

NEBRASKA CRIME VICTIM'S REPARATIONS PROGRAM

Twenty-Sixth Report

FY 13/14

July 1, 2013 - June 30, 2014

and

FY 14/15

July 1, 2014 – June 30, 2015

January 2016

Pete Ricketts, Governor

Darrell Fisher, Executive Director
Nebraska Commission on Law
Enforcement and Criminal Justice



Pete Ricketts
Governor

STATE OF NEBRASKA

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

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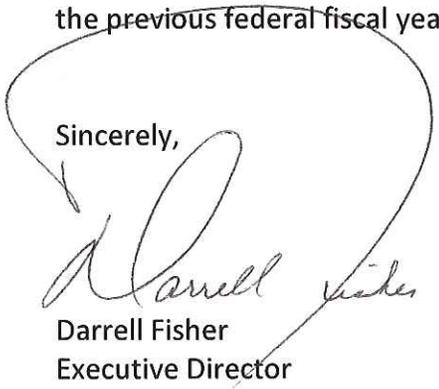
January 6, 2016

To: the Honorable Pete Ricketts, Governor
and Members of the Nebraska Legislature

On behalf of the Nebraska Crime Victim's Reparations Committee, it is my pleasure to present the Nebraska Crime Victim's Reparations (CVR) program's report for fiscal years 13/14 and 14/15.

Nebraska's CVR program provides compensation to victims of crime for expenses such as medical, funeral, loss of wage, and loss of support, which are directly related to a violent crime. Funding for the CVR program comes from state general fund appropriations, 5% of offender's wages who are employed in the Federal Prison Industries program, a \$1.00 court fee for each misdemeanor or felony conviction, up to 5% of the net wages of inmates assigned to the Department of Correctional Services work release program, and from federal funds, which vary from year to year. Our federal award is calculated as 60% of the state funds expended during the previous federal fiscal year.

Sincerely,



Darrell Fisher
Executive Director

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**NEBRASKA'S REPORT
on the
CRIME VICTIM'S REPARATIONS PROGRAM**

Issued by:

The Nebraska Commission on Law
Enforcement and Criminal Justice
(Nebraska Crime Commission)
301 Centennial Mall South
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INTRODUCTION

All 50 states, plus the District of Columbia, Puerto Rico, the Virgin Islands, and Guam have Crime Victims Reparations' programs. New Zealand and Great Britain established the first compensation programs in the world. A number of European countries, plus Canada, Australia, New Zealand, and Japan also have victim compensation programs fairly similar to those in the United States. The Office of Victims of Crime has identified the following countries as having crime victim compensation programs: Austria, Belgium, Bermuda, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hong Kong, Republic of Ireland, Japan, Luxembourg, The Netherlands, Norway, Philippines, Poland, Portugal, Spain, Sweden, Switzerland, and United Arab Emirates.

The Nebraska Crime Victim's Reparations (CVR) Act was created by Legislative Bill 910. The Bill was passed by the Nebraska Legislature in 1978 and became effective January 1, 1979. The operation of the CVR program is governed by Nebraska Revised Statutes 81-1801 through 81-1842 and Nebraska Administrative Code, Title 80, Chapters 1-7 (Rules and Regulations.)

The purpose of the program is to assist victims of crime with medical expenses, mental health counseling, loss of wages, funeral bills in cases of homicide, residential crime scene clean-up, loss of earning power, and other expenses directly related to the criminal act. The program now covers Nebraska residents who are victims of terrorism in foreign countries.

Loss of property, pain and suffering, and expenses not directly related to the crime are not covered. Eligible awards are reduced by any collateral sources received or to be received. Collateral sources include insurance, sick leave pay, vacation or holiday pay, workers' compensation, or unemployment. A maximum of \$25,000 may be awarded to each claimant.

PROGRAM ADMINISTRATION

The Nebraska Crime Commission is responsible for the administration of Nebraska's CVR program.

Crime Commission staff process the claims for compensation. The processing of claims includes:

- reviewing each claim for accuracy, completeness, and eligibility;
- acknowledging receipt of the claim, and requesting additional information if needed;
- requesting the incident report from the law enforcement agency involved;
- verifying the expenses being claimed (medical, funeral, loss of wages, etc.) to ensure they are directly related to the criminal act; verifying any payments made toward the expenses and by whom; and determining amounts to be considered for compensation;
- verifying criminal charges and the disposition of cases;
- preparing a summary of the information for each claim;
- submitting all claim information to the Hearing Officer for a determination;
- preparing and sending a letter to the claimant regarding the Hearing Officer's decision; and,
- processing the payments for the awarded claims.

PROCESSING OF CLAIMS

- Once all information is received, the claim is investigated.
- The claim and all information received are reviewed by the Hearing Officer, and the Hearing Officer makes a decision to award, deny, or request additional information.
- The claimant is notified of the Hearing Officer's decision.
- If the claim is denied or reduced, the claimant may file a written appeal.
- Hearings are conducted by the CVR Committee. The claimant may be present. If the Committee upholds the Hearing Officer's decision to deny, the claimant may appeal in District Court.

REASONS A CLAIM MAY BE DENIED

A claim for compensation will be denied if:

- the incident was not reported to law enforcement within three days;
- the claim for compensation was not filed with the CVR program within two years from the date of the incident;
- the victim did not cooperate with the criminal justice system in the investigation and prosecution of the crime;
- the victim did not submit the required information to the CVR program; or
- the victim's conduct caused or contributed to the incident.

APPEALS

If a claim for compensation is denied by the Hearing Officer, the claimant has the right to appeal the decision to the CVR Committee. The appeal must be made in writing and received within 30 days from the date the decision was mailed to the claimant.

The CVR Committee consists of five members of the Nebraska Crime Commission who are appointed by the Governor for a term of four years, and two members from the Public at Large. Members are reimbursed for actual expenses incurred in the performance of their duties.

During fiscal year 13/14 the CVR Committee consisted of the following members: Jeff Davis, Joe Kelly, Michelle Schindler, Brenda Smith, and Derek Vaughn. The Public at Large members were: G. Randall Hansen and Brian Wachman.

During fiscal year 14/15 the CVR Committee consisted of the following members: Jeff Davis, Joe Kelly, Gerard Ruiz, Rita Sanders, and Michelle Schindler. The Public at Large members were: G. Randall Hansen and Brian Wachman.

If the CVR Committee upholds the Hearing Officer's decision to deny a claim, the claimant may appeal in district court within 30 days of the Committee's action.

FUNDING

The Nebraska CVR program is funded through general fund appropriations, federal compensation funds, 5% of inmates' wages from federally certified correctional industry programs, a \$1.00 court fee for each misdemeanor or felony conviction, and up to 5% of the net wages of inmates assigned to the Department of Correctional Services work release program. With the passage of LB 510 in 2011, the amounts of funds deposited in the CVR cash fund have increased substantially.

While the CVR program has been operational since 1979, the Legislature did not fund the program during fiscal years 85/86, 86/87, and 87/88, due to a budget shortfall. In fiscal year 02/03, the general fund appropriation was reduced from \$201,600 to \$20,000. More than 80% of the CVR programs in other states are funded with revenue from court fees or assessments paid by the offenders. In fact, in a large majority of states, no tax dollars are used in either the administration or awards given to victims.

The budget for fiscal year 13/14 from all funding sources was \$331,100.00 and the budget for fiscal year 14/15 from all funding sources was \$383,305.98.

CLAIMS RECEIVED AND AWARDED AMOUNTS BY FISCAL YEAR

<u>FY</u>	<u>Claims Received</u>	<u>Awarded</u>	<u>FY</u>	<u>Claims Received</u>	<u>Awarded</u>
90/91	176	\$200,233	13/14	73	\$222,740
91/92	180	\$328,786	14/15	115	\$325,510
92/93	195	\$341,527			
93/94	132	\$234,048			
94/95	193	\$274,345			
95/96	200	\$310,737			
96/97	224	\$378,897			
97/98	262	\$384,999			
98/99	221	\$426,884			
99/00	222	\$393,763			
00/01	206	\$430,611			
01/02	204	\$243,794			
02/03	187	\$223,325			
03/04	186	\$268,147			
04/05	92	\$142,536			
05/06	57	\$89,488			
06/07	87	\$92,524			
07/08	62	\$101,685			
08/09	46	\$89,588			
09/10	81	\$62,848			
10/11	57	\$92,257			
11/12	106	\$119,807			
12/13	99	\$215,236			

FEDERAL FUNDS

The Victims of Crime Act was signed into law by President Reagan in 1984. The Act provides for fines to be levied on offenders convicted of federal crimes. Fifty percent of the funds collected are utilized to assist state compensation programs. The amount to be paid to each state is based on 60 percent of the state's non-federal funds disbursed during the previous federal fiscal year. To be eligible for federal funds, certain conditions must be met. Also, programs must comply with statistical reporting requirements.

During fiscal year 13/14 Nebraska received \$17,100.00 and during fiscal year 14/15 Nebraska received \$62,700 in federal funds. This amount is based on 60 percent of the actual amount of state funds disbursed to crime victims during the 12/13 and 13/14 Federal fiscal years.

ACTIVITIES

Public awareness of the CVR program is provided through the distribution of brochures by law enforcement and prosecutor's agencies, through public speaking engagements and public service announcements, and through the efforts of victim/witness units and domestic violence/sexual assault task forces.

Beginning July 1, 2011 the CVR Committee voted to add felony assault victims to the list of crimes we will consider for payment. The additional funds received as a result of the passage of LB 510 in 2011 allowed us to expand our list of crimes. As of July 1, 2011 the CVR program considers the following crimes for payment: homicides, sexual assaults, felony assaults, child abuse, robbery, domestic violence, arson, DUI, and kidnapping.

The CVR Committee conducted four hearings during fiscal year 13/14 and five hearings during fiscal year 14/15 for claimants denied by the Hearing Officer.

The Crime Commission is a member of the National and International Association of Crime Victim Compensation Boards, the National Organization for Victim Assistance (NOVA), and the National Association of VOCA Assistance Administrators.

2014 and 2015 LEGISLATIVE INITIATIVES

LB 605 (2015) - (1) Adds an additional public member to the Crime Victim's Reparations Committee to be appointed by the governor who has training and relevant work experience with victims and survivors of crime bringing the total number of public members to three, for a total of eight Committee members. (2) All members of the Committee shall serve terms of four years. (3) Increases the award maximum to \$25,000 from \$10,000. (4) Any personal identifying information other than the victim's name shall not be disclosed on pleadings and documents filed in criminal actions that may be available to the public. The Supreme Court shall adopt and promulgate rules to implement this subdivision.

PROGRAM SUMMARY – FY 13/14

Claims Pending as of July 1, 2013	67
New Claims Received	73
Supplemental Claims and Resubmitted Claims	5
Claims Withdrawn	0
Appeals	7
TOTAL CLAIMS	152

Claims Considered	108
Claims Awarded	59
Claims Denied	49
Claims Withdrawn	0
Appeal Decision	4

Claims Pending as of June 30, 2014	43
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FUNDS EXPENDED	
Federal Funds	17,100.00
General Funds	20,000.00
Cash Funds	187,394.02
Total Expended	224,494.02

CLAIM ACTION	
Awarded in FY 13/14	\$222,740.25

PROGRAM SUMMARY CONTINUED – FY 13/14

BREAKDOWN OF AWARDS	
Physicians Fees	60,092.20
Hospital Expenses	70,325.35
Dental Expenses	3,813.60
Prescriptions	420.66
Other Expenses	-0-
Mental Health Counseling	4,537.50
Loss of Wages	7,464.88
Funeral Expenses	70,457.49
Loss of Support	5,628.60
Crime Scene Clean-up	-0-
Attorney Fees	-0-
TOTAL	222,740.25

CLAIMS AWARDED - BREAKDOWN BY TYPE OF CRIME	
Arson	1
Child Abuse/Sexual Assault	5
Domestic Violence	6
DWI/DUI	-0-
Felony Assault	25
Homicide	17
Kidnapping	1
Robbery	3
Sexual Assault	1
TOTAL	59

PROGRAM SUMMARY CONTINUED – FY 13/14

CLAIMS CONSIDERED - BREAKDOWN BY AGE OF VICTIM			
AGE	MALE	FEMALE	TOTALS
0 – 17	10	4	14
18 – 64	56	36	92
65+	1	1	2
TOTAL	67	41	108

CLAIMS CONSIDERED - BREAKDOWN BY TYPE OF CRIME	
Arson	4
Assault	14
Child Abuse/Sexual Assault	10
Domestic Violence	15
DWI/DUI	3
Felony Assault	32
Homicide	23
Kidnapping	1
Robbery	3
Sexual Assault	1
Vehicular	1
Other	1
TOTAL	108

CLAIMS CONSIDERED - BREAKDOWN BY VICTIM'S EMPLOYMENT STATUS	
Child	-0-
Disabled	2
Employed	55
Homemaker	1
Retired	2
Self-employed	1
Student	19
Unemployed	28
TOTAL	108

PROGRAM SUMMARY CONTINUED – FY 13/14

CLAIMS CONSIDERED – BREAKDOWN OF AWARDS BY EXPENSES AND TYPE OF CRIME											
	Physician Fees	Hospital	Dental	Prescriptions	Other	Mental Health	Loss of Wages	Funeral	Loss of Support	Crime Scene Cleanup	Attorney Fees
Arson	1,924.77	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Abuse / Sexual Assault	325.35	-0-	-0-	-0-	-0-	3550.00	-0-	-0-	-0-	-0-	-0-
Domestic Violence	4,473.79	10,549.20	440.00	73.20	-0-	510.00	-0-	-0-	-0-	-0-	-0-
DWI/DUI	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Felony Assault	46,788.00	49,581.54	3,373.60	347.46	-0-	477.50	7,464.88	5,000.00	3,753.60	-0-	-0-
Homicide	200.00	3961.55	-0-	-0-	-0-	-0-	-0-	65,457.49	1,875.00	-0-	-0-
Kidnapping	1,097.30	4,949.50	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Robbery	4,943.79	499.98	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Sexual Assault	339.20	783.55	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	60,092.20	70,325.32	3,813.60	420.66	-0-	4,537.50	7,464.88	70,457.49	5,628.60	-0-	-0-

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT – FY 13/14

District Number/County		Claims Awarded	Claims Denied	Amount of Award
1	Cass, Johnson, Nemaha, Otoe, Pawnee, Richardson	-0-	1	0.00
2	Cass, Otoe, Sarpy	-0-	-0-	0.00
3	Sarpy	2	1	403.93
4	Douglas	-0-	-0-	0.00
5	Douglas, Sarpy	4	1	19,899.87
6	Douglas	-0-	1	0.00
7	Douglas	2	3	4,469.30
8	Douglas	-0-	-0-	0.00
9	Douglas	1	1	800.00
10	Douglas	4	-0-	11,117.00
11	Douglas	6	9	21,673.02
12	Douglas	2	1	9,564.76
13	Douglas	7	3	26,219.23
14	Sarpy	-0-	1	0.00
15	Dodge	1	-0-	10,000.00
16	Burt, Cuming, Stanton, Thurston, Washington	-0-	-0-	0.00
17	Dakota, Dixon, Wayne	-0-	1	0.00
18	Douglas, Washington	4	1	2,925.35
19	Madison	2	1	8,654.97
20	Douglas	-0-	-0-	0.00
21	Lancaster, Saunders	2	3	20,000.00
22	Colfax, Platte	-0-	1	0.00
23	Butler, Colfax, Douglas, Sarpy, Saunders	-0-	-0-	0.00
24	Polk, Seward, York	-0-	1	0.00
25	Lancaster	-0-	-0-	0.00
26	Lancaster	2	1	10,597.40
27	Lancaster	-0-	-0-	0.00
28	Lancaster	2	-0-	5,477.73
29	Lancaster	-0-	1	0.00
30	Gage, Lancaster	-0-	1	0.00

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT – FY 13/14

District Number/County		Claims Awarded	Claims Denied	Amount of Award
31	Douglas	-0-	-0-	0.00
32	Fillmore, Jefferson, Saline, Thayer	-0-	-0-	0.00
33	Adams, Hall	-0-	-0-	0.00
34	Hall, Hamilton, Merrick, Nance, Polk	-0-	-0-	0.00
35	Hall	-0-	-0-	0.00
36	Buffalo, Dawson	-0-	1	0.00
37	Buffalo, Kearney	1	2	1,924.77
38	Clay, Franklin, Gosper, Harlan, Nuckolls, Phelps, Webster	1	2	1,215.48
39	Douglas, Sarpy, Washington	1	-0-	3,813.07
40	Cedar, Holt, Knox, Pierce	-0-	-0-	0.00
41	Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherman, Valley, Wheeler	-0-	-0-	0.00
42	Lincoln	4	1	14,417.74
43	Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Paha, Logan, Loup, McPherson, Rock & Thomas	-0-	1	0.00
44	Chase, Dawson, Dundy, Frontier, Furnas, Hayes, Hitchcock, Perkins, Red Willow	-0-	-0-	0.00
45	Sarpy	1	-0-	5,000.00
46	Lancaster	1	2	1,251.17
47	Arthur, Banner, Cheyenne, Deuel, Garden, Keith, Kimball, Morrill	1	1	5,000.00
48	Scotts Bluff	-0-	-0-	0.00
49	Box Butte, Cherry, Dawes, Grant, Scotts Bluff, Sheridan, Sioux	-0-	2	0.00
	Out of State*	8	4	38,315.46
	TOTALS	59	49	222,740.25

*Crime occurred in Nebraska, but the claimant's residence is in another state.

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the state does not have sufficient funds in its program and the claimant is a resident of Nebraska, then the claimant may submit a claim to the Nebraska Crime Victim's Reparations program.

PROGRAM SUMMARY – FY 14/15

Claims Pending as of July 1, 2014	43
New Claims Received	115
Supplemental Claims and Resubmitted Claims	13
Claims Withdrawn	0
Appeals	6
TOTAL CLAIMS	177

Claims Considered	140
Claims Awarded	72
Claims Denied	68
Claims Withdrawn	0
Appeal Decision	5

Claims Pending as of June 30, 2015	36
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FUNDS EXPENDED	
Federal Funds	0.00
General Funds	20,000.00
Cash Funds	298,628.83
Total Expended	318,628.83

CLAIM ACTION	
Awarded in FY 14/15	\$325,510.25

PROGRAM SUMMARY CONTINUED – FY 14/15

BREAKDOWN OF AWARDS	
Physicians Fees	41,061.40
Hospital Expenses	139,399.06
Dental Expenses	4,274.00
Prescriptions	1,144.02
Other Expenses	-0-
Mental Health Counseling	1,026.75
Loss of Wages	23,331.62
Funeral Expenses	105,273.40
Loss of Support	10,000.00
Crime Scene Clean-up	-0-
Attorney Fees	-0-
TOTAL	325,510.25

CLAIMS AWARDED - BREAKDOWN BY TYPE OF CRIME	
Arson	-0-
Child Abuse/Sexual Assault	2
Domestic Violence	8
DWI/DUI	4
Felony Assault	23
Homicide	30
Kidnapping	1
Robbery	2
Sexual Assault	2
TOTAL	72

PROGRAM SUMMARY CONTINUED – FY 14/15

CLAIMS CONSIDERED - BREAKDOWN BY AGE OF VICTIM			
AGE	MALE	FEMALE	TOTALS
0 – 17	7	5	12
18 – 64	78	48	126
65+	0	2	2
TOTAL	85	55	140

CLAIMS CONSIDERED - BREAKDOWN BY TYPE OF CRIME	
Arson	-0-
Assault	21
Child Abuse/Sexual Assault	5
Domestic Violence	15
DWI/DUI	7
Felony Assault	33
Homicide	48
Kidnapping	1
Robbery	4
Sexual Assault	4
Vehicular	2
TOTAL	140

CLAIMS CONSIDERED - BREAKDOWN BY VICTIM'S EMPLOYMENT STATUS	
Child	-0-
Disabled	3
Employed	73
Homemaker	1
Retired	2
Self-employed	5
Student	14
Unemployed	42
TOTAL	140

PROGRAM SUMMARY CONTINUED – FY 14/15

CLAIMS CONSIDERED – BREAKDOWN OF AWARDS BY EXPENSES AND TYPE OF CRIME											
	Physician Fees	Hospital	Dental	Prescriptions	Other	Mental Health	Loss of Wages	Funeral	Loss of Support	Crime Scene Cleanup	Attorney Fees
Arson	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Abuse / Sexual Assault	-0-	3,906.08	-0-	359.47	-0-	1,026.75	-0-	-0-	-0-	-0-	-0-
Domestic Violence	6,705.44	23,313.29	-0-	-0-	-0-	-0-	2,975.44	-0-	-0-	-0-	-0-
DWI/DUI	9,592.61	5,460.63	3,055.00	28.83	-0-	-0-	2,053.47	5,000.00	-0-	-0-	-0-
Felony Assault	17,611.21	83,495.05	-0-	755.72	-0-	-0-	16,674.95	-0-	-0-	-0-	-0-
Homicide	4,895.00	14,651.62	-0-	-0-	-0-	-0-	-0-	100,273.40	10,000.00	-0-	-0-
Kidnapping	131.75	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Robbery	205.39	2,041.13	1,219.00	-0-	-0-	-0-	1,627.76	-0-	-0-	-0-	-0-
Sexual Assault	1,920.00	6,531.26	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	41,061.40	139,399.06	4,274.00	1,144.02	-0-	1,026.75	23,331.62	105,273.40	10,000.00	-0-	-0-

