



SPONSOR: Rep. K. Williams & Rep. Griffith & Rep. Dorsey Walker
& Sen. Poore
Reps. Kowalko, Lambert, Morrison, Osienki; Sens.
Ennis, Gay, Hansen, Lockman, Lopez, Mantzavinos,
Paradee, Pinkney, Richardson, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 182

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO VICTIMS OF CRIMES.

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

1 Section 1. Amend § 9002, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 9002. Definitions.

4 ~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them~~
5 ~~except where the context clearly indicates a different meaning: For purposes of this chapter:~~

6 (1) "Agency" ~~shall mean~~ means the Victims' Compensation Assistance Program.

7 (2) "Appeals Board" ~~shall mean~~ means the Victims' Compensation Assistance Program Appeals Board.

8 (3) "Child" ~~shall mean~~ means an unmarried person who is under 18 years of age, and ~~shall include~~ includes
9 the stepchild, foster child, or adopted child of the victim, or child conceived ~~prior to~~ before, but born after, the personal
10 injury or death of the victim.

11 (4) "Claimant" means victim, secondary victim, dependent, or any other person filing a claim under § 9012 of
12 this title on behalf of a victim, secondary victim, or dependent.

13 (4) (5) "Council" ~~shall mean~~ means the Victims' Compensation Assistance Program Advisory Council.

14 (5) (6) "Crime" ~~for purposes of this chapter shall mean~~ means any of the following:

15 a. Any specific offense set forth in Chapter 5 of this title, if the offense was committed after July 1, 1973,
16 and contains the characteristics of murder, rape, unlawful sexual intercourse, unlawful sexual penetration or
17 unlawful sexual contact, manslaughter, assault, kidnapping, arson, burglary, riot, robbery, unlawful use of
18 explosives, unlawful use of firearms, ~~stalking~~ stalking, or endangering the welfare of a ~~child~~ child.

19 b. Any specific offense set forth in former Chapter 3 of this title, if such offense was committed prior to
20 July 1, 1973, and contains the characteristics of murder, rape or any other sexual assault or sexual abuse,

21 manslaughter, assault, kidnapping, arson, burglary, robbery, riot, unlawful use of ~~explosives~~ explosives, or
22 unlawful use of ~~firearms~~; firearms.

23 c. Any specific offense occurring in another state, ~~possession~~ possession, or territory of the United States
24 or in violation of the United States Criminal Code, in which a person whose domicile is in Delaware is a victim, if
25 the offense contains the characteristics of murder, rape or any other sexual assault or sexual abuse, manslaughter,
26 assault, kidnapping, arson, burglary, riot, robbery, unlawful use of ~~explosives~~ explosives, or unlawful use of
27 firearms as set forth in Chapter 5 of this ~~title~~; title.

28 d. Any specific act of delinquency by a child, which if committed by an adult would constitute a specific
29 offense set forth in Chapter 5 of this title, and contains the characteristics of murder, rape, unlawful sexual
30 intercourse, unlawful sexual penetration or unlawful sexual contact, manslaughter, assault, kidnapping, arson,
31 burglary, robbery, riot, unlawful use of ~~explosives~~ explosives, or unlawful use of ~~firearms~~; firearms.

32 e. An act of terrorism, as defined in 18 U.S.C. § 2331, committed outside, or inside, the United States
33 against a resident or domiciliary of this ~~State~~; State.

34 f. Any offense under the Criminal Code or the Motor Vehicle Code containing as an element the act of
35 driving under the influence of alcohol or any drug or driving with a prohibited blood alcohol concentration,
36 vehicular homicide in any degree, vehicular assault in any degree, operation of a motor vehicle causing death, ~~or~~
37 leaving the scene of an accident involving personal ~~injury~~; injury, or operation of a vehicle causing serious
38 physical injury to a vulnerable user.

39 g. Any act that contains the characteristics of domestic violence or abuse; ~~or abuse~~.

40 h. Any act that contains the characteristics of human trafficking as defined in § 787 of this title.

41 (6) (7) “Dependent” ~~shall mean~~ used as a noun, means a person wholly or substantially dependent ~~upon~~ on
42 the income of the victim at the time of victim’s death, or would have been so dependent but for the ~~incompetency~~
43 incapacity of the victim due to the injury from which the death resulted, and ~~shall include~~ includes a child born after
44 the death of the victim.

45 (8) “Executive Director” means the executive director of the Agency, except in § 9003 of this title.

46 (7) (9) “Guardian” ~~shall mean~~ means any person, governmental ~~instrumentality~~ instrumentality, or private
47 organization who is entitled by law or legal appointment to care for and manage the person or property, or both, of a
48 child or ~~incompetent person who is incapacitated~~.

49 (8) “Incompetent” ~~shall mean a person who is incapable of managing the person’s own affairs, as determined~~
50 ~~by the Agency or by a court of competent jurisdiction~~.

51 (9)-(10) "Pecuniary loss" in instances of personal injury shall include medical expenses, including psychiatric
52 care and mental health counseling of the victim or secondary victims; nonmedical remedial care and treatment rendered
53 in accordance with a religious method of healing; hospital expenses; loss of past or future earnings (including, but not
54 limited to, reimbursement for vacation, sick and compensatory time) because of a disability resulting from such
55 personal injury. "Pecuniary loss" in instances of death of the victim shall include funeral and burial expenses, loss of
56 support to the dependents of the victim and mental health counseling to secondary victims. "Pecuniary loss" includes
57 means any other expenses actually and necessarily incurred as a result of the personal injury or death, death resulting
58 from a crime or a personal injury, but it does not include property damage. "Pecuniary loss" includes, but is not limited
59 to, the following: includes the following, except that for secondary victims, "pecuniary loss" means what is in
60 paragraphs (10)d. and (10)o. of this section, and for claimants in homicide cases, "pecuniary loss" means what is in
61 paragraphs (10)b., (10)c., (10)d., (10) f., (10)h., (10)o., (10)s., (10)t., and (10)u. of this section:

62 a. Crime scene cleanup not to exceed \$1,000; \$1,000.

63 b. Temporary housing not to exceed \$1,500; \$1,500.

64 c. Moving expenses not to exceed \$1,000; \$1,000.

65 d. Essential personal safety property not to exceed \$1,500; \$1,500.

66 e. Lost wages of parents or others charged with the care, ~~custody~~ custody, or guardianship of a ~~child~~
67 victim while providing care to a child victim; the victim.

68 f. Reasonable expenses, other than counseling of secondary victims where the victim has been killed by
69 the act of a person during the commission of a ~~crime, as defined in this chapter, crime,~~ not to exceed \$1,000;
70 \$1,000.

71 g. The deductible under a policy of automobile insurance where a motor vehicle is stolen in connection
72 with a ~~crime, as defined in this chapter, crime,~~ not to exceed the amount of the ~~deductible;~~ deductible.

73 h. Housing-related expenses, ~~including, but not limited to,~~ including mortgage, rent, security deposit, or
74 other housing costs and furniture not to exceed 3 times the ~~victim's~~ claimant's monthly prospective housing ~~cost;~~
75 cost.

76 i. Loss of support for victims of violence, not to exceed \$3,000, when ~~it is established that:~~ all of the
77 following are established:

78 1. The offender was gainfully employed or had other legal income at the time the crime ~~as defined by~~
79 ~~the chapter~~ was committed against the ~~victim;~~ victim.

80 2. The victim is fully or partially dependent on the income of the ~~offender;~~ and offender.

81 3. The victim no longer has that income from the ~~offender;~~ offender.

82 j. Compensation for towing and impoundment expenses incurred as a direct result of a ~~crime as defined in~~
83 ~~this chapter;~~ crime.

84 k. The cost to change locks and replace items seized as ~~evidence;~~ evidence.

85 l. Child care not to exceed the deposit plus 2 months of care by a state-approved or licensed day care
86 ~~provider;~~ or provider.

87 m. Reimbursement for reasonable expenses incurred due to attendance at criminal proceedings as a
88 witness for the ~~prosecution;~~ prosecution.

89 n. Medical expenses.

90 o. Psychiatric care and mental health counseling.

91 p. Nonmedical remedial care and treatment rendered in accordance with a religious method of healing.

92 q. Hospital expenses.

93 r. Loss of past or future earnings, including reimbursement for vacation, sick, and compensatory time,
94 because of a disability resulting from personal injury.

95 s. Funeral expenses not to exceed \$5,000.

96 t. Burial expenses not to exceed \$2,500.

97 u. Loss of support to the dependents of a victim of homicide.

98 (11) “Person who is incapacitated” means a person who is incapable of managing the person’s own affairs, as
99 determined by the Agency or by a court of competent jurisdiction.

100 (10) (12) “Personal injury” shall mean- means bodily harm; or- harm, mental, emotional or psychological
101 harm, or shall include includes pregnancy resulting from the crime.

102 (11) (13) “Secondary victims victim” shall mean- means any parent, stepparent, grandparent, son, daughter,
103 spouse, sibling, half-sibling, fiancée, caretaker of the victim, any child who resides on a regular or semi-regular basis
104 with any adult who is the victim of, or convicted of, any crime involving an act of domestic violence, the parents of a
105 victim’s spouse- spouse, or any other person who resided in the victim’s household at the time of the crime or at the
106 time of the discovery of the crime. For purposes of receiving mental health counseling only, this definition includes
107 any person who discovers and reports a homicide.

108 (12) (14) “Victim” shall mean- means a person who is injured sustains a personal injury or is killed by the act
109 of any other person during the commission of a crime as defined in this chapter. crime.

110 Section 2. Amend § 9003, Title 11 of the Delaware Code by making deletions as shown by strike through and
111 insertions as shown by underline as follows:

112 § 9003. Advisory Council.

113 (a) This hereby establishes within the Department of ~~Justice~~ Justice, the ~~Victim's~~ Victims' Compensation
114 Assistance Program Advisory Council, hereafter "the Council," consisting of 11 members with at-large members appointed
115 by the Governor. ~~The following shall be members of the Council:~~ Membership of the Council is as follows:

116 (1) The Attorney General or the Attorney General's ~~designee;~~ designee.

117 (2) The Chairperson of the Victim's Rights Task Force or the Chairperson's ~~designee;~~ designee.

118 (3) The Chairperson of the Domestic Violence Task Force or the Chairperson's ~~designee;~~ designee.

119 (4) ~~The Chairperson of the Sexual Assault Network of Delaware or the Chairperson's designee;~~ [Repealed.]

120 (5) Seven at-large members with 1 member from the medical profession, 1 member from the mental health
121 profession, 1 member who is a law-enforcement police- ~~police-~~ police-based advocate, and ~~one-~~ 1 member of the public each
122 from the City of Wilmington, New Castle County, Kent County, and Sussex County.

123 (6) The Executive Director of the Delaware Alliance Against Sexual Violence or the Executive Director's
124 designee.

125 (b) The term of Council members appointed by the Governor ~~shall be~~ is 3 years and ~~shall terminate upon~~
126 terminates on the Governor's appointment of a new member to the Council. A member shall continue to serve until that
127 member's successor is duly appointed but a holdover under this provision does not affect the expiration date of a
128 succeeding term.

129 (c) In case of a vacancy on the Council before the expiration ~~of~~ of a member's term, a successor ~~shall~~ must be
130 appointed by the Governor within 30 days of the vacancy for the remainder of the unexpired term.

131 (d) The Council shall elect 1 of its members as Chairperson to serve for a 1-year term and ~~shall~~ may be eligible for
132 reelection.

133 Section 3. Amend § 9005, Title 11 of the Delaware Code by making deletions as shown by strike through and
134 insertions as shown by underline as follows:

135 § 9005. ~~Victim~~ Victims' Compensation Assistance Program.

136 (a) This hereby establishes the ~~Victim~~ Victims' Compensation Assistance Program, hereafter the "Agency," which
137 ~~shall function~~ functions under the authority of the Department of ~~Justice~~ Justice, and which ~~shall have~~ has the sole
138 jurisdiction over the awarding of compensation for ~~victims of crime~~ claimants.

139 (b) Executive Director. The Executive Director ~~shall~~ must be appointed by and report to the Attorney General. The
140 Executive Director shall manage the Agency staff and supervise the claims review process and payment of compensation to
141 ~~victims; claimants.~~

142 (c) The Executive Director and staff shall support the ~~Advisory~~ Council and the Appeals Board.

143 (d) Staff. The Executive Director may employ staff and contract for services as necessary and authorized to carry
144 out the purpose of the ~~Victim Compensation Assistance Program, Agency, Advisory Council~~ Council, and Appeals Board.
145 ~~The total number of employees of the Agency shall not exceed 8 at any given time.~~

146 Section 4. Amend § 9006, Title 11 of the Delaware Code by making deletions as shown by strike through and
147 insertions as shown by underline as follows:

148 § 9006. Function of the Agency.

149 The Agency, subject to the approval of the Department of Justice, ~~shall have~~ has all of the following functions,
150 ~~powers; powers,~~ and duties:

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

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

154 (3) To receive, investigate, and determine awards, and to process for claims payment for ~~emergency and~~
155 ~~indemnification applications filed pursuant to this chapter as follows;~~ applications filed under this chapter.

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

158 b. ~~The Agency and one Appeals Board member shall determine the award for any claim exceeding~~
159 ~~\$12,500; and~~

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

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

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

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

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

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

172 (9) To ~~reecover~~ recover, through reimbursement by the criminal ~~defendant~~ defendant, the full amount of
173 compensation paid to ~~victims of~~ claimants for crimes committed by the ~~defendant;~~ defendant.

174 (10) To ~~reecover~~ recover, through reimbursement from ~~victims, claimants, and their dependents~~ claimants,
175 funds received from other sources of payment, as set forth ~~herein;~~ and herein.

176 (11) To administer the ~~Victims~~ Victims' Compensation Fund established by this chapter.

177 Section 5. Amend § 9007, Title 11 of the Delaware Code by making deletions as shown by strike through and
178 insertions as shown by underline as follows:

179 § 9007. Victims' Compensation Assistance Program Appeals Board.

180 (a) There is hereby established the Victims' Compensation Assistance Program Appeals Board, hereafter "Appeals
181 Board", which ~~shall be~~ is composed of 5 members to be appointed by the Governor and confirmed by the Senate. No more
182 than 3 members ~~shall~~ may be of 1 major political party. Appeals Board representation ~~shall~~ must reflect representation from
183 all counties of the State.

184 (b) Members of the Violent Crimes Compensation Board serving on July 31, 2009, will become the members of
185 the ~~Victims Compensation~~ Appeals Board. They will serve the balance of their terms in accordance with the provisions of
186 the statute in existence at the time of their last reappointment. Upon expiration of the current terms of the Appeals Board
187 members, their compensation will be \$100 per meeting. The compensation of all other Appeals Board members ~~shall be~~ is
188 \$100 per meeting.

189 (c) The term of Appeals Board members ~~shall be~~ is 3 years. A member shall continue to serve until that member's
190 successor is duly appointed but a holdover under this provision does not affect the expiration date of the succeeding term.

191 Section 6. Amend § 9008, Title 11 of the Delaware Code by making deletions as shown by strike through and
192 insertions as shown by underline as follows:

193 § 9008. Function of the Appeals Board.

194 (a) The Appeals Board ~~shall have~~ has the power and authority to meet and function in any place within the State.

195 (b) The Appeals Board ~~shall have~~ has the power and authority to affirm, ~~reverse~~ reverse, or modify the Agency's
196 claims decisions ~~subject to~~ under the provisions of ~~§ 9009~~ § 9012 of this title.

197 Section 7. Amend § 9009, Title 11 of the Delaware Code by making deletions as shown by strike through and
198 insertions as shown by underline as follows:

199 § 9009. Administrative provisions; compensation.

200 ~~In any instance in which a person sustains personal injury or is killed by any crime as the same is defined in this~~
201 ~~chapter, then the person or estate~~ A claimant, including an estate, may file a claim with the ~~Victims' Compensation~~
202 ~~Assistance Program, hereafter the "Agency,"~~ Agency for indemnification of all pecuniary loss ~~which is a direct result of~~
203 ~~such crime:~~ loss:

204 (1) If a claim is approved ~~as filed,~~ the award ~~shall~~ must be the amount of pecuniary loss ~~actually and~~
205 ~~reasonably sustained by reason of the personal injury in question~~ minus the amount the claimant has received or will
206 receive as indemnification from any other source, including any applicable insurance.

207 (2) In the event of a death caused by a crime ~~of violence,~~ any a person who legally or voluntarily assumes the
208 obligation to pay the medical or burial expenses incurred as a direct result of ~~such~~ the injury and death ~~shall be is~~
209 eligible to file a claim with the Agency. This provision for payment in case of death ~~shall~~ does not apply to any insurer
210 or public entity.

211 (3) The Agency is not compelled to provide compensation in any case, nor is it compelled to award the full
212 amount claimed. The Agency may make its award of compensation dependent ~~upon such condition or on~~ on conditions as
213 it deems desirable.

214 (4) ~~If the claimant is dissatisfied with the Agency's decision, the claimant may, within 15 days after the date~~
215 ~~the decision is mailed, file a request for reconsideration of the claim. The request should include additional information~~
216 ~~from the claimant that supports the claim request. The agency's final decision will be mailed to the claimant.~~
217 [Repealed.]

218 (5) ~~If the claimant is dissatisfied with the Agency's final decision, the claimant may, within 15 days after the~~
219 ~~date the decision is mailed, request a hearing before the Appeals Board.~~ [Repealed.]

220 (6) ~~Any claimant who is dissatisfied by the Appeals Board's decision concerning compensation or any~~
221 ~~conditions attached to the award of such compensation may appeal to the Superior Court within 30 days following the~~
222 ~~date the decision of the Appeals Board is mailed to the claimant. Any appeal to Superior Court shall not be de novo.~~
223 [Repealed.]

224 (7) Payment may be made in accordance with this chapter, whether or not the alleged perpetrator of the
225 criminal act is prosecuted or convicted, in the discretion of the Agency. Payment may be made even though the person

226 committing the crime is legally deemed to not have intended the act by reason of age, insanity, ~~drunkenness~~
227 drunkenness, or is otherwise deemed legally incapable of mens rea.

228 (8) Upon determination of the Agency of the amount of compensation due, the Agency shall ~~issue to the~~
229 ~~Delaware State Treasurer a statement certifying such amount. Upon receipt of such certification by the Agency, the~~
230 ~~Treasurer shall pay to the person named therein such amounts as are specified and under the conditions specified~~
231 ~~therein. The Treasurer shall make no payments until the time for appeal of the certification has passed unless the~~
232 ~~claimant has waived the right to appeal in writing. If an appeal is made, there shall be no payment until there has been~~
233 ~~a binding legal adjudication of the matter.~~ request payment be issued by the Delaware State Treasurer in accordance
234 with the State of Delaware Budget and Accounting Manual or any succeeding document.

235 (9) A person whose domicile is in Delaware and who is the victim or secondary victim of a ~~violent~~ crime
236 ~~which~~ that occurs in another state, ~~possession~~ possession, or territory of the United States may make an application
237 for compensation if both of the following are true:

238 a. The crimes would be compensable had they occurred in ~~Delaware; and Delaware.~~

239 b. The placement ~~or placements~~ of the crime ~~or crimes~~ occurred in states, ~~possessions~~ possessions, or
240 territories of the United States not having eligible crime victim compensation programs that provide benefits equal
241 to the benefits provided ~~pursuant to~~ under this chapter.

242 (10) Where compensation has been paid to a claimant, the Agency ~~shall~~ may not reopen or reinvestigate a
243 case after 2 years from the date of the last payment by the Agency, or 1 year from the date the award was rendered if
244 no payment has been made, except where the Agency in its discretion determines that the circumstances render this
245 requirement unreasonable. Where compensation has been denied to a claimant, reopening and reinvestigation ~~shall~~
246 must be limited to the circumstances set forth in Superior Court Civil Rule 60.

247 (11) Notwithstanding the provision of paragraph (10) of this section and § 9010(a)(3), ~~(4) (4)~~, and (5) of this
248 title to the contrary, the Agency may make an award for the payment of mental health counseling services ~~pursuant to~~
249 under this chapter upon ~~on~~ a claim made by the victim of ~~any~~ a crime which ~~that~~ occurred ~~prior to~~ before the victim's
250 eighteenth birthday so long as the occurrence of the crime is appropriately documented, and ~~such~~ the claim is filed
251 ~~prior to~~ before the victim's twentieth birthday. The Agency may also, upon good cause shown, permit a victim whose
252 claim had previously been decided by the Agency to request that such claim be reopened for the purpose of making an
253 award for the payment for mental health counseling services, and the Agency may reopen or reinvestigate the case and
254 award such compensation, if ~~such~~ the victim had not yet reached that victim's eighteenth birthday by the date of the
255 Agency's original decision, and provided that the request for reopening is filed ~~prior to~~ before the victim's twentieth

256 birthday. However, the foregoing limitations in this paragraph (11) regarding the victim's twentieth birthday ~~shall do~~
257 not apply in cases of crimes involving sexual assault or abuse.

258 (12) Notwithstanding any provision to the contrary, the Agency ~~shall~~ may not limit acceptance or
259 consideration of any applications arising from sexual assault or abuse of a child which may have otherwise been barred
260 from consideration by a statute of limitations.

261 (13) a. Notwithstanding the provisions of paragraph (10) of this section or any other provisions of this chapter
262 to the contrary, ~~where if any of the following apply, a victim or secondary victim of the crime committed by the~~
263 offender may apply for reimbursement as set forth in paragraph (13)b. of this section:

264 1. Further investigation into a previously reported crime is initiated by a law-enforcement ~~agency;~~
265 agency.

266 2. An offender appears in any judicial or administrative proceeding regarding a criminal charge,
267 conviction, or sentence, including ~~but not limited to~~ a trial, appeal, postconviction relief, mediation, penalty,
268 parole or pardon ~~hearing;~~ hearing.

269 3. The offender is released from ~~incarceration;~~ or incarceration.

270 4. The death penalty is imposed ~~pursuant to~~ under § 4209 of this ~~title;~~ title.

271 ~~any victim or secondary victim of such crime committed by such offender may apply for reimbursement~~
272 ~~as set forth in paragraph (13)b. of this section.~~

273 b. A victim or secondary victim may apply for reimbursement of the following costs under the
274 circumstances set forth in paragraph (13)a. of this section ~~for the following;~~ provided that the costs are incurred
275 within 1 year before, or within 2 years after, the opening of the investigation, the date of the judicial or
276 administrative proceeding, or the release or execution date of the offender:

277 1. The cost of mental health counseling services, not to exceed 50 ~~sessions;~~ sessions.

278 2. Reasonable expenses incurred due to attendance at criminal ~~proceedings;~~ proceedings.

279 3. Expenses for essential personal safety property, not to exceed ~~\$1,500;~~ \$1,500.

280 ~~provided that such costs are incurred within 1 year prior to, or within 2 years after, the opening of such~~
281 ~~investigation, the date of such judicial or administrative proceeding or the release or execution date of the~~
282 ~~offender.~~

283 c. Any payments made ~~pursuant to this subsection~~ under paragraph (13) of this section are subject to the
284 provisions of ~~§ 9010~~ § 9010 of this title with regard to denial and reduction of claims, and to ~~§ 9011~~ § 9011 of
285 this title with regard to payment.

286 Section 8. Amend § 9010, Title 11 of the Delaware Code by making deletions as shown by strike through and
287 insertions as shown by underline as follows:

288 § 9010. Denial of claim; reduction.

289 (a) The Agency shall deny payment of a claim for any of the following reasons:

290 (1) Where the claimant was the perpetrator of the crime on which the claim is based, ~~or was a principal~~
291 ~~involved in the commission of a crime at the time when the personal injury upon which the claim is based was~~
292 ~~incurred;~~ based.

293 (2) Where the ~~claimant~~ victim incurred the personal injury on which the claim is based through collusion with
294 the perpetrator of the ~~crime;~~ crime.

295 (3) Where the ~~claimant~~ victim refused to give reasonable cooperation to state or local law-enforcement
296 agencies in their efforts to apprehend or convict the perpetrator of the crime in ~~question;~~ question.

297 (4) Where the claim has not been filed within 1 year after the personal injury on which the claim is based,
298 unless an extension is granted by the Agency or the ~~Agency in its discretion~~ Agency, in its discretion, determines that
299 the circumstances render this requirement ~~unreasonable;~~ unreasonable.

300 (5) Where the ~~claimant~~ victim has failed to report the crime to a law-enforcement agency within 72 hours of
301 its occurrence. This requirement ~~shall be~~ is waived ~~where;~~ in any of the following circumstances:

302 a. The crime has been reported to an appropriate governmental agency, such as child ~~and/or~~ or adult
303 protective services or the Family ~~Court;~~ Court.

304 b. The ~~claimant~~ victim can provide a protection from abuse ~~order;~~ order.

305 c. The ~~claimant~~ victim has cooperated with law enforcement or an appropriate government agency in
306 cases of crimes involving domestic violence, sexual assault ~~or abuse;~~ or abuse.

307 d. Where the ~~Agency in its discretion~~ Agency, in its discretion, determines that the circumstances of the
308 crime or the victim render this requirement unreasonable.

309 (6) Where the victim is injured as a result of that victim's own suicide or attempted suicide, unless the suicide
310 or attempted suicide is directly related to a prior criminal victimization for which compensation is eligible ~~pursuant to~~
311 under this chapter; ~~chapter.~~

312 (7) ~~Where the victim has sustained injuries during a drug-related crime in which the victim was an illegal~~
313 ~~participant;~~ [Repealed.]

314 (8) ~~Where the victim is delinquent in the payment of any penalty assessment levied pursuant to § 9016 of this~~
315 ~~title, or in the payment of an order of restitution payable to the Victim Compensation Fund; provided, however, that the~~

316 Agency may condition payment of a claim upon the satisfaction of such delinquencies. In addition, the Agency may,
317 for hardship or other good cause, waive the provisions of this paragraph in their entirety. [Repealed.]

318 (d) In no event shall may the Agency deny any claim solely because the ~~applicant~~ victim was a child victim of
319 sexual assault or abuse, and ~~said applicant~~ the victim either delayed reporting the abuse or assault to authorities or ~~said~~
320 ~~applicant~~ the victim delayed an application for services to mitigate the effects of the impact of sexual assault or abuse.

321 Section 9. Amend § 9011, Title 11 of the Delaware Code by making deletions as shown by strike through and
322 insertions as shown by underline as follows:

323 § 9011. Payment of compensation.

324 (a) Any person, regardless of age or mental condition, is entitled to make application for compensation under this
325 chapter if the person is a ~~victim as defined herein~~ claimant. In any instance in which the person entitled to make application
326 is deemed by law to be ~~incompetent~~ a person who is incapacitated, the person may nevertheless appear in person or the
327 application may be made on the person's behalf by any person acting as a relative, ~~guardian~~ guardian, or attorney. Every
328 ~~victim claimant~~ making application shall ~~be~~ is entitled to appear and be heard by the Agency in accordance with § 9012(b),
329 (c), and (d) of this title.

330 (b) Except in cases of dire hardship, as determined by the Agency, there shall ~~be no~~ may not be payment of
331 compensation where the claim is for less than \$25. Awards may be paid in a lump sum, or in periodic payments as
332 determined by the Agency. ~~Each and every~~ All payment shall ~~be~~ is exempt from attachment, ~~garnishment~~ garnishment, or
333 any other remedy available to creditors for the collection of a debt.

334 (c) The Agency may require any injured person filing a claim ~~pursuant to~~ under this chapter to submit to a physical
335 or mental examination by a physician ~~or physicians~~ selected by the Agency.

336 (d) ~~No compensation shall~~ Compensation may not be awarded under the chapter to ~~any individual victim (or in~~
337 ~~case of the death of the victim, to dependent relatives, or to the victim's legal representative)~~ a claimant in a total amount in
338 excess of \$25,000; provided, however, that the Agency may award compensation to victims who are permanently and
339 totally disabled in an amount not to exceed \$50,000.

340 (e) Although a ~~person otherwise incompetent~~ person who is incapacitated may appear and press a claim before the
341 Agency, payment of compensation shall ~~not~~ may not be made directly to any person ~~legally incompetent who is~~
342 ~~incapacitated to receive same~~ but shall must be made to a third person for the benefit of ~~such incompetent~~ the person who is
343 incapacitated. In the case of any payment for the benefit of a child or ~~incompetent person who is incapacitated~~, the Agency
344 shall order the payee to file an accounting with the Agency no later than January 31 of each year for the previous calendar

345 year, and to take such other action as the Agency shall may determine to be necessary and appropriate for the benefit of the
346 child or ~~incompetent~~ person who is incapacitated.

347 (f) The Agency shall deduct from its award of compensation any payments received from the following by the
348 ~~victim, claimant, or by any of the victim's dependents, from:~~ claimant if the payment were in any manner made to
349 compensate for the personal injury or death arising from the crime or incident giving rise to the claim:

350 (1) ~~The offender;~~ offender.

351 (2) Any person on behalf of the ~~offender;~~ offender.

352 (3) Any ~~insurer;~~ insurer.

353 (4) The United States or any ~~state;~~ or state.

354 (5) The State of Delaware or any of its political ~~subdivisions;~~ subdivisions.

355 ~~If such payments were in any manner made to compensate such person or persons for personal injury or death~~
356 ~~arising from the crime or incident giving rise to the claim.~~

357 (g) In the event that payment of an award of compensation has been received by the ~~victim or claimant, or any~~
358 ~~dependent of the victim;~~ claimant, and payments as set forth in subsection (f) of this section ~~above~~ are received, ~~the victim,~~
359 ~~claimant, or dependent~~ the claimant shall be is obligated to reimburse the Agency for ~~such~~ the funds received, to the full
360 extent of the compensation paid by the ~~agency~~ Agency.

361 (h) The Executive Director ~~shall have~~ has authority to accept reimbursement of less than the full amount of
362 compensation paid, but only in cases where the ~~victim, claimant, or dependent~~ claimant is subjected to extreme hardship, as
363 determined in the sole discretion of the Executive Director.

364 (i) The reimbursement provisions of subsections (f), (g), and (h) of this section ~~above~~ shall do not apply to any life
365 insurance proceeds.

366 Section 10. Amend § 9012, Title 11 of the Delaware Code by making deletions as shown by strike through and
367 insertions as shown by underline as follows:

368 § 9012. Form of claim; investigation—hearing.

369 (a) All claims filed with the Agency shall must be in writing ~~be written~~ and shall ~~accurately describe the crime and~~
370 ~~circumstances which brought about the injury, damage or death, shall state the time and place the injury occurred, state the~~
371 ~~names of all persons involved if known and shall contain the amount claimed by the applicant.~~ on the Agency's provided
372 claim form and signed by the claimant. The Agency shall initiate an investigation of the claim within 30 days of the filing
373 of the claim. After this investigation, the Agency shall render a decision on whether or not to award compensation to the
374 ~~claimant, and if an award is made, the amount of that award.~~ claimant. The Agency shall immediately mail a copy of its

375 decision to the claimant, together with written notice of the ~~claimants'~~ claimant's options for redress if dissatisfied with the
376 Agency decision.

377 (b) If the claimant is dissatisfied with the Agency's decision, the claimant may, within ~~15~~ 30 days after the date the
378 Agency decision is mailed, ~~request either a reconsideration of the decision by the Executive Director or a review of the~~
379 ~~Agency's decision by the Appeals Board.~~ file a request for reconsideration of the claim. The request must include
380 additional information from the claimant that supports the claim request. If ~~such~~ the request is not timely made, then the
381 Agency decision ~~shall be~~ is final and not appealable to the Appeals Board or the Superior Court, ~~notwithstanding §~~
382 ~~9009(4), (5) and (6) of this title.~~ Court.

383 (c) If a reconsideration is timely requested, the Executive Director shall review the ~~claimants'~~ claimant's
384 information and render a final decision. This decision will immediately be mailed to the claimant, together with written
385 notice of the claimant's right to request an appeal.

