

CHAPTER 125
FORMERLY
HOUSE BILL NO. 166
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO VICTIMS COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 9004, Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9004. Functions of the Council.

The Council shall have the following functions, powers and duties:

(1) To ~~adopt, promulgate, amend and rescind~~ review and comment on such rules and regulations as are proposed by the Agency ~~required to carry out this chapter.~~

(2) To serve in an advisory capacity to the Agency and Appeals Board.

(3) Recommend adoption, amendment, or rescission of rules, regulations and policies implementing this chapter.

(4) In its discretion, prepare an independent annual report describing the Council's activities.

Section 2. Amend Section 9006, Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9006. Function of the Agency.

The Agency, subject to the approval of the Department of Justice, shall have the following functions, powers and duties:

(1) To meet and function at any place within the State;

(2) To obtain the services of other governmental agencies upon request and to utilize those services when necessary;

(3) To receive, investigate, and determine awards, and to process for claims payment for emergency and indemnification applications filed pursuant to this chapter as follows:

a. The Agency shall determine the award for claims for less than \$12,500, except for emergency claims, in which case an Appeals Board member shall be contacted and, if available, shall be part of the determination;

b. The Agency and one Appeals Board member shall determine the award for any claim exceeding \$12,500; and

c. When an Appeals Board member has been involved in the initial determination of a claim pursuant to paragraph (3)a. or b. of this section, that Appeals Board member shall be recused from any further consideration of that claim.

(4) To publish reports, information and other data collected by the Agency;

(5) To annually render to the Governor and General Assembly a written report of the Agency's activities and recommendations;

(6) To provide indemnification claim forms for purposes of this chapter and to specify the information to be included in such forms; ~~and~~

(7) To adopt, promulgate, amend, and rescind such rules and regulations as are required to carry out this chapter; and

(7~~8~~) To reimburse other governmental agencies pursuant to this chapter for emergency awards to victims, secondary victims, or claimants.

Section 3. Amend Section 9016, Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9016. Penalty assessment.

(a) In addition to, and at the same time as, any fine is assessed to any criminal defendant or any child adjudicated delinquent, there shall be levied an additional penalty of 18 percent of every fine, penalty and forfeiture imposed and collected by the courts for crimes or offenses as defined in § 233 of this title, or \$10 per offense of conviction, whichever is greater. Where multiple offenses are involved, the penalty assessment shall be based upon the total fine for all offenses. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment shall not be suspended; provided, however, that if the penalty assessment herein imposed remains uncollected for a period in excess of 3 years, the courts may expunge the record of such assessment.

(b) Upon collection of the penalty assessment, the same shall be paid over to the prothonotary or clerk of court as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this chapter, which account shall be designated the "Victim Compensation Fund," which is hereby created. Beginning with the fiscal year ending June 30, 2002, the unencumbered balances on June 30 of each fiscal year in excess of \$6,000,000 shall be deposited in the General Fund.

Section 4. Amend Section 10004(h), Title 29 by making insertions as shown by underlining and deletions as shown by strike through as follows:

(h) This section shall not apply to the proceedings of:

- (1) Grand juries;
- (2) Petit juries;
- (3) Special juries;
- (4) The deliberations of any court;
- (5) The Board of Pardons and Parole;
- (6) Public bodies having only 1 member;

(7) Public bodies within the legislative branch of the state government other than the House of Representatives, the Senate, the Joint Finance Committee, the Joint Committee on Capital Improvement, the Joint Sunset Committee, Legislative Council, committees, excluding ethics committees, specifically enumerated and created by Resolution of the House of Representatives and/or Senate or task forces specifically enumerated and created by Resolution of the House of Representatives and/or Senate;

(8) a. The ~~Violent Crimes Compensation Board~~ Victims' Compensation Assistance Program Appeals Board may close any meeting to the public where:

1. The claim to be considered derives from any sexual offense within the definitions of a crime in § 9002 of Title 11.

2. The claim to be considered derives from any offense by or against a child, as defined in this section, unless such child has been deemed amenable to the jurisdiction of a criminal court as to the matter before the Board.

3. The claim to be considered derives from any matter not yet adjudicated.

4. The claim to be considered involves a "victim" who is a "child" as those terms are defined in Chapter 90 of Title 11.

b. The Board shall produce a complete record of any proceedings closed to the public which record may be denied to anyone seeking access for good cause shown; and

(9) The deliberations of the following agencies for any case decision governed by the Administrative Procedures Act in Chapter 101 of this title:

- a. State Human Relations Commission;
- b. Industrial Accident Board; ~~and~~
- c. Tax Appeals Board; ~~and~~ and
- d. Victims' Compensation Assistance Program Appeals Board.

Section 5. This Act shall take effect 60 days after its enactment into law.

Approved July 18, 2013