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT – FY 14/15

District Number/County		Claims Awarded	Claims Denied	Amount of Award
1	Cass, Johnson, Nemaha, Otoe, Pawnee, Richardson	-0-	-0-	0.00
2	Cass, Otoe, Sarpy	1	1	3,633.63
3	Sarpy	-0-	1	0.00
4	Douglas	-0-	-0-	0.00
5	Douglas, Sarpy	1	1	1,440.81
6	Douglas	-0-	1	0.00
7	Douglas	5	2	33,974.68
8	Douglas	2	1	11,990.28
9	Douglas	1	2	7,983.64
10	Douglas	3	2	16,557.50
11	Douglas	12	8	46,342.54
12	Douglas	1	-0-	1,915.55
13	Douglas	5	6	25,145.65
14	Sarpy	1	1	2,777.87
15	Dodge	-0-	-0-	0.00
16	Burt, Cuming, Stanton, Thurston, Washington	-0-	-0-	0.00
17	Dakota, Dixon, Wayne	1	-0-	1,810.00
18	Douglas, Washington	2	-0-	6,135.53
19	Madison	2	1	9,287.54
20	Douglas	3	-0-	8,030.93
21	Lancaster, Saunders	-0-	1	0.00
22	Colfax, Platte	-0-	-0-	0.00
23	Butler, Colfax, Douglas, Sarpy, Saunders	3	2	27,722.38
24	Polk, Seward, York	-0-	-0-	0.00
25	Lancaster	-0-	-0-	0.00
26	Lancaster	-0-	3	0.00
27	Lancaster	1	3	4,999.70
28	Lancaster	2	-0-	4,657.08
29	Lancaster	-0-	-0-	0.00
30	Gage, Lancaster	3	1	9,056.67

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT – FY 14/15

District Number/County		Claims Awarded	Claims Denied	Amount of Award
31	Douglas	-0-	-0-	0.00
32	Fillmore, Jefferson, Saline, Thayer	1	-0-	920.89
33	Adams, Hall	-0-	-0-	0.00
34	Hall, Hamilton, Merrick, Nance, Polk	-0-	-0-	0.00
35	Hall	-0-	-0-	0.00
36	Buffalo, Dawson	-0-	3	0.00
37	Buffalo, Kearney	1	-0-	5,000.00
38	Clay, Franklin, Gosper, Harlan, Nuckolls, Phelps, Webster	-0-	1	0.00
39	Douglas, Sarpy, Washington	1	-0-	7,760.00
40	Cedar, Holt, Knox, Pierce	1	-0-	10,000.00
41	Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherman, Valley, Wheeler	-0-	-0-	0.00
42	Lincoln	3	3	6,943.09
43	Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Paha, Logan, Loup, McPherson, Rock & Thomas	-0-	1	0.00
44	Chase, Dawson, Dundy, Frontier, Furnas, Hayes, Hitchcock, Perkins, Red Willow	-0-	-0-	0.00
45	Sarpy	-0-	-0-	0.00
46	Lancaster	1	2	467.62
47	Arthur, Banner, Cheyenne, Deuel, Garden, Keith, Kimball, Morrill	1	1	10,000.00
48	Scotts Bluff	-0-	-0-	0.00
49	Box Butte, Cherry, Dawes, Grant, Scotts Bluff, Sheridan, Sioux	-0-	2	0.00
	Out of State*	14	18	60,956.67
	TOTALS	72	68	325,510.25

*Crime occurred in Nebraska, but the claimant's residence is in another state.

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the state does not have sufficient funds in its program and the claimant is a resident of Nebraska, then the claimant may submit a claim to the Nebraska Crime Victim's Reparations program.

**NEBRASKA CRIME VICTIM'S REPARATIONS
STATUTES
AND
RULES AND REGULATIONS**

CRIME VICTIMS AND WITNESSES - ARTICLE 18

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CRIME VICTIM'S REPARATIONS

81-1801. Terms, defined.

For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:

- (1) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;
- (2) Committee shall mean the Crime Victim's Reparations Committee;
- (3) Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income at the time of death, including a child of a victim born after a victim's death;
- (4) Executive director shall mean the executive director of the commission;
- (5) Personal injury shall mean actual bodily harm;
- (6) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent; and
- (7) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818.

Source: Laws 1978, LB 910, § 1; Laws 1981, LB 328, § 4; Laws 1986, LB 540, § 2; Laws 1991, LB 186, § 1; Laws 2009, LB598, § 2; Laws 2011, LB390, § 21.

81-1801.01. Legislative intent.

It is the intent of the Legislature that the Nebraska Crime Victim's Reparations Act be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.

Source: Laws 2004, LB 270, § 5.

81-1801.02. Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee.

(1) A nonprofit organization, to be known as the Community Trust, may be created. After a tragedy, the Community Trust shall accept contributions from the public, manage such funds, and make distributions to help individuals, families, and communities in Nebraska that have suffered from a tragedy of violence or natural disaster. The committee shall oversee the Community Trust. The committee shall require at least annual reports from the Community Trust.

(2) The Community Trust shall be a qualified organization under section 501(c)(3) of the Internal Revenue Code thereby enabling contributions to the Community Trust to be tax deductible for the donor if the donor itemizes deductions for income tax purposes and distributions to be tax-free to the extent allowed under applicable sections of the Internal Revenue Code.

(3) The Community Trust shall be governed by a board of directors. A director may be represented by the Attorney General in the same manner as a state officer or employee under sections 81-8,239.05 and 81-8,239.06 in any civil action that arises as a result of any alleged act or omission occurring in the course and scope of the director's duties. A director shall also be indemnified for liability in the same manner as a state officer or employee under section 81-8,239.05.

(4) The Community Trust shall create a separate fund for each tragedy and shall begin accepting contributions immediately after a tragedy. The Community Trust shall report the distributions made for each tragedy to the committee, and the Community Trust shall acknowledge all contributions as soon as reasonably possible after receipt.

(5) The Community Trust may use up to ten percent of the contributions received for administrative costs of the Community Trust.

(6) The board of directors of the Community Trust shall establish procedures for receiving contributions and making distributions from the Community Trust. The board of directors shall establish a distribution committee for the tragedy within one week after the tragedy, establish eligible recipient criteria and eligible uses of the fund, and complete all distributions as soon as reasonably possible after the tragedy.

(7) In the event that the Community Trust receives contributions for a tragedy and the volume and size of claims, along with the amount of contributions, make it impractical for the Community Trust to follow its normal procedures for the distribution of the funds, the board of directors, at its sole discretion, may elect to forward such funds, in their entirety, to another nonprofit organization that is also serving individuals who are affected by the tragedy. In such case, the Community Trust shall designate such contributions to be for the specific individuals who are affected by the tragedy.

Source: Laws 2009, LB598, § 1; Laws 2011, LB390, § 22.

81-1802. Crime Victim's Reparations Committee; created; members.

A Crime Victim's Reparations Committee is hereby created. The committee shall consist of five members of the commission and three public members to be appointed by the Governor subject to approval by the Legislature. One public member shall represent charitable organizations, one public member shall represent businesses, and one public member, who has training and relevant work experience with victims and survivors of crime, shall represent crime victims. The members of the committee shall select a chairperson who is a member of the commission.

Source: Laws 1978, LB 910, § 2; Laws 1981, LB 328, § 5; Laws 1986, LB 540, § 3; Laws 2009, LB598, § 3; Laws 2015, LB605, § 88.

81-1803. Committee; members; appointment; terms.

Members of the committee shall serve for terms of four years.

Source: Laws 1978, LB 910, § 3; Laws 1986, LB 540, § 4; Laws 2009, LB598, § 4; Laws 2015, LB605, § 89.

81-1804. Committee; members; vacancy.

When a vacancy occurs on the committee, appointment to fill the vacancy shall be made for the balance of the term. As the terms of the initial appointees to the committee expire, succeeding appointees shall be appointed to four-year terms. Members whose terms have expired shall continue to serve until their successors have been appointed.

Source: Laws 1978, LB 910, § 4; Laws 1986, LB 540, § 5.

81-1805. Committee; members; expenses.

Members of the committee shall receive no reimbursement for the performance of their duties as members of the committee, except that such members shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1978, LB 910, § 5; Laws 1981, LB 204, § 199; Laws 1986, LB 540, § 6; Laws 2009, LB598, § 5.

81-1806. Committee; hearing officers; appointment.

The executive director may serve as a hearing officer pursuant to this section and in addition the committee, with the approval of the commission, shall appoint one or more additional hearing officers, who shall be licensed to practice law in the state, to conduct hearings, take testimony in proceedings under the Nebraska Crime Victim's Reparations Act, and make determinations of any matter subject to such act.

Source: Laws 1978, LB 910, § 6; Laws 1981, LB 328, § 6; Laws 1986, LB 540, § 7; Laws 1991, LB 186, § 2.

81-1807. Victim; compensation; application.

Any person who may be eligible for compensation under the Nebraska Crime Victim's Reparations Act may make application to the committee on forms provided by the committee. If the person entitled to make application is a minor or mentally incompetent, the application may be made on his or her behalf by his or her parent, guardian, or any other individual authorized to administer his or her estate. Residents and nonresidents of Nebraska who are victims of crimes committed in Nebraska shall be treated similarly in determining compensation awards under the act. A resident of Nebraska who is the victim of a crime committed in another state shall be eligible for compensation if (1) the crime would be compensable had it occurred in Nebraska and (2) the crime occurred in a state which does not have a crime victim compensation program for which the person is eligible.

Source: Laws 1978, LB 910, § 7; Laws 1986, LB 540, § 8; Laws 1990, LB 87, § 4.

81-1808. Victim; compensation; submit medical reports; hearing officer; order.

In order to be eligible for compensation the applicant shall, prior to any hearing on an application, submit available reports from any physician or surgeon who has treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the hearing officer or the committee, reports on the previous medical history of the victim, a report on the examination of the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the hearing officer or the committee shall order the reports and examination.

Source: Laws 1978, LB 910, § 8; Laws 1986, LB 540, § 9.

81-1809. Application; hearing officer; decision; hearing; procedure; review.

(1) A hearing officer shall consider and rule upon any application made under the Nebraska Crime Victim's Reparations Act within one hundred eighty days after receipt of all required information related to the crime.

(2) If the hearing officer denies an award of compensation or awards an amount less than or equal to the amount requested by the applicant, the hearing officer shall furnish the applicant with a written statement of the reason for the ruling. The applicant may request a hearing on his or her application within thirty days after receipt of the statement. If the applicant requests a hearing, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for the findings and conclusions. The committee shall specify a time and place for a hearing and shall give written notice to the applicant. The hearing shall be held within one hundred twenty days after receipt of the request for a hearing. If no request for a hearing is made within the specified time, the decision of the hearing officer shall be final.

