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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Corrections and the Courts

Assembly Bill 852

Relating to: awards for crime victims and their families, persons witnessing certain crimes, and children witnessing acts of domestic violence.

By Representative Walker.

February 26, 2002 Referred to Committee on Corrections and the Courts.

February 27, 2002 **PUBLIC HEARING HELD**

Present: (9) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Pocan and Colon.

Absent: (1) Representative Coggs.

Appearances for

- Kitty Kocol, Dept. of Justice
- District Attorney Robert Jambois, Kenosha County
- Julie Foley, Dane County DA/Victim/Witness program
- Patricia Krueger, Wisconsin Victim/Witness program
- Henry Starkey, Crime Victims Council and Parents of Murdered Children
- Lisa Macaulay, Wisconsin Coalition Against Sexual Assault
- Mary Lauby, Wisconsin Coalition Against Domestic Violence
- Ray Maida, Madison

Appearances against

- None

Appearances for Information Only

- None

Registrations for

- Jane Lombardo, Madison Police Dept.
- M. Colleen Wilson, Wisconsin Catholic Conference
- Jill Jacklitz, WI Council on Children and Families

Registrations against

- None

February 27, 2002

EXECUTIVE SