qualifications.

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APPLICATION PROCESS

To receive compensation benefits the victim or the survivor of a homicide victim must file an Application for Crime Victim Compensation.

Applications may be filed in writing on the prescribed form OR completed by telephone by contacting the program at (515) 281-5044 or toll-free outside of Des Moines at 1-800-373-5044.

All applicants must complete an Authorization to Release Information and Repayment/Subrogation Agreement before benefits can be issued.

VERIFICATION PROCESS

On the day an application is received (in writing or by telephone) the division secretary assigns a claim number to the application and assigns it to an investigator.

The division secretary enters the application into the database and prints the necessary correspondence and verification forms.

The investigators and secretary work together by telephone contact and a computerized mail system to obtain verification of crime related expenses.

When all requested verification has been received the investigator can process the application.

The investigator first reviews the law enforcement verification form and investigative report to determine if the claim meets the statutory eligibility criteria.

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Denial Process

If the investigator determines that the claim does not meet the eligibility criteria the investigator prepares a memo citing the statutory basis for denial and gives the file to the Deputy Director for final review and denial.

The claimant is sent a formal notice of the denial and provided with a form to complete if they wish to appeal the denial decision. Notice of the denial decision is also sent to the county attorney, civil attorney and all medical providers.

Approval Process

If the claim does meet the eligibility requirements the investigator reviews the verification information, including all billing statements, medical or treatment records, insurance documentation, and employment information to determine the amount of compensation a victim is eligible to receive.

The investigator enters the payments into the database. The Deputy Director reviews the claim for final approval and issuance of the payments.

Emergency Payment

The Compensation Program may issue an emergency payment of up to \$500 to a victim for their lost wages or any crime related expenses they have already paid.

An emergency payment is an advance of the total amount of compensation the victim will be entitled to receive. The emergency payment is subtracted off the final compensation payment.

The program must still determine that the claim meets the eligibility criteria prior to issuing an emergency payment.

NOTE: If a particular victim needs immediate assistance or prior approval for medical treatment, the victim/ witness coordinator or advocate should contact the Deputy Director to discuss options to expedite the payment.

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Supplemental Benefits

There is no time limit for the submission of supplemental bills.

On-going crime related expenses will be verified in the same manner as the original expenses and paid as they are received.

Supplemental benefits are provided at the benefit level which was in effect at the time the original application was filed. For example, during FY94 (7/1/93 to 6/30/94) the maximum benefit for funeral and burial was \$2,500. In FY95 (7/1/94 to 6/30/95) the funeral and burial benefit was increased to \$5,000. The benefit increase applies only to applications received during FY95.

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APPEALS PROCESS

If the applicant disagrees with the program decision or the amount of compensation, the program's administrative rules allow for three levels of appeal. At the first level, a dissatisfied applicant may request that the Division Director reconsider the program decision by completing the **Request for Reconsideration form** (the form is provided to the applicant with the denial letter). Applicants may also submit additional information with the request for reconsideration.

The Request for Reconsideration must be returned to the program office within 30 days from the date of the program decision.

The Division Director will respond in writing to the Request for Reconsideration within 30 days of receipt of the request.

If the Division Director overturns the program denial the claim is returned to the investigator to complete the necessary verification and/or issuance of benefits.

If the Division Director upholds the program denial the applicant is provided with a **Request for Board Consideration form**.

The Request for Board Consideration must be returned to the program office within 30 days from the date of the Division Director's decision.

The Board will hold a hearing to consider the claim. The applicant will be notified in advance of the date and time the Board will consider their appeal.

The applicant may provide additional information or appear before the Board in person, accompanied by an attorney, or advocate if they choose, or request to attend by telephone conference call.

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After reviewing the claim file and accompanying information the Board may uphold or overturn the Director's decision or direct the Deputy Director to resume the investigation to obtain additional information.

The Board will issue a Notice of Board Decision and provide a copy to the applicant.

If the Board overturns the Director's denial, the claim is returned to the investigator to complete the necessary verification and/or the issuance of benefits.

If the Board upholds the Director's denial the applicant is notified of their right to file a Petition for Judicial Review under Iowa Code Chapter 17A. The Petition for Judicial Review must be filed within 30 days of the Board's decision.

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SEXUAL ASSAULT EXAMINATION PROGRAM

The Crime Victim Assistance Division also administers the Sexual Assault Examination Program (SAE). Iowa Code Chapter 709 requires the SAE Program to pay for the sexual assault examination, including laboratory tests and prescription medications for the prevention of sexually transmitted diseases. The SAE Program can only pay for the cost of collecting sexual assault evidence. If the victim requires other medical treatment as a result of the crime, he or she should file an application for compensation.