(3) If the hearing officer awards an amount to the applicant greater than the amount requested by the applicant, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for granting the applicant more than he or she requested. The committee shall review the decision of the hearing officer taking into consideration the availability of funds appropriated for the purposes of the act and other standards formulated pursuant to section 81-1814. The committee may approve the same amount awarded by the hearing officer, may increase or decrease the amount, or may deny an award of compensation.

Source: Laws 1978, LB 910, § 9; Laws 1986, LB 540, § 10; Laws 1990, LB 87, § 5.

81-1810. Committee or hearing officer; proceedings; powers; applicants; rights.

(1) The committee or a hearing officer may hold hearings, sit and act at the times and places and take the testimony that the committee or the hearing officer considers advisable, and administer oaths or affirmations to witnesses. The hearing officer or the committee shall have full powers by subpoena to compel the appearance of witnesses and the production of any relevant evidence, but no subpoena shall be issued unless signed by a member of the committee. Application to a court for aid in enforcing the subpoena may be made in the name of the committee by any committee member.

(2) The applicant and any other person having a substantial interest in the proceeding may appear and be heard, produce evidence, and cross-examine witnesses in person or by an attorney. The committee or a hearing officer may hear other persons who in its or his or her judgment may have relevant evidence to submit.

(3) The committee or a hearing officer shall have access to criminal history record information, as defined in section 29-3506, and investigative information of the law enforcement agency which handled the offense which is the basis for the victim's application for compensation.

Source: Laws 1978, LB 910, § 10; Laws 1980, LB 319, § 1; Laws 1986, LB 540, § 11.

81-1811. Offense; proof of conviction; how treated.

If a person has been convicted of an offense on which a claim under the Nebraska Crime Victim's Reparations Act is based, proof of that conviction shall be taken as conclusive evidence that the offense occurred and that such person committed the offense, unless an appeal or a proceeding with regard to it is pending.

Source: Laws 1978, LB 910, § 11; Laws 1986, LB 540, § 12.

81-1812. Hearing officer or committee; order; determine and allow attorney's fees.

The hearing officer or the committee may, as part of an order entered under the Nebraska Crime Victim's Reparations Act, determine and allow reasonable attorney's fees not to exceed five percent of any compensation awarded. If the decision of a hearing officer or the committee is appealed, the court shall determine reasonable attorney's fees.

Source: Laws 1978, LB 910, § 12; Laws 1986, LB 540, § 13.

81-1813. Committee; adopt rules and regulations; forms and materials; provide.

The commission shall adopt and promulgate rules and regulations prescribing the procedures to be followed in the filing of applications and proceedings under the Nebraska Crime Victim's Reparations Act and any other matters the commission considers appropriate, including special circumstances, such as when expenses of job retraining or similar employment-related rehabilitative services are involved, under which an award from the Victim's Compensation Fund may exceed twenty-five thousand dollars. If the rules and regulations authorize awards in excess of twenty-five thousand dollars for special circumstances, the amount of an award in excess of twenty-five thousand dollars shall only be used for such special circumstances. The committee shall make available all forms and educational materials necessary to promote the existence of the programs to persons throughout the state.

Source: Laws 1978, LB 910, § 13; Laws 1981, LB 328, § 7; Laws 1986, LB 540, § 14; Laws 2009, LB598, § 6; Laws 2015, LB605, § 90.

81-1814. Compensation; committee; formulate standards for uniform application.

For the purpose of determining the amount of compensation payable under the Nebraska Crime Victim's Reparations Act, the committee shall formulate standards for uniform application of the act and take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States and the availability of funds appropriated for the purposes of the act. Victims of crimes subject to federal jurisdiction shall be awarded compensation on the same basis as victims of all other compensable crimes.

Source: Laws 1978, LB 910, § 14; Laws 1986, LB 540, § 15.

Annotations

Discretion of board to eliminate an award to dependent children of victim regarding the availability of funds appropriated must be supported by record. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1815. Compensation; to whom paid.

In a case in which a person is injured or killed as a result of conduct specified in the Nebraska Crime Victim's Reparations Act, or by any act of any other person which is within the description of offenses listed in such act, the committee or a hearing officer may order the payment of compensation:

- (1) To or for the benefit of the injured person;
- (2) In the case of personal injury or death of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury; or
- (3) In the case of death of the victim, to or for the benefit of any one or more of the dependents of the victim.

Source: Laws 1978, LB 910, § 15; Laws 1986, LB 540, § 16.

Annotations

Children who were supported by their mother were entitled to recover under Crime Victim's Reparations Act for pecuniary losses incurred due to crime, including financial support of their mother for the remainder of minority, up to the statutory limit. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1816. Committee or hearing officer; order; considerations; suspend proceedings; when.

(1) In determining whether to make an order under the Nebraska Crime Victim's Reparations Act, the committee or hearing officer shall consider all circumstances determined to be relevant, including, but not limited to, provocation, consent, or any other behavior of the victim which directly or indirectly contributed to his or her injury or death.

(2) An order may be made under the Nebraska Crime Victim's Reparations Act whether or not any person is prosecuted for or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the committee may suspend proceedings under the Nebraska Crime Victim's Reparations Act for such period as it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent.

Source: Laws 1978, LB 910, § 16; Laws 1986, LB 540, § 17; Laws 1990, LB 87, § 6.

Annotations

Social Security payment to aid dependent children who lost support of their mother not treated as form of collateral compensation when the board considers all relevant circumstances. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1817. Compensation awarded; collateral compensation; how treated.

(1) The committee or a hearing officer may award compensation for losses and expenses allowable under the Nebraska Crime Victim's Reparations Act for which the applicant is not compensated by the offender or a person on behalf of the offender, by the United States, by a state or any of its subdivisions or agencies, or by a private source of emergency awards under section 81-1820, for injury or death compensable under such act. Life insurance proceeds and social security payments shall not be treated as forms of such collateral compensation.

(2) If compensation is awarded under the act and the person receiving it also receives a collateral sum under the act which has not been deducted from it, he or she shall refund to the committee either the amount of the collateral sum or the amount of compensation paid to him or her under the act, whichever is less.

Source: Laws 1978, LB 910, § 17; Laws 1986, LB 540, § 18.

Annotations

Social Security payment to aid dependent children who lost support of their mother not treated as form of collateral compensation when the board considers all relevant circumstances. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1818. Personal injury or death; situations for which compensation is permitted.

The committee or hearing officer may order the payment of compensation from the Victim's Compensation Fund for personal injury or death which resulted from:

(1) An attempt on the part of the applicant to prevent the commission of crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his or her duties, or to aid a victim of a crime; or

(2) The commission or attempt on the part of one other than the applicant of an unlawful criminal act committed or attempted in the State of Nebraska.

Source: Laws 1978, LB 910, § 18; Laws 1986, LB 540, § 19; Laws 2009, LB598, § 7; Laws 2011, LB390, § 23.

81-1819. Payment of compensation; order; losses covered.

The committee or hearing officer may order the payment of compensation to victims of crime and survivors of victims of crime for:

(1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim, including expenses for mental health counseling and care;

(2) Loss of wages and future earning capacity as a result of total or partial incapacity of the victim and reasonable expenses of job retraining or similar employment-oriented rehabilitative services for the victim;

(3) Pecuniary loss to the dependents of the deceased victim;

(4) Funeral and burial expenses actually and reasonably incurred as a result of the death of the victim; and

(5) Any other loss resulting from the personal injury or death of the victim which the committee determines to be reasonable.

Source: Laws 1978, LB 910, § 19; Laws 1986, LB 540, § 20.

Annotations

Children of murdered woman were not entitled to recover for loss of mother's love and affection under Crime Victim's Reparations Act. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1820. Hearing officer; emergency award of compensation; when; conditions; review.

(1) Prior to the hearing officer taking action on an application for compensation from the Victim's Compensation Fund, the applicant may request that a hearing officer make an emergency award of compensation to the applicant. If it appears to the hearing officer that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the hearing officer may make an emergency award of compensation to the applicant pending a final decision in the case, except that:

- (a) The amount of the emergency compensation shall not exceed five hundred dollars;
- (b) The amount of the emergency compensation shall be deducted from the final compensation made to the applicant; and
- (c) The excess amount of the emergency compensation over the final amount shall be repaid by the applicant to the committee.

(2) If the hearing officer refuses to make an emergency award of compensation to the applicant, the applicant may request an emergency hearing before the committee which may be conducted by means of teleconference. The committee shall forthwith specify a time and place for an emergency hearing and shall give written notice to the applicant. If it appears to the committee that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the committee may make an emergency award of compensation to the applicant pending a final decision in the case, subject to the conditions and limitations stated in subsection (1) of this section.

Source: Laws 1978, LB 910, § 20; Laws 1986, LB 540, § 21; Laws 2009, LB598, § 8.

81-1821. Application; statute of limitations.

No order for the payment of compensation shall be entered under the Nebraska Crime Victim's Reparations Act unless the application has been submitted to the committee within two years after the date of the personal injury or death and the personal injury or death was the result of an incident or offense which had been reported to the police within three days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within three days of the time when a report could reasonably have been made.

Source: Laws 1978, LB 910, § 21; Laws 1986, LB 540, § 22.

81-1822. Compensation; situations when not awarded.

No compensation shall be awarded from the Victim's Compensation Fund:

- (1) If the victim aided or abetted the offender in the commission of the unlawful act;
- (2) If the offender will receive economic benefit or unjust enrichment from the compensation;
- (3) If the victim violated a criminal law of the state, which violation caused or contributed to his or her injuries or death; or

(4) If the victim is injured as a result of the operation of a motor vehicle, boat, or airplane (a) unless the vehicle was used in a deliberate attempt to injure or kill the victim, (b) unless the operator is charged with a violation of section 60-6,196 or 60-6,197 or a city or village ordinance enacted in conformance with either of such sections, or (c) unless any chemical test of the operator's breath or blood indicates an alcohol concentration equal to or in excess of the limits prescribed in section 60-6,196.

Nothing in this section shall limit payments to a victim by an offender which are made as full or partial restitution of the victim's actual pecuniary loss.

Source: Laws 1978, LB 910, § 22; Laws 1982, LB 942, § 7; Laws 1986, LB 540, § 23; Laws 1990, LB 87, § 7; Laws 1993, LB 370, § 489; Laws 2001, LB 773, § 18; Laws 2009, LB598, § 9; Laws 2011, LB390, § 24; Laws 2013, LB99, § 6.

81-1823. Award; limitations; how paid.

Except as provided in section 81-1813, no compensation shall be awarded under the Nebraska Crime Victim's Reparations Act from the Victim's Compensation Fund in an amount in excess of twenty-five thousand dollars for each applicant per incident. Each award shall be paid in installments unless the hearing officer or committee decides otherwise.

Source: Laws 1978, LB 910, § 23; Laws 1986, LB 540, § 24; Laws 2009, LB598, § 10; Laws 2015, LB605, § 91.

Annotations

Children who have lost the financial support of their mother for at least the remainder of their minority are limited to single award of \$10,000 each by act, even though lost support would total more than \$10,000. Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1824. Excluded incidents.

No order for payment of compensation under the Nebraska Crime Victim's Reparations Act shall be made for injuries or death resulting from incidents or offenses occurring prior to January 1, 1979, or outside the state.

Source: Laws 1978, LB 910, § 24; Laws 1986, LB 540, § 25.

81-1825. Committee; subrogation rights.

When an order for the payment of compensation for personal injury or death is made from the Victim's Compensation Fund, the committee shall be subrogated to the cause of action of the applicant against the person responsible for the injury or death and shall be entitled to bring an action against such person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the committee shall pay the balance to the applicant.

Source: Laws 1978, LB 910, § 25; Laws 1986, LB 540, § 26; Laws 2009, LB598, § 11.

81-1826. Department of Correctional Services; confined persons; provide for employment.

The Department of Correctional Services shall, as far as possible, provide for the employment, eight hours per day, of confined persons by private businesses. The employment may be provided under section 81-1827, 83-183, or 83-184.

Source: Laws 1978, LB 910, § 26; Laws 1980, LB 319, § 3; Laws 1994, LB 988, § 29.

81-1827. Business enterprise; employment of persons committed to the department.

(1) The Director of Correctional Services may enter into such contracts as may be necessary to fully implement the Nebraska Crime Victim's Reparations Act. Such contractual arrangements may include, but not be limited to, rental or lease agreements for such buildings or portions thereof on the grounds of any Department of Correctional Services facilities, together with the real estate needed for reasonable access to and egress from the leased buildings, with a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of goods, wares, or merchandise or any other business or commercial enterprise deemed by the director to be consistent with the proper training and rehabilitation of persons committed to the department.

(2) Nothing in this section shall operate to limit the director's authority to enter into contractual arrangements as may be provided elsewhere in law.

(3) Any corporation operating a factory or other business or commercial enterprise under this section may employ offenders committed to the Department of Correctional Services and persons conditionally released subject to the provisions of section 83-184.

Source: Laws 1978, LB 910, § 27; Laws 1980, LB 319, § 4; Laws 1986, LB 540, § 27.

81-1828. Repealed. Laws 1980, LB 319, § 12.

81-1829. Department of Correctional Services; establish and maintain farms.

The Department of Correctional Services may establish and maintain farms to provide food for the institutions under the jurisdiction of the department and also to provide opportunity for all inmates to work eight hours per day.

Source: Laws 1978, LB 910, § 29; Laws 1980, LB 319, § 5.

81-1830. False claim; penalty.

Any person who knowingly makes a false claim under the Nebraska Crime Victim's Reparations Act shall be guilty of a Class I misdemeanor and shall forfeit any benefit received and shall repay the state for any payment of compensation made under the act.

Source: Laws 1978, LB 910, § 30; Laws 1986, LB 540, § 28.

81-1831. Right of action; abate; exception.

The rights to compensation created under the Nebraska Crime Victim's Reparations Act are personal and shall not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application for compensation has been filed with the committee the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate.

Source: Laws 1978, LB 910, § 31; Laws 1986, LB 540, § 29.

81-1832. Appeal; procedure.

All determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1978, LB 910, § 32; Laws 1986, LB 540, § 30; Laws 1988, LB 352, § 180.

Cross References

Administrative Procedure Act, see section 84-920.

Annotations

This section covers appeal to district court by the children of a crime victim from a denial of their application to the Nebraska Crime Victim's Reparations Board. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1833. Committee; report; powers and duties.

(1) The committee shall prepare and submit to the commission a biennial report of its activities under the Nebraska Crime Victim's Reparations Act. Such report shall be submitted to the Governor and Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The committee shall act as the oversight committee for the Community Trust and shall annually report its activities and findings as the oversight committee to the commission, the Governor, and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically. If any questionable or improper actions or inactions on the part of the Community Trust are observed, the committee shall immediately notify the Attorney General who shall investigate the matter.

Source: Laws 1978, LB 910, § 33; Laws 1979, LB 322, § 60; Laws 1980, LB 319, § 6; Laws 1981, LB 545, § 37; Laws 1981, LB 328, § 8; Laws 1986, LB 540, § 31; Laws 2009, LB598, § 12; Laws 2012, LB782, § 208; Laws 2013, LB99, § 7.

81-1834. Repealed. Laws 2013, LB 99, § 9.**81-1835. Victim's Compensation Fund; created; use; investment.**

The Victim's Compensation Fund is created. The fund shall be used to pay awards or judgments under the Nebraska Crime Victim's Reparations Act other than distributions from the Community Trust. The fund shall include deposits pursuant to sections 29-2286, 33-157, 81-1836, 83-183.01, and 83-184 and donations or contributions from public or private sources and shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated claims. When the amount of money in the fund is not sufficient to pay any awards or judgments under the act, the Director of Administrative Services shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1978, LB 910, § 35; Laws 1986, LB 540, § 33; Laws 1987, LB 353, § 2; Laws 1995, LB 7, § 132; Laws 2009, LB598, § 14; Laws 2010, LB510, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-1836. Person convicted of crime; payments received; deposited in fund.

Every person, firm, corporation, partnership, limited liability company, association, or other legal entity contracting with any person or the representative or assignee of any person accused of a crime in this state with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the committee any money which would otherwise, by terms of such contract, be owing to the person so convicted or his or her representatives. The committee shall deposit such money in the Victim's Compensation Fund.

Source: Laws 1978, LB 910, § 36; Laws 1986, LB 540, § 34; Laws 1993, LB 121, § 544.

81-1837. Money in Victim's Compensation Fund; returned; when.

Upon disposition of charges favorable to any person accused of committing a crime or upon a showing by such person that five years have elapsed from the deposit of money into the Victim's Compensation Fund by the accused pursuant to section 81-1836 and further that no actions are pending against such person pursuant to the Nebraska Crime Victim's Reparations Act, the committee shall immediately pay the money deposited pursuant to such section by the accused to such person.

Source: Laws 1978, LB 910, § 37; Laws 1986, LB 540, § 35; Laws 1990, LB 87, § 8.

81-1838. Five-year period; when commenced.

Notwithstanding any other provision of law with respect to the timely bringing of an action, the five-year period provided for in section 81-1837 shall not begin to run until the accused has deposited money into the Victim's Compensation Fund.

Source: Laws 1978, LB 910, § 38.

81-1839. Committee; payments for legal representation; when.

Notwithstanding the provisions of sections 81-1836 to 81-1838, the committee shall make payments from the Victim's Compensation Fund to any person accused of crime upon the order of a court of competent jurisdiction after a showing by such person that such money shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

Source: Laws 1978, LB 910, § 39; Laws 1986, LB 540, § 36; Laws 2009, LB598, § 15.

81-1840. Action to defeat purpose of sections; null and void.

Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of sections 81-1836 to 81-1839 shall be null and void as against the public policy of this state.

Source: Laws 1978, LB 910, § 40; Laws 2009, LB598, § 16.

81-1840.01. State or political subdivision; failure to act; effect.

Nothing in the Nebraska Crime Victim's Reparations Act or sections 81-1843 to 81-1851 requiring an act by the state or a political subdivision is deemed to create any liability if the state or political subdivision fails to act as required under the Nebraska Crime Victim's Reparations Act or such sections. Such failure to act also shall not invalidate any legal process or proceeding.

Source: Laws 2004, LB 270, § 7.

81-1841. Act, how cited.

Sections 81-1801 to 81-1842 shall be known and may be cited as the Nebraska Crime Victim's Reparations Act.

Source: Laws 1978, LB 910, § 41; Laws 2004, LB 270, § 6; Laws 2009, LB598, § 17.

81-1842. Sexual assault victim; records; confidential.

The name of any victim of a sexual assault appearing in information or records of the Crime Victim's Reparations Committee when the victim is applying for compensation under the Nebraska Crime Victim's Reparations Act shall not be made public.

Source: Laws 1980, LB 319, § 2; Laws 1986, LB 540, § 37.

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

81-1843. Legislative findings.

(1) The Legislature finds and declares:

- (a) That there is a need to develop methods to reduce the trauma and discomfort that victims of a crime and witnesses to a crime may experience because often such victims or witnesses are further victimized by the criminal justice system;
- (b) That when crime strikes, the chief concern of the criminal justice system is apprehending and dealing with the criminal and the victim's needs are frequently forgotten;
- (c) That victims often become isolated and receive little practical advice or necessary care;
- (d) That witnesses must make arrangements to appear in court regardless of their own schedules, child care responsibilities, or transportation problems;
- (e) That witnesses often endure long waits before testifying, are subjected to confusing circumstances while testifying, and receive no information as to the ultimate disposition of the case;

- (f) That a large number of victims and witnesses are unaware of both their rights and obligations;
 - (g) That unreported crimes occur at a rate that is more than twice the rate of reported crimes and that the reasons people give for not reporting crimes indicate that they are disenchanting with the criminal justice system;
 - (h) That the single most important factor determining whether or not a case will be solved is the information that the victim supplies to the responding police officer; and
 - (i) That although the State of Nebraska has the Crime Victim's Reparations Committee and compensation is available for medical expenses, lost earning power, and reasonable rehabilitation costs, the application process is difficult, complex, and time consuming and few victims are aware that the compensation provisions exist.
- (2) It is therefore the intent of the Legislature to provide ways of improving the attitudes of victims and witnesses toward the criminal justice system and to provide for faster and more complete recovery by the victim from the effects of the crime through the establishment of pilot project centers for victim and witness assistance.

Source: Laws 1981, LB 477, § 1; Laws 1986, LB 540, § 38.

81-1844. Crime Victim and Witness Assistance Fund; created; administration; use.

There is hereby created a fund to be known as the Crime Victim and Witness Assistance Fund. Such fund shall contain such amounts as may be appropriated by the Legislature and shall be used only for the purposes set forth in sections 81-1843 to 81-1851. Such fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice.

Source: Laws 1981, LB 477, § 2; Laws 2004, LB 270, § 8.

81-1844.01 . Pamphlet on rights and procedures; distribution.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall create a pamphlet or document that contains the following information:

- (a) A brief statement of the procedural steps of a criminal case;
- (b) The rights and procedures under sections 81-1843 to 81-1851;
- (c) Suggested procedures if the victim or the victim's immediate family is subjected to acts or threats of physical violence or intimidation by the defendant or at the direction of the defendant; and
- (d) The availability of victim's compensation awards and the address of the Crime Victim's Reparations Committee.