386 (d) If the claimant is dissatisfied with the Agency's final decision, the claimant may, within 30 days after the date
387 the decision is mailed, request a hearing before the Appeals Board. If an appeal is timely requested, the Appeals Board shall
388 fix the time and place for hearing the appeal. The Agency shall, at least 20 days before the time set for the hearing, mail
389 notices of the time and place of ~~such~~ the hearing to all interested persons and agencies. At the appeal hearing, the claimant
390 may present evidence to the Appeals Board to show why the Agency's decision should be reversed or modified. Within 90
391 days of the conclusion of ~~any and~~ all hearings on the matter, the Appeals Board shall mail to the claimant a statement of its
392 final decision to award or deny the claim and a statement of any conditions under which the claim ~~shall~~ will be awarded.
393 The Appeals Board may affirm, ~~reverse~~ reverse, or modify the Agency's decision.

394 (e) The claimant or the Agency, if dissatisfied by the Appeals Board's decision concerning compensation or any
395 conditions attached to the award of the compensation, may appeal to the Superior Court within 30 days following the date
396 the decision of the Appeals Board is mailed to the appealing party. An appeal to Superior Court must be based on the
397 record of the Appeals Board hearing.

398 Section 11. Amend § 9014, Title 11 of the Delaware Code by making deletions as shown by strike through and
399 insertions as shown by underline as follows:

400 § 9014. Recovery from the criminal.

401 (b) Any payment of compensation under this chapter ~~shall not~~ does not affect any right of any person to recover
402 damages in a civil action from the person ~~or persons~~ convicted of the offense giving rise to the claim for compensation.

403 (c) Whenever any person is sentenced for an offense and compensation has been paid under this chapter to a
404 ~~victim of such offense~~ claimant, the Agency may assert a claim for reimbursement of the Victims' Compensation Fund as

405 restitution from the criminal defendant. In support of ~~such~~ the reimbursement claim, the Agency shall submit an affidavit
406 with supporting documentation to the sentencing court, setting forth all payments made to ~~victims of such offenses~~ the
407 claimant. Restitution may be awarded to the Agency. A hearing on restitution will be held ~~upon~~ on the timely request of the
408 defendant. Where the compensation of the ~~victim~~ claimant is continuing, and the full amount of reimbursement due has not
409 been established by the Agency, the affidavit may so state, and the sentencing court may reserve jurisdiction over any
410 future claim for reimbursement to the Agency. Any supplemental claim for reimbursement to the Agency ~~shall~~ must be
411 brought within 2 years of the ~~offense date~~ sentencing date, or ~~prior to~~ before the expiration of a term of probation imposed
412 on the defendant for an offense giving rise to the claim for compensation, whichever date comes first. The courts shall
413 establish procedures for determining the amount of reimbursement due to the Victims' Compensation Fund from offenders.

414 Section 12. Amend § 9016, Title 11 of the Delaware Code by making deletions as shown by strike through and
415 insertions as shown by underline as follows:

416 § 9016. Penalty assessment.

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

424 (b) Upon collection of the penalty assessment, the ~~same shall~~ penalty assessment must be paid over to the
425 prothonotary or clerk of ~~court~~ court, as the case may be, who shall collect the ~~same~~ penalty assessment and transmit it to the
426 State Treasury to be deposited in a separate account for the administration of this chapter, which account ~~shall~~ must be
427 designated the "~~Victim~~ Victims' Compensation Fund," which is hereby created. Beginning with the fiscal year ending June
428 30, 2002, the unencumbered balances on June 30 of each fiscal year in excess of \$6,000,000 ~~shall~~ must be deposited in the
429 General Fund.

430 Section 13. Amend § 9017, Title 11 of the Delaware Code by making deletions as shown by strike through and
431 insertions as shown by underline as follows:

432 § 9017. Annual reports.

433 The Department of Justice shall transmit to the Governor, State ~~Auditor~~ Auditor, and the General Assembly an
434 annual report of the activity of the ~~Victim's Compensation Assistance Program Agency~~ Agency under this chapter, ~~including the~~
435 ~~claim number of each applicant for compensation, the amount claimed and the amount of compensation awarded.~~ chapter.

436 Section 14. Amend § 9018, Title 11 of the Delaware Code by making deletions as shown by strike through and
437 insertions as shown by underline as follows:

438 § 9018. Compensating fine.

439 In any court of the State upon the conviction of any person or the adjudication of delinquency of any child for a
440 crime resulting in the personal injury or death of another person, the court may, in addition to any other penalty, and in
441 addition to reimbursement to the ~~Victims~~ Victims' Compensation Fund, order such person to pay a compensating fine, in
442 lieu of, but greater than, the penalty set forth in § 9016 of this title. The amount of such fine ~~shall be~~ is in the discretion of
443 the court and ~~shall~~ must be commensurate with the malice shown and the injury done to the victim. All fines paid in
444 accordance with this section ~~shall~~ must be deposited into the ~~Victim~~ Victims' Compensation Fund.

445 Section 15. Amend § 9020, Title 11 of the Delaware Code by making deletions as shown by strike through and
446 insertions as shown by underline as follows:

447 § 9020. Filing false claim.

448 (a) Any claim under this ~~chapter~~ chapter, which is false in part or in ~~whole~~ whole, ~~shall constitute~~ constitutes a
449 false written statement in violation of § 1233 of this title.

450 (b) Any person who files a false claim under this chapter shall forfeit any compensation and shall reimburse and
451 repay the ~~Victims Compensation Assistance Program Agency~~ Agency for any compensation received ~~pursuant to~~ under this chapter.

452 Section 16. Amend § 9022, Title 11 of the Delaware Code by making deletions as shown by strike through and
453 insertions as shown by underline as follows:

454 § 9022. Conflict of interest.

455 Any member of the ~~Victims' Compensation Assistance Program Agency, Advisory Council~~ Council, or Appeals
456 Board with a direct or indirect interest in a matter in question shall disqualify ~~himself or herself~~ themselves from any
457 consideration of that matter.

458 Section 17. Amend § 9023, Title 11 of the Delaware Code by making deletions as shown by strike through and
459 insertions as shown by underline as follows:

460 § 9023. Payment for forensic medical examinations for victims of sexual offense.

461 (a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the
462 prosecution of a sexual offense may be paid from the ~~Victim~~ Victims' Compensation Fund.

463 (b) For purposes of this section, ~~“Forensic forensic medical examination” shall be defined as means~~ medical
464 diagnostic procedures examining for physical trauma, and determining penetration, ~~force~~ force, or lack of consent. The cost
465 of the examination ~~shall~~ must include collecting all evidence as called for in the sexual offense evidence collection kits and
466 may include any of the following, if done as part of the forensic medical examination:

467 (1) Physician’s fees for the collection of the patient history, physical, collection of ~~specimens~~ specimens, and
468 treatment for the prevention of venereal disease or the provision of emergency contraception, including 1 return
469 follow-up ~~visit~~; visit.

470 (2) Emergency department expenses, including emergency room ~~fees and fees~~, cost of pelvic ~~tray~~; and tray,
471 and transportation by ambulance.

472 (3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing,
473 serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, ~~trichomonas~~ trichomonas, and other sexually
474 transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could
475 be used in the prosecution of the offense.

476 (c) Hospitals and health-care ~~professions~~ professionals shall provide forensic medical examinations free of charge
477 to the victims of sexual offenses. Any hospital or ~~health-care~~ health-care professional performing a forensic medical
478 examination shall seek reimbursement for the examination from the patient’s insurance carrier, including Medicaid and
479 Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the
480 service provider may seek reimbursement from the Victims’ Compensation Fund. The Agency shall authorize the
481 repayment for reasonable expenses incurred during the forensic medical examination. ~~Such~~ The reimbursement ~~shall not~~
482 may not exceed a maximum amount to be determined by the Agency. If the hospital or health-care professional has
483 recovered from insurance, the Agency shall only provide compensation sufficient to total the maximum amount provided
484 for in the Agency’s rules and regulations.

485 (d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical
486 examination and shall not be required to file an application with the Agency. Notwithstanding other language in this
487 chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance ~~shall~~ must be paid for
488 through the ~~Victim~~ Victims’ Compensation Fund and ~~such~~ the payment ~~shall~~ must be considered full compensation to the
489 hospital or ~~health-care~~ health-care professional providing ~~such~~ the services.

490 (e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all
491 defendants convicted of a sexual offense as defined in § 761 of this title ~~shall~~ must be assessed an additional fine that ~~shall~~
492 must be used to reimburse the ~~Victim~~ Victims’ Compensation Fund for forensic medical examination payments. All

493 defendants convicted of sexual offenses shall pay \$50 for each misdemeanor level count for which they are convicted and
494 \$100 for each felony level count for which they are convicted. All fines paid in accordance with this section ~~shall~~ must be
495 deposited into the Victims' Compensation Fund.

496 (f) Nothing in this section ~~shall~~ may preclude victims from applying to the Agency for other costs incurred.

SYNOPSIS

The Victims' Compensation Assistance Program ("Agency" or "VCAP") administers the Victims' Compensation Fund and provides financial assistance to eligible victims of crimes to help cover the costs of a variety of services that help victims and their families begin to rebuild their lives, including lost wages, medical expenses, payment for mental health counseling, and funeral expenses. By awarding financial compensation for losses that victims sustain as a result of crime, VCAP can help alleviate the financial burden and distress that crime leaves behind. In FY 2019, VCAP paid \$2,091,787.94 to and on behalf of victims of crime. VCAP is solvent and the Victims' Compensation Fund balance as of June 30, 2020 was \$4,155,111.82.

This Act seeks to improve the efficiency and effectiveness of VCAP in the following ways:

(1) Lifts the statutory employment cap that limited the number of employees VCAP could employ. This update will enable the Department of Justice to augment VCAP staff by utilizing grant or federal funding.

(2) Codifies benefits and more clearly enumerates available benefits and increases the funeral and burial benefit to \$5,000/\$2,500, respectively.

(3) Makes several changes to conform to the current practice, including removing the claims payment process description in § 9005(8) and § 9009, updating the claims application process in § 9009, and removing the reporting requirements in § 9017.

(4) Amends § 9009(10) to give the Agency specific authority to close inactive claims.

(5) Updates the list of Advisory Council members to reflect the dissolution of the Sexual Assault Network of Delaware, which became the Delaware Alliance Against Sexual Violence.

(6) Expands the population of victims able to be served, including changes to ensure victims of human trafficking are eligible for compensation.

(7) Extends the deadlines to request reconsideration and file an appeal with the Appeals Board and reorganizes appeals process provisions by placing them all in the same section.

(8) Changes "offense date" to "sentencing date" in § 9014(c).

(9) Updates the chapter so that each program is referred to by a consistent name.

(10) Adds defined terms "Executive Director" and "claimant" to the definitions section and further clarifies to which category of victims parts of the Code apply.

(11) Removes the term "incompetent" in favor of adopting a phrase that uses people first language.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.