There are several differences between the SAE Program and the Compensation Program including:

1. The victim does not need to file an application or report the crime to a law enforcement agency to have the sexual assault examination paid for.
2. The hospital and treating physician automatically bill the SAE Program for reimbursement. The victim may not be aware that the bill has been submitted for payment.
3. The victim should never be billed for the cost of a sexual assault examination. The hospital and treating physician must accept the SAE payment as payment in full for the cost of the examination.

The state pays for sexual assault examinations to ensure that evidence is gathered in a timely manner. The exam also is an important way to address the health and safety concerns of victims of sexual assault.

Having a sexual assault exam does not mean that the victim must proceed with a criminal case against a defendant, but the exam preserves the evidence in the event that charges are later filed.

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COMMON QUESTIONS AND ANSWERS

Q: CAN THE VICTIM RECEIVE COMPENSATION IF THE OFFENDER HAS BEEN ORDERED TO PAY RESTITUTION?

Yes, the victim can apply for compensation if restitution has been ordered. Once an application is approved the program will ask the county attorney to amend the restitution order to include repayment to the program. If the victim has additional expenses not covered by the Compensation Program, such as property damage, the victim would continue to receive restitution until they are fully reimbursed. Any restitution payments received by the victim for the same expenses submitted to the Compensation Program will be deducted from the total compensation payment.

Q: IF THE VICTIM RECEIVES COMPENSATION CAN THEY STILL SUE THE OFFENDER FOR THE INJURIES SUSTAINED IN THE CRIME?

Yes, the victim may still sue the offender or other liable third party for the damages caused by the crime. The Compensation Program is entitled to repayment if the civil settlement includes payment for the same expenses paid by the Compensation Program.

Q: CAN THE COMPENSATION PROGRAM PAY FOR ATTORNEY FEES IF THE VICTIM SUES THE OFFENDER?

The Compensation Program will not provide payment for attorney fees. Most civil attorneys will work on a contingent fee basis. A contingent fee means that the attorney will not charge the victim any attorney's fee unless damages are collected. If damages are collected, the attorney will receive a percentage of the money as a fee. The compensation Program will pay a portion of the attorney fees if the victim has to repay the program from the funds collected.

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Q: DOES THE COMPENSATION PROGRAM PAY FOR STOLEN OR DAMAGED PROPERTY?

No, the Compensation Program can not pay for property loss, except for medically necessary items, such as eyeglasses, hearing aids, or prosthetic devices.

Q: WHAT IF THE VICTIM NEEDS ADDITIONAL MEDICAL CARE OR COUNSELING AFTER COMPENSATION HAS BEEN APPROVED?

The victim may submit additional crime related bills to the program until the maximum benefit has been paid. If the victim needs treatment after the claim been approved, they should contact the program to find out how to submit the additional bills.

Q: CAN THE COMPENSATION PROGRAM PAY FOR PAIN AND SUFFERING?

No, the Compensation Program can not pay for pain and suffering. If a victim is seeking payment for pain and suffering they should contact a private attorney to initiate a civil action.

Q: SHOULD THE VICTIM WAIT TO FILE AN APPLICATION FOR COMPENSATION UNTIL THE OFFENDER HAS BEEN ARRESTED OR CONVICTED OF THE CRIME?

No, the victim should apply for compensation as soon as possible after the crime. Compensation is not based upon the arrest or conviction of the offender.

Q: CAN A DOMESTIC VIOLENCE VICTIM RECEIVE COMPENSATION IF HE/SHE STILL LIVES WITH THE OFFENDER?

Yes, domestic violence victims who live with the offender are still eligible to receive compensation, if the other eligibility requirements are met, such as filing a report with law enforcement within 72 hours of the crime.

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Q: CAN A VICTIM RECEIVE LOSS OF SUPPORT BENEFITS FOR CHILDREN THAT DO NOT LIVE WITH THEM?

Yes, loss of support can be awarded for dependents who do not live with the victim if the victim is contributing to the care or support of the dependent. The Compensation Program would ask for verification of the support, such as child support receipts, income tax verification of the dependency or child care expenses.

Q: HOW LONG WILL IT TAKE TO RECEIVE COMPENSATION?