(2) Not later than seventy-two hours after arraignment of the defendant for the crime, the county attorney shall distribute to the victim, as defined in section 29-119, the pamphlet or document of victim's rights created by the commission pursuant to this section.

Source: Laws 2004, LB 270, § 9.

81-1845. Victim and witness assistance center; selection and establishment; Nebraska Commission on Law Enforcement and Criminal Justice; duties; funding.

(1) Any public or private nonprofit agency may apply to the Nebraska Commission on Law Enforcement and Criminal Justice for selection and funding as a victim and witness assistance center pursuant to sections 81-1843 to 81-1851.

(2) The commission shall consider the following factors, together with any other factors it deems appropriate, in selecting applicants to receive funds and be designated as a victim and witness assistance center:

(a) The number of volunteers that the proposed center will utilize;

(b) The stated goals of the applicant;

(c) The potential number of people that may be served by the proposed center and the needs of the community for such a center;

(d) Evidence of community support for the establishment of the proposed center; and

(e) The organizational structure of the agency which will operate the proposed center and provide services to victims and witnesses of crimes.

(3) Upon evaluation of all applicants, the Nebraska Commission on Law Enforcement and Criminal Justice shall select a number of public or private nonprofit agencies which the commission deems qualified for designation to receive funding for the establishment and operation of such centers.

(4) The commission shall, upon the establishment of such centers, conduct appraisals of their performance to determine which of the centers shall receive continuation grants.

Source: Laws 1981, LB 477, § 3; Laws 2004, LB 270, § 10; Laws 2012, LB782, § 209; Laws 2013, LB222, § 38.

81-1846. Victim and witness assistance centers; purposes.

The centers shall be designed to:

(1) Assist criminal justice agencies in giving more consideration and personal attention to victims and witnesses through the delivery of services to victims and witnesses of crimes;

(2) Provide a model for other community-based efforts to aid victims and witnesses;

(3) Sensitize law enforcement officials, communications technicians, and supervisors to the needs of victims of crime and encourage a concerned approach to such victims;

(4) Attempt to decrease the incidence of unreported crimes; and

(5) Assure that victims and witnesses are informed of the progress of the case in which they are involved.

Source: Laws 1981, LB 477, § 4.

81-1847. Victim and witness assistance centers; services provided.

Services provided by the centers shall include, but not be limited to:

- (1) Providing assistance to victims in preparing claims for submission to the Crime Victim's Reparations Committee;
- (2) Establishing a means for volunteers to work with criminal justice agencies to promote greater sensitivity to the needs of victims and witnesses;
- (3) Providing followup support services to victims of violent crime and their families to insure that they receive necessary assistance through available community resources;
- (4) Providing elderly victims of crime with services appropriate to their special needs;
- (5) Providing liaison and referral systems to special counseling facilities and community service agencies for victims;
- (6) Providing transportation and household assistance to those victims and witnesses participating in the criminal justice process;
- (7) Notifying friends, relatives, and the employer of a victim, if requested;
- (8) Arranging for verification of medical benefits and assistance when applying for compensation from the Crime Victim's Reparations Committee;
- (9) Notifying witnesses prior to their being subpoenaed in criminal cases; and
- (10) Notifying witnesses of changes in the court calendar to avoid unnecessary trips to the court or spending unnecessary time in court.

Source: Laws 1981, LB 477, § 5; Laws 1986, LB 540, § 39.

81-1848. Victims and witnesses of crimes; rights; enumerated.

- (1) Victims as defined in section 29-119 shall have the following rights:
 - (a) To examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information;
 - (b) To receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule;
 - (c) To be present throughout the entire trial of the defendant, unless the victim is to be called as a witness or the court finds sequestration of the victim necessary for a fair trial. If the victim is to be called as a witness, the court may order the victim to be sequestered;
 - (d) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the following:
 - (i) The crimes for which the defendant is charged, the defendant's bond, and the time and place of any scheduled court proceedings;
 - (ii) The final disposition of the case;

- (iii) The crimes for which the defendant was convicted;
 - (iv) The victim's right to make a written or oral impact statement to be used in the probation officer's preparation of a presentence investigation report concerning the defendant;
 - (v) The address and telephone number of the probation office which is to prepare the presentence investigation report;
 - (vi) That a presentence investigation report and any statement by the victim included in such report will be made available to the defendant unless exempted from disclosure by order of the court; and
 - (vii) The victim's right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement submitted pursuant to subdivision (1)(d)(iv) of this section at the sentencing proceeding;
- (e) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity;
 - (f) To be notified as provided in section 81-1850, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board;
 - (g) To submit a written statement for consideration at any conditional release proceedings, Board of Parole proceedings, pardon proceedings, or commutation proceedings. Conditional release proceeding means a proceeding convened pursuant to a Department of Correctional Services' decision to grant a furlough from incarceration for twenty-four hours or longer or a release into community-based programs, including educational release and work release; and
 - (h) To have any personal identifying information, other than the victim's name, not be disclosed on pleadings and documents filed in criminal actions that may be available to the public. The Supreme Court shall adopt and promulgate rules to implement this subdivision.
- (2) Victims and witnesses of crimes shall have the following rights:
- (a) To be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee;
 - (b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court;
 - (c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available;
 - (d) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;
 - (e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

- (f) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;
- (g) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days after being taken;
- (h) To be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances;
- (i) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter;
- (j) To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section 81-1850 whenever the defendant in such case is released from custody; and
- (k) To have the family members of all homicide victims afforded all of the rights under this subsection and services analogous to those provided under section 81-1847.

Source: Laws 1981, LB 477, § 6; Laws 1990, LB 87, § 9; Laws 1991, LB 186, § 3; Laws 2004, LB 270, § 11; Laws 2015, LB605, § 92.

81-1848.01. Appeal; notification required.

- (1) Upon the filing of an appeal by the defendant, the county attorney upon whom notice of appeal was served shall notify the Attorney General in writing of the name and last-known address of any victim as defined in section 29-119.
- (2) The Attorney General shall notify the victim of the following:
 - (a) That the defendant has filed an appeal of the conviction;
 - (b) A brief explanation of the appeal process, including possible dispositions;
 - (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal;
 - (d) The time and place of any appellate proceedings and any changes in the time or place of those proceedings;
 - (e) The result of the appeal; and
 - (f) The final disposition of the case within thirty days after the final disposition.
- (3) In the event the defendant's conviction is reversed and the case is remanded to the trial court for further proceedings, the victim has the same rights as he or she had during the previous proceedings which led to the appeal.

Source: Laws 2004, LB 270, § 12.

81-1848.02. Escape; notification required.

(1) As provided in subsections (2) and (3) of this section, the victim, as defined in section 29-119, and the prosecuting attorney shall be immediately notified of an escape by a prisoner confined and accused of, convicted of, or sentenced for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice to the victim and the prosecuting attorney.

(2) If the escape occurs before the sentence is executed or before the prisoner is delivered to the custody of the Department of Correctional Services or the county corrections agency, the chief law enforcement officer of the agency in charge of the prisoner's detention shall notify the victim and the prosecuting attorney of the escape.

(3) If the prisoner is confined pursuant to a sentence, the chief administrator of the facility where the prisoner was confined shall notify the victim and the prosecuting attorney.

Source: Laws 2004, LB 270, § 13.

81-1848.03. Victim's rights; waiver.

Victim's rights under sections 81-1843 to 81-1851 may be waived by the victim at any time by

(1) written consent, in person or by attorney, filed with the clerk of the court or (2) oral consent in open court entered on the journal.

Source: Laws 2004, LB 270, § 14.

81-1849. Victim; duty.

To receive the notices provided for in sections 81-1848 to 81-1848.02, a victim shall keep the county attorney informed of his or her current address and telephone number.

Source: Laws 1990, LB 87, § 10; Laws 2002, LB 1105, § 510; Laws 2004, LB 270, § 15.

81-1850. County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; duties; notification of victim.

(1) Upon request of the victim and at the time of conviction of the offender, the county attorney of the jurisdiction in which a person is convicted of a felony shall forward to the Board of Parole, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services the name and address of any victim, as defined in section 29-119, of the convicted person. The board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services shall include the name in the file of the convicted person, but the name shall not be part of the public record of any parole hearings of the convicted person. Any victim, including a victim who has waived his or her right to notification at the time of conviction, may request the notification prescribed in this section, as applicable, by sending a written request to the board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the board, the county corrections agency, or the Department of Correctional Services or, if the person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no longer under the

jurisdiction of the board, the county corrections agency, or the Department of Correctional Services.

(2) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

- (a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;
- (b) Of any parole hearings or proceedings;
- (c) Of any decision of the Board of Parole;
- (d) When a convicted person who is on parole is returned to custody because of parole violations; and
- (e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

- (a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;
- (b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;
- (c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;
- (d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;
- (e) Of the (i) department's calculation of the earliest parole eligibility date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;
- (f) Of any reduction in the prisoner's minimum sentence; and
- (g) Of the victim's right to submit a statement as provided in section 81-1848.

(4) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:

- (a) When a person convicted of an offense listed in subsection (5) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services;
- (b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;

(c) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is discharged or has a change in disposition from inpatient board-ordered treatment;

(d) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is granted a furlough or release for twenty-four hours or longer; and

(e) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.

(5) Subsection (4) of this section applies to persons convicted of at least one of the following offenses which is also alleged to be the recent act or threat underlying the commitment of such persons as mentally ill and dangerous or as dangerous sex offenders as defined in section 83-174.01:

(a) Murder in the first degree pursuant to section 28-303;

(b) Murder in the second degree pursuant to section 28-304;

(c) Kidnapping pursuant to section 28-313;

(d) Assault in the first degree pursuant to section 28-308;

(e) Assault in the second degree pursuant to section 28-309;

(f) Sexual assault in the first degree pursuant to section 28-319;

(g) Sexual assault in the second degree pursuant to section 28-320;

(h) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(i) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(j) Stalking pursuant to section 28-311.03; or

(k) An attempt, solicitation, or conspiracy to commit an offense listed in subdivisions (a) through (j) of this subsection.

(6) A victim whose name appears in the file of a convicted person shall be notified by the Board of Pardons:

(a) Of any pardon or commutation proceedings; and

(b) If a pardon or commutation has been granted.

(7) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(8) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, or the Board of Parole pursuant to subsection (1) of this section shall be exempt from disclosure under public records laws and federal freedom of information laws, as such laws existed on January 1, 2004.

Source: Laws 1991, LB 186, § 4; Laws 1992, LB 523, § 16; Laws 1997, LB 325, § 1; Laws 2004, LB 270, § 16; Laws 2004, LB 1083, § 127; Laws 2006, LB 1199, § 85.

Cross References

Nebraska Mental Health Commitment Act, see section 71-901.

Sex Offender Commitment Act, see section 71-1201.

81-1851. Legislative intent.

It is the intent of the Legislature that sections 81-1843 to 81-1851 shall be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.

Source: Laws 2004, LB 270, § 17.

Consultants' Competitive Negotiation Act § 81-1721

81-1721. Existing contracts; validity; unaffected.

Nothing in sections 81-1701 to 81-1721 shall affect the validity of any contracts in existence on July 22, 1978.

Source: Laws 1978, LB 715, § 21.

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE

CHAPTER 1 - DEFINITIONS

001 Act - Act shall mean the Nebraska Crime Victim's Reparation Act, Sections 81-1801 to 81-1842, R.R.S. 1996, as amended.

002 Applicant - Applicant shall mean any victim or other eligible party who has properly applied for compensation under the Act.

003 Application - Application shall mean a form provided by the Committee and filed with the Committee, containing a verified statement by the applicant setting forth facts justifying compensation, together with any other documentation required by the application form or the Committee.

004 Committee - Committee shall mean the duly appointed Crime Victim's Reparations Committee and its support staff.

005 Compensation - Compensation shall mean any monetary award made by the Committee or Hearing Officer to an applicant or to any other person or entity on behalf of an applicant.

006 Dependent - Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income for more than half of his or her support at the time of death, provided, however, that children of a victim born after a victim's death shall be considered dependent notwithstanding the support requirement.

007 Hearing Officer - Hearing Officer shall mean the Executive Director of the Crime Commission or any person or persons licensed to practice law in Nebraska who are designated by the Committee and approved by the Crime Commission to make claim decisions and conduct hearings on behalf of the Committee.

TITLE 80
CHAPTER 1

008 Innocent - Innocent, as used herein, shall mean complete freedom of culpability with regard to the act which produced the injury to the victim.

009 Net Financial Resources - Net Financial Resources shall mean any resources available to the victim which are free from claims or charges.

010 Offender - Offender shall mean a person legally accountable or answerable for a crime.

011 Personal Injury - Personal Injury shall mean actual bodily harm.

012 Relative - Relative shall mean spouse, parent, grandparent, step-parent, natural born child, step-child, adopted child, grandchild, step-grandchild, brother, sister, half-brother, half-sister or spouse's parents.

013 Victim - Victim shall mean an individual who suffers personal injury or death from a criminal act attempted or committed in Nebraska, a Nebraska resident or non-resident who suffers personal injury or death from a terroristic act attempted or committed in Nebraska, and Nebraska residents who suffer personal injury or death from a terroristic act attempted or committed in another state, nation, country or territory. Victim shall also mean an individual who suffers emotional trauma as a result of witnessing the actual attempted or committed criminal act. Personal injuries or death to a victim must be the result of:

013.01 - The commission or attempt of an unlawful criminal act on the part of a person or persons, other than the victim, or;

013.02 - An attempt on the part of the victim to prevent the commission of a crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his/her duties, or to aid a victim of a crime.

TITLE 80
CHAPTER 1

014 Licensed - Licensed shall mean personnel or facilities rendering medical, mental health counseling, and/or pharmaceutical services as authorized by law.

015 Provider - Provider shall mean licensed personnel or facilities rendering medical, mental health counseling, pharmaceutical and/or funeral/burial services in relation to the criminal act for which the victim owes payment.

016 Maintenance - Maintenance of the victim shall mean an individual who physically provides care to the victim because the victim is not able to care for himself/herself. Requirement for such care must be prescribed by the licensed medical provider in writing.

Effective Date: January 20, 1998
Revised from August 12, 1987

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 2 - COMMITTEE AND HEARING OFFICER PROCEDURE

001 Meeting Date - The Committee or Hearing Officer shall have no fixed meeting date but is subject to call by the Chairperson of the Committee, by a quorum, or by the Director of the Crime Commission.

002 Quorum - A majority of the Committee shall constitute a quorum for the transaction of business.

003 Sessions - All meetings of the Committee shall be conducted pursuant to Sections 84-1401 to 84-1414, R.R.S. 1996.

004 Rules and Regulations - Any rules and regulations proposed for implementation by the Committee shall be done in accordance with Sections 84-901, et. seq., R.R.S. 1996.

005 Hearing Officer - All claims for compensation shall be considered and ruled upon by the designated Hearing Officer. The Hearing Officer shall forward to the applicant a written statement regarding the ruling on the claim for compensation.

006 Committee - The Committee shall conduct any Hearing requested by an applicant or the designated Hearing Officer pursuant to Chapter 5. If the Hearing Officer awards an amount in excess of the amount requested or actual expenses submitted by the applicant, the Committee shall be advised of such.

Effective Date: January 20, 1998
Revised from March 18, 1989

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 3 - APPLICATION

001 Eligible Applicant - To be eligible for compensation, the claimant shall have incurred actual financial losses as defined in Chapter 4 which are not covered by other sources for expenses directly related to the crime. The claimant shall not be eligible for compensation if he/she was convicted of a federal crime or is delinquent in paying a court ordered fine, penalty, or restitution. The following are eligible to file an application:

001.01 - Any victim of a criminal act or one authorized by law to act on victim's behalf;

001.02 - Any person responsible for the maintenance and support of the victim who has suffered pecuniary loss while providing maintenance and support to the victim or has incurred the victim's expenses as a result of the victim's injury or death;

001.03 - Each dependent of a deceased victim (see 4.002.03);

001.04 - Any individual who incurred eligible expenses, as limited by statutes, which are the direct result of the victim's injury or death.

002 Form - The application for compensation shall be typewritten or legibly printed by hand. If sufficient space is not provided on the supplied form, the applicant may use additional sheets of paper. The application shall be signed by the applicant and verified before a Notary Public. The application shall be mailed with sufficient postage to the following address:

**TITLE 80
CHAPTER 3**

Crime Victim's Reparations Committee
State Office Building
301 Centennial Mall South
P. O. Box 94946
Lincoln, Nebraska 68509-4946

The application for compensation shall contain the following:

002.01 Victim Information - The full name, address, Social Security number, telephone number, date of birth, age at time of incident, sex, occupation, place of employment, marital status, and spouse's name, if any, of the victim are required.

002.02 Claimant Information - If claimant is not the victim, the claimant's name, address, Social Security number, telephone number, date of birth, sex, marital status and relationship to victim, are required. If the victim died, the place and date of the death are required.

002.03 Minor and/or Dependent of Victim Information - If the claim is being made for loss of support on behalf of a minor and/or dependent, the minor and/or dependent's name, address, Social Security number, telephone number, date of birth, sex, marital status, and relationship to victim are required. The name, address, and telephone number of the person having legal custody, and any benefits being received for the minor and/or dependent are also required.

002.04 Claimant's Attorney Information - If the claimant has retained an attorney to represent him or her in the claim for compensation, the attorney's name, address, telephone number and either the attorney's social security number or tax identification number are required.

002.05 Emergency Award - If an emergency award is claimed, the claimant must indicate the amount of the emergency request and explain what undue hardship will result if the emergency request is not received.

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002.06 Incident Information – The claimant is required to provide the following, if known: a brief detailed description of the incident; the date, place, and time of the incident; the date the incident was reported to a law enforcement agency; the name of the individual who reported the incident; the name of the law enforcement agency to which the incident was reported; if the accused has been charged and/or convicted of the offense; the name or names and address(es) of any witness to the incident.

002.07 Amount of Claim - The claimant is required to enter the amount of the request by type of services rendered as well as the total amount of the claim for compensation. Information relating to payment from other sources is required. If loss of wages is being claimed for the claimant and/or victim, the dates of work missed, the name of the victim's and/or claimant's employer, and the employer's telephone number and address are required.

002.08 Signatures - The claimant is required to sign a statement authorizing the release of information relating to the incident and to information relating to services rendered to the victim. Information and records received relating to the victim, the criminal incident and treatment shall remain confidential except for that information considered public under Nebraska or U.S. laws. The claimant is required to submit a signed, notarized statement attesting to the validity of the facts included in the claim for compensation.

003 Enclosures - The following documents shall accompany all applications:

003.01 Medical and/or Mental Health - Itemized billing statements for related medical and/or mental health services provided to the victim, which are directly related to the incident for which compensation is being requested, shall be submitted with the claim for compensation. All medical and/or mental health reports relating to the incident for which compensation is being requested shall be submitted to the Crime Victim's Reparations program upon request.

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003.02 Wages - The following information shall be submitted for the individual for whom the loss of wages is being claimed: a signed statement from the employer identifying the dates of work missed due to the incident; the individual's hourly wage; the number of hours worked weekly by the individual; the total amount of the individual's deductions; and the frequency of payment. A copy of the doctor's release is required.

003.02A Loss of Earning Power - If the claim is for loss of earning power for the victim, earning information from the victim's employer and income tax returns for the previous two years; written relevant medical information from the medical providers regarding the diagnosis, prognosis, degree of disability, the amount of time the victim will be unable to work and any other information determined to be relevant by the Hearing Officer or Committee, are required.

003.02B Maintenance of the Victim - If the claimant is requesting funds for the maintenance of the victim, the claimant must submit a copy of the doctor's written statement requiring such services, the reason(s) the victim requires such services; and, the dates such services are required.

003.03 Funeral and Burial - If funeral expenses are claimed, the applicant shall submit a copy of the death certificate of the victim and all itemized statements relating to the funeral and burial expenses of the victim.

003.04 Pecuniary - If the applicant is claiming compensation for pecuniary loss for dependent(s) of a deceased victim, the applicant shall provide the Committee or Hearing Officer legal documentation that said applicant is the conservator of the estate of the deceased and has conservatorship for the dependent(s).

003.05 Net Financial Resources Form - The applicant shall complete and submit the Net Financial Resources Form with the claim for compensation.

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004 Request for Information and Dismissal of Applications - The Committee or Hearing Officer may, at any time, request an applicant to furnish such required information as listed in this chapter or any additional information which they determine to be relevant. If such information is not furnished within thirty 30 days of mailing the request, a second request will be sent by certified mail with return receipt requested to the address listed on the application. If the information is not submitted within 30 days of the second request, said application will be dismissed without prejudice to the applicant by the Hearing Officer or the Committee. It is the obligation of the claimant to notify the Committee of any change of address.

005 Supplemental Claims - If additional expenses, as defined in Chapter 4, directly related to the crime are anticipated to be incurred by the applicant, the Committee or Hearing Officer may allow the claim to remain open for a period not to exceed two years from the date of the incident. A supplemental application may be considered by the Hearing Officer or Committee for unanticipated expenses directly related to the crime as defined in Chapter 4. The supplemental application must be received within two years of the date of the incident. The additional expenses are subject to availability of funds and the total award is not to exceed the limit as set forth in Section 81-1823 of the Act. An application shall be considered filed when it has been deposited in the United States Mail with sufficient postage.

006 Denied Without Prejudice Claims - A claim which was denied without prejudice may be reconsidered by the Hearing Officer if the required information is received within 45 days from the date of the letter notifying the applicant of the denial. Extension of the 45 day requirement may be granted by the Hearing Officer and/or Committee if extenuating circumstances prevented the applicant from submitting the required information.

Effective Date: January 20, 1998
Revised from March 18, 1989

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 4 - COMPENSATION

001 Compensable Damages (Sec. 81-1819) - The Committee or Hearing Officer may order the payment of compensation for the following, as defined:

001.01 - "Expenses actually and reasonably incurred" shall mean medical, mental health counselor, hospital, pharmaceutical, and funeral and burial expenses for the victim as limited in 4.002.

001.02 - "Loss of earning power" shall refer only to cases wherein total or partial disability of the victim is involved as limited in 4.002.

001.03 - "Pecuniary loss" shall mean loss of support to a surviving dependent or dependents or expenses related to the crime actually and reasonably incurred by the victim or claimant for which the victim's dependents are legally responsible as limited in 4.002.

001.04 - "Any other loss" shall be restricted to residential crime scene cleanup and loss of wages by a surviving victim or claimant medically required to provide for the maintenance of the victim as limited in Section 4.002. An actual loss of wages from gainful employment must occur to be eligible for loss of wages compensation as limited in 4.002.

002 Award of Compensation - Compensation, if allowed, shall be awarded pursuant to the following limitations:

002.01 - Any award for medical, mental health counseling, hospital or pharmaceutical expenses actually and reasonably incurred shall be limited to actual costs for necessary services rendered by a licensed medical, mental health, hospital, pharmaceutical facility, or individual as related to the incident which caused the injury or death of the victim. No private room rates shall be allowed. Compensation for mental health counseling shall not be awarded in excess of \$2,000.

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002.02 - Any awards for loss of earning power shall be limited to cases where total or partial disability is proven and where proof of actual and reasonable rehabilitative services is presented to the Committee.

002.03 - A pecuniary loss award to a surviving dependent shall be considered as one application and in no event shall any award exceed the maximum stated in Section 81-1823, R.R.S. 1996 and 4.006, infra.

002.04 - Lost wages shall be paid only to a victim or a claimant who is responsible for the maintenance of the victim who is employed at the time of the incident and only for the period the victim or claimant is unable to work due to the victim's injuries as a direct result of the incident as certified by a licensed medical provider. Lost wages shall be computed pursuant to the provisions of Chapter 48, Article I, of the Nebraska Revised Statutes and any amendments thereto relating to total disability, subject to the limitations in this act, including those in Nebraska Revised Statutes 81-1814, 81-1816, and 81-1823. No award shall be allowed for use of accumulated sick leave, vacation leave, unemployment or disability payments during the disability period.

002.05 - Any claim containing a combination of two or more of the compensable damages listed herein shall not be awarded in excess of the limitation contained in 81-1823 R.R.S. 1996.

002.06 - In the case of death of the victim, funeral expenses incurred by an eligible applicant shall not be awarded in excess of \$5,000.00.

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002.07 - Compensation for mental health counseling shall be considered on a case by case basis for minor children of victims of homicide, sexual assault, felony assault or false imprisonment. Claims for compensation for mental health counseling for the victim's minor children must be received by the Crime Victim's Reparations program within 2 years of the date of the incident.

002.08 - Reasonable expenses incurred for the cleaning of a residential crime scene shall not exceed \$1,000.00.

002.09 - Attorney fees shall be considered for legal services rendered in assisting the victim or claimant in filing a claim for compensation and shall not exceed 5 percent of the total award.

003 Reduction of Award - Any award shall be reduced by the amounts of any payments received or to be received from any contract of insurance or any other source of compensation except life insurance proceeds or social security payments. Compensation awards shall not be used to pay for any service if the service is covered under any federal program or federally financed state or local program. The Crime Victim's Reparations program is the payor of last resort.

004 Payment of Compensation - All awards made pursuant to Chapter 4.001.01 shall be to the provider who rendered services unless the Committee or Hearing Officer directs otherwise. All other awards, whether in lump sum or in installment, shall be made to the order of the eligible applicant or the estate of a deceased victim.

005 Denial of Award - In addition to grounds for denial of an award contained in the Act, an award may be denied (1) when the eligible applicant has failed to cooperate with criminal justice agencies in the investigation and prosecution of the crime giving rise to the injuries of the victim; (2) when the eligible applicant has failed to cooperate with the Committee, Hearing Officer, or staff in its investigation of the claim filed for compensation; or (3) when the victim is found not to be an innocent victim of a crime. No compensation shall be awarded if the claim is not submitted to the Committee within two years of the date of the incident or the incident is not reported to law enforcement within three days. The only exception to these reporting requirements is for a minor child who was a victim of a physical or sexual assault and who did not report such incident to an adult. At which time the minor child reports an incident or incidents to an adult, the reporting requirement becomes effective. No compensation shall be awarded if the victim was a passenger in a motorized vehicle who knew or reasonably should have known that the driver was operating the vehicle while under the influence of alcohol or illegal drugs.

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006 Claims in Excess of Limitation (Sections 81-1823 and 81-1813) - No award based upon a claim filed by any one applicant arising out of any single incident shall exceed \$10,000 unless expenses for job retraining or similar employment related rehabilitative services for the victim are deemed necessary by a certified physician. In cases of job retraining or similar related rehabilitative services for the victim, the award shall not exceed \$5,000 and shall be used only for such purposes.

007 When an eligible claim exceeds \$10,000 and an award of \$10,000 is ordered by the Committee or Hearing Officer, the Committee or Hearing Officer shall give priority to lost wages and funeral expenses and shall reduce all other compensable damages on a pro-rata basis.

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Revised from March 18, 1989

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 5 - HEARINGS

001 The Crime Victim's Reparations Hearing Officer may request the Committee to conduct a Hearing on any submitted claim for compensation. A claimant who filed the claim for compensation may request a Hearing if the claim was denied or substantially reduced without just cause. The appeal must be made in writing and received by the Committee within 30 days from the date notice of the Hearing Officer's action was mailed.

001.01 Crime Victim's Reparations program staff shall establish the date, time and place of the Hearing after consultation with the members of the Crime Victim's Reparations Committee and notify, in writing, the Committee members and claimants filing the appeal of the date, time and place of the Hearing. Notification of Committee members and claimants shall be made at least 20 working days prior to the Hearing.

001.02 If the claimant cannot attend the Hearing, Crime Victim's Reparations staff shall be notified at least five working days prior to the Hearing. Claimant notification may be made by telephone, but is to be followed by written notification which is signed by the claimant.

001.03 Missed Scheduled Hearings - The Committee may reschedule the Hearing for an appeal of a denied claim for compensation when the claimant fails to appear or notifies the Committee of an intended absence for a scheduled Hearing. If the claimant fails to appear at the second scheduled Hearing and has not notified the Committee prior to the Hearing, the Committee may deny the appeal and the decision of the Committee may be final.

001.04 The claimant shall be notified, in writing, of the decision of the Crime Victim's Reparations Committee within ten working days from the date of the Hearing. Such notification shall be made via certified mail with a signed Return Receipt from the claimant being requested. Notification shall include the decision of the Committee; if the claim is awarded, the amount of the award and the amount to each eligible service provider shall be stated. If the Committee denies the appeal, the reason for the denial shall be stated.

TITLE 80
CHAPTER 5

002 Rules of Evidence - The Committee or its Hearing Officer shall not be bound by common law or statutory rules of evidence or by any technical or formal rules of procedure other than provided in these rules and regulations. Any statement, document, or information necessary to afford the parties a fair Hearing may be received as evidence. The Committee may also accept hospital records or reports, physicians' reports, and mental health counselor's reports as proof of the injuries sustained without requiring the presence of the attending physicians or mental health counselors at the hearing.

003 Investigation - The Committee or its Hearing Officer may consider as evidence at a hearing any information determined to be relevant as discovered through the Committee's independent investigation, including, but not limited to police reports, records of medical payments by third parties or any other payments to or on behalf of the eligible applicant, the applicant's financial need, and statements of witnesses or acquaintances.

004 Recording - Minutes shall be taken of all Committee meetings with a record of all votes maintained. The proceedings of all Hearings by the Committee shall be recorded and shall be transcribed only after the Committee receives notice of appeal in District Court.

Effective Date: January 20, 1998
Revised from March 18, 1989

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 6 - APPEALS OF CRIME VICTIM'S REPARATIONS COMMITTEE ACTIONS

001 An appeal of a determination, decision or an award may be filed in District Court if:

001.01 - The determination, decision or award has been heard by an assigned Hearing Officer and;

001.02 - An appeal of the determination, decision or award of the Hearing Officer was ruled upon by the Committee.

002 The appeal of the determination, decision, or award shall be filed in the District Court of the county where the action of the Committee was taken. The appeal is to be made by filing a petition in the District Court within 30 days after the service of the final decision by the Committee. This 30-day period shall begin from the day on which the Committee deposits its decision in the United States Mail, with sufficient postage prepaid, addressed to the applicant. All appeals shall be governed by the provisions of Chapter 84, Article 9, R.R.S., 1996.

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TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 7 - MISCELLANEOUS

001 Any request of a law enforcement agency pursuant to 81-1810 (3) shall be made in writing and shall specify the information desired, the name of the victim, the approximate date and time of the occurrence, and any other information which may assist in identifying the incident. All law enforcement agencies receiving a request shall respond in writing within 20 working days.

002 If sufficient funds are not available, the Committee or Hearing Officer may order a partial payment on a claim. If funds do not become available within two years, the Committee or Hearing Officer may defer payment on the remainder of the claim and close the file without prejudice. The Committee or Hearing Officer in determining the amount of compensation payable to an allowed claim may consider the following factors in determining the amount and date of payment.

002.01 Rate and amount of compensation payable for injuries and death under other laws of this state and of the United States.

002.02 The availability of funds appropriated for the purpose of sections 81-1801 to 81-1842.

003 If a request to review a claim for compensation is made by an individual other than a member of the Crime Victim's Reparations Committee, Hearing Officer, or the claimant, such request shall be made in writing with the reason for such review clearly stated. Only the claim form, itemized billings, Hearing Officer's decision, and decision of the Crime Victim's Reparations Committee will be made available for review. Only the original incident of the law enforcement report will be made available. Review of medical or other reports regarding the victim shall require written consent by the claimant. The review shall take place at the Crime Commission with Crime Commission staff present. If the claimant and/or victim requests to review their claim for compensation file, all information except the complete law enforcement report shall be made available for their review with Crime Commission staff present.

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Revised from March 18, 1989