It takes about six weeks for a victim to receive compensation once an application has been received. Some applications may take longer if the program is waiting for on-going law enforcement information, or insurance determinations. If the victim is in need of compensation sooner than six weeks they should request an emergency award.

Q: WHAT IS AN EMERGENCY AWARD?

An emergency award is partial payment or an advance of the total compensation payment. Emergency awards are generally processed quicker than the total award, however, the program must still review the law enforcement verification and documentation of the victim's losses. The maximum emergency award is \$500.

Q: IF THE VICTIM WAS INTOXICATED AT THE TIME OF THE CRIME CAN THEY STILL RECEIVE COMPENSATION?

Intoxicated victims are not automatically disqualified from receiving compensation. Intoxication may be taken into consideration to determine if there was a causal connection between the intoxication and the resulting victimization.

Q: WHAT IS CONSENT, PROVOCATION AND INCITEMENT?

Consent, provocation and incitement is conduct on the part of the victim which may have caused their injuries or death. When reviewing information

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regarding consent, provocation and incitement the program considers whether charges are filed against the victim or the suspect, comparable or reasonable force, age of the victim, the extent of the injuries suffered, and issues of mutual combat.

Q: IF THE VICTIM DOES NOT WISH TO PRESS CRIMINAL CHARGES CAN THEY STILL RECEIVE COMPENSATION?

Yes, victims who choose not to press criminal charges are still eligible to receive compensation if it is deemed that they reported the crime to law enforcement and cooperated with the reasonable requests of law enforcement and the county attorney.

**IOWA CODE CHAPTER 912
CRIME VICTIM COMPENSATION PROGRAM**

EFFECTIVE JULY 1, 1994

Compensation is available only to victims of criminal acts committed on or after January 1, 1983; 83 Acts, ch 1258, § 25

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912.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Compensation" means moneys awarded by the department as authorized by this chapter.
2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, or misdemeanor, or would be so punishable but for the fact the person engaging in the conduct lacked the capacity to commit the

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crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of §321.261, 321.277, 321J.2, 462A.14 or 707.6A, or when the intention is to cause personal injury or death. A license revocation under §321J.9 or §321J.12 shall be considered by the department as evidence of a violation of §321J.2 for the purposes of this chapter.

3. "Department" means the department of justice.
4. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.
5. "Victim" means a person who suffers personal injury or death as a result of any of the following:
 - a. A crime.
 - b. The good faith effort of a person attempting to prevent a crime.
 - c. The good faith effort of a person to apprehend a person suspected of committing a crime.

912.2 Award of compensation.

The department shall award compensation authorized by this chapter if the department is satisfied that the requirements for compensation have been met.

912.2A Crime Victim Assistance Board.

1. A crime victim assistance board is established, and shall consist of the following members to be appointed pursuant to rules adopted by the department:
 - a. A county attorney or assistant county attorney.
 - b. Two persons engaged full time in law enforcement.
 - c. A public defender or an attorney practicing primarily in criminal defense.

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- d. A hospital medical staff person involved with emergency services.
 - e. Two public members who have received victim services.
 - f. A victim service provider.
 - g. A person licensed pursuant to chapter 154B or 154C.
 - h. A person representing the elderly.
2. The board shall adopt rules pursuant to chapter 17A relating to program policies and procedures.
 3. A victim aggrieved by the denial or disposition of the victim's claim may appeal to the district court within thirty days of receipt of the board's decision.

912.3 Duties of the department.

The department shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim compensation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.
2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.
3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim compensation program, including the procedures for obtaining compensation under the program.
4. Request from the department of human services, the divisions of job service and industrial services of the department of employment services, the department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim compensation program.

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5. Require medical examinations of victims as needed. The victim shall be responsible for the costs of the medical examination if compensation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim compensation program if compensation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.
6. Receive moneys collected pursuant §246.702 for the purpose of compliance with Pub. L. 98-473.

912.4 Application for compensation.

1. To claim compensation under the crime victim compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within two years after the date of the crime, or of the discovery of the crime, or date of death of the victim.
2. A person is not eligible for compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made. The department may waive this requirement if good cause is shown.
3. Notwithstanding subsection 2, a victim under the age of eighteen or dependent adult as defined in §235B.1 who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in §232.68, subsection 7, or upon a dependent adult by a caretaker as defined in §235B.1, and was

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reported to an employee of the department of human services and the employee verifies the report to the department.

4. When immediate or short-term medical services or mental health services are provided to a victim under §910A.16, the department of human services shall file the claim for compensation as provided in subsection 3 for the victim.
5. When immediate or short-term medical services to a victim are provided pursuant to §910A.16, by a professional licensed or certified by the state to provide such services, the professional shall file the claim for compensation, unless the department of human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.
6. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

912.5 Compensation payable.

The department may order the payment of compensation:

1. To or for the benefit of the person filing the claim.
2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.
3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to compensation, the compensation may be apportioned by the department as the department determines to be fair and equitable among the dependents.
4. To a victim of an act committed outside this state of Iowa who is a resident of the state of Iowa and would be compensable had it

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occurred within this state of Iowa and the act occurred in a state that does not have an eligible crime victim compensation program as such term is defined in the Federal Victims of Crime Act of 1984, Pub. L. 98-473, § 1403(b), as amended and codified in 42 U.S.C. §10602(b).

912.6 Computation of compensation.

The department shall award compensation as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed three thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a masters degree in social work or counseling and guidance, or a victim counselor as defined in § 236A.1.
2. Loss of income from work the victim would have performed and for which the victim would have received remuneration if the victim had not been injured, not to exceed two thousand dollars.
3. Reasonable replacement value of clothing that is held for evidentiary purposes, not to exceed one hundred dollars.
4. Reasonable funeral and burial expenses, not to exceed five thousand dollars.
5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.
6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in §236A.1, subsection

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1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed three thousand dollars per person or a total of six thousand dollars per victim death.

7. Reasonable expenses incurred for cleaning the scene of a homicide, if the scene is a residence, not to exceed one thousand dollars.

912.7 Reductions and disqualifications.

Compensation is subject to reduction and disqualification as follows:

1. Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:
 - a. From or on behalf of, a person who committed the crime or who otherwise is liable for damages resulting from the crime.
 - b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.
 - c. From public funds.
 - d. As an emergency award under §912.11.
2. Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:
 - a. Consent, provocation, or incitement by the victim.
 - b. The victim assisting, attempting, or committing a criminal act.

912.8 Compensation when money insufficient.

Notwithstanding this chapter a victim otherwise qualified for compensation under the crime victim compensation program, is not entitled to the compensation when there is insufficient money from the appropriation for the program to pay the compensation.

912.9 Erroneous or fraudulent payment.

1. If a payment or overpayment of compensation is made because of clerical error, mistaken identity, innocent misrepresentation by or on

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behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the compensation. The department may waive, decrease, or adjust the amount of the repayment of the compensation. However, if the department does not notify the recipient of the erroneous payment or overpayment within one year of the date the compensation was made, the recipient is not liable for the repayment of the compensation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the compensation.

912.10 Release of information.

A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for a compensation shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and enforcement of the crime victim compensation program. Information and records which are confidential under §22.7 and information or records received from the confidential information or records remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under this section.

912.11 Emergency payment compensation.

If the department determines that compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order emergency compensation to be made paid to the person, not to exceed five hundred dollars.

912.12 Right to action against perpetrator - subrogation.

A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving compensation under the crime victim compensation program. If a person receiving compensation under the program seeks indemnification which would reduce the compensation under §912.7, subsection 1, the department is subrogated to the recovery to the extent of payments by the department to or on behalf

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of the person. The department has a right of legal action against a person who has committed a crime resulting in payment of compensation by the department to the extent of the compensation payment. However, legal action by the department does not affect the right of a person to seek further relief in other legal actions.

912.13 Rulemaking.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for compensation payments with respect to §910A.16 and §912.4, subsections 3, 4, 1 and 5.

912.14 Victim Compensation Fund

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of §709.10 and this chapter. Notwithstanding §8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

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DEPARTMENT OF JUSTICE Administrative Rules Iowa Administrative Code Chapter 61

Effective December 2, 1992.

CHAPTER 9, DIVISION II CRIME VICTIM COMPENSATION

9.25 Administration of the crime victim compensation program.

The crime victim assistance division of the department of justice shall administer the crime victim compensation program as provided in Iowa Code chapter 912. All questions, comments, requests for information, or applications for compensation shall be directed to the crime victim assistance division. Requests should be addressed to:

Crime Victim Assistance Division
Old Historical Building
Des Moines, Iowa 50319
phone (515) 281-5044 or
1-800-373-5044.

9.26 Definitions.

For rules of the department of justice crime victim assistance division, crime victim compensation program, the following definitions apply:

"Director" means director of the crime victim assistance division established in the department of justice.

"Board" means the crime victim assistance board in the department of justice.

"Compensation" means monies awarded by the division as authorized in Iowa Code chapter 912.

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"Counseling" means problem solving and support concerning emotional issues that result from criminal victimization. Counseling is a confidential service provided in person either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings.

"Division" means the crime victim assistance division of the department of justice.

"Eligible claimant" includes the following individuals who file a claim with the crime victim compensation program:

- a. A victim of a crime as defined in Iowa Code §912.1(5) and §912.5(4).
- b. A person responsible for the maintenance of a victim.
- c. A legal representative authorized to act on behalf of any of the persons listed above.
- d. The department of human services when the victim is a child and the crime was allegedly committed by a person responsible for the care of the child and the crime was reported to the department of human services' child abuse registry.
- e. In the event of a victim's death, the spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim.

"Income or wages" means net income or net wages.

"Pecuniary loss" means the amount of medical or medical related expenses which may include psychiatric expenses, and shall include, but not be limited to, eyeglasses, hearing aids, dentures, prosthetic devices which were taken, lost, or destroyed during the crime, or transportation for medical emergencies. Pecuniary loss shall also include the loss of income that the victim has

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incurred as a direct result of the injury to the extent the victim has not been or will not be indemnified from any other source.

"Personal injury or injury" shall mean bodily harm or extreme mental suffering, and shall include victim's pregnancy or miscarriage resulting from the crime.

"Reasonable charges" means charges ordinarily charged by the provider of the service to the general public for services of a similar nature.

9.27 Duties of the division.

The division shall:

- a. Administer the crime victim compensation program.
- b. Prepare appropriate forms for the filing of compensation claims.
- c. Determine the eligibility of claims filed, and reinvestigate and reopen cases as necessary.
- d. Conduct an administrative review of claims where a request for reconsideration is filed by the claimant with the director.
- e. Receive monies bequeathed, awarded, or donated to the crime victim assistance division by a public or private organization or individual.

9.28 Claim information.

A person who wishes to file a claim for crime victim compensation may contact the crime victim assistance division at the address listed in rule 9.25(912) and request application information.

9.29 Application for compensation.

The division will consider an application for compensation upon receipt by the division of an application form signed by the claimant.

9.29 (1) An application postmarked within the prescribed time period shall be considered timely filed by the division.

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9.29 (2) If the request for an application is received by phone or in writing to the division within two years after the occurrence or discovery of the crime, the department may grant an extension of up to 45 days for the completion and return of the application.

9.29 (3) In determining whether a victim reasonably cooperated with law enforcement the division may consider the victim's age, physical condition and psychological state, and any compelling health or safety reasons that would jeopardize the well being of the victim. Reasonable cooperation by the victim includes but is not limited to the following:

- a. Providing law enforcement with a true and accurate report of the crime.
- b. Participating in the investigation of the crime to assist law enforcement in the identification of a suspect as requested.
- c. Participating in prosecution procedures including deposition and trial testimony as requested.

9.29 (4) For the purpose of the crime victim compensation program, a report of the crime made to any of the following persons shall be considered a report to the local police department or county sheriff's office as provided in Iowa Code §912.4(2):

- a. Sheriffs and their regular deputies.
- b. Marshals and police officers of cities.
- c. Peace officers of the department of public safety.
- d. Special security officers employed by board of regents institutions as set forth in Iowa Code §262.13.
- e. Peace officers as authorized by Iowa Code §107.13 or §III A.S.
- f. Employees of the department of transportation who are designated "peace officers" by resolution of the department under Iowa Code §321.477.
- g. Correctional officers, including parole and probation officers.

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- h. County attorneys.
- i. An employee of the Department of Human Services having jurisdiction to investigate the incident.

9.29 (5) A person is not eligible for compensation unless the crime was reported as provided in subrule 9.29(4). The department may waive the 72 hour time period required for the filing of a report if good cause is shown.

9.30 Computation of compensation.

The crime victim compensation program shall determine the amount of compensation to be paid to an eligible claimant.

9.30 (1) For the purposes of establishing reasonable charges for counseling provided by a victim counselor, as defined in Iowa Code § 236A.1, where fees for services to the general public for services of a similar nature have not previously been established, the following guidelines shall apply:

- a. Counseling provided by victim counselors whose position is funded, in whole or in part, or whose position is used as match requirement for federal Victims of Crime Act funds, shall not be eligible for compensation payment.
- b. Counseling services provided to an eligible victim by a victim counselor shall be compensated as follows:
 - 1. Individual counseling at the hourly rate of twenty five dollars.
 - 2. Group counseling at the hourly rate of ten dollars.
- c. Compensation paid, combined with other funding sources for the service, shall not be in excess of the total cost of providing the counseling hour.

9.30 (2) Compensation for counseling shall not be payable for counseling sessions in which the offender takes part.

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9.30 (3) Eligible victims shall receive compensation for lost wages or income as follows:

- a. Lost wages are computed as the net rate of pay times the number of scheduled hours of work missed. To establish net rate of pay, gross wages are reduced by state withholding tax, federal withholding tax and, and FICA withholding tax withheld by the employer or as follows:
 1. If the victim earns less than twenty five thousand dollars annually, gross wages are reduced by 15% to establish the net rate of pay.
 2. If the victim earns more than twenty five thousand dollars annually, gross wages are reduced by 20% to establish the net rate of pay.
- b. Income that is variable shall be computed based on the average income earned during a minimum twenty eight day period within the three months prior to the crime.
- c. Lost wages or income will not be reduced by vacation pay.
- d. If the victim is terminated from employment due to crime related injuries, the victim may receive compensation for lost wages or income until medically released to work.
- e. If the victim receives an offer of employment but is unable to begin employment because of injury due to the crime, the victim may be reimbursed for lost wages or income until medically released to work.

9.30 (4) Cleaning a residential homicide scene means to remove, or attempt to remove, from the crime scene blood, dirt, stains, or other debris caused by the crime or the processing of the crime scene. The division will compensate an eligible claimant for the reasonable out-of-pocket cost of cleaning supplies, equipment rental, and labor. The division will not compensate for the repair of or replacement of property damaged in the crime.

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9.30 (5) Supplemental claims, filed after the timely filing of an original claim will be accepted for costs directly related to the crime for which the original eligible application for compensation was made.

9.30 (6) Compensation will not be paid for services where the provision of those services are mandated by law or administrative rule to be the responsibility of another government unit, private agency or program.

9.31 Reductions and Disqualifications.

The division shall reduce and disqualify compensation as follows:

9.31 (1) In assessing consent, provocation or incitement on the part of the victim pursuant to Iowa Code §912.7(2) (a) the following factors may be considered but are not exclusive: whether charges are filed against the suspect, whether the victim attempted to withdraw from the incident, comparable or reasonable force on the part of the suspect in response to an action of the victim, the amount of time from the beginning of the interaction between the victim and the suspect and the criminal act committed by the suspect, the age of the victim, comparable sizes or strength of the victim and suspect.

9.31 (2) Compensation to the dependent of a victim shall be reduced or disqualified to the extent that a victim has already received the maximum compensation allowable through Iowa Code Chapter 912 and the provisions of these rules.

9.32 Emergency award of compensation.

Emergency awards of compensation shall be awarded as follows:

9.32 (1) A decision denying an emergency award shall not be appealable.

9.32 (2) Any emergency award shall be deducted from the final compensation made to the claimant. If the final award amount is less

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than the amount of the emergency award, the claimant must repay the excess to the division.

9.33 Victim/Claimant's Right to Request for Program Reconsideration and Review by the Board.

A victim/claimant who disagrees with the denial decision or the amount of compensation awarded has the right to appeal to the director. A claimant/victim who disagrees with the decision of the director has the right to appeal to the crime victim assistance board.

9.33 (1) A victim/claimant will be informed by the crime victim compensation program of the reason(s) for the denial. A victim/claimant who disagrees with the denial or amount of compensation must submit a written request for reconsideration with the division director within 30 days of the date the notice of the crime victim compensation program decision is mailed or otherwise issued by the division to the claimant. Any request for reconsideration postmarked within the prescribed time period shall be considered timely filed by the division. Barring unusual circumstances, within 30 days of the receipt of the request for reconsideration the director shall issue a decision. The director shall inform the victim/claimant of the reason(s) for the denial

9.33 (2) Victim/Claimants who disagree with the director's decision may file a Request for Review of the decision to the Crime Victim Assistance Board. This written request for Review must be submitted within 30 days of the date the notice of decision is mailed by the director to the victim/claimant. Any request for review postmarked within the prescribed time period shall be considered timely filed by the division. Barring unusual circumstances, within 60 days of the receipt of the request the Crime Victims Assistance Board, or a committee designated by the chair of not less than five members of the board, will issue a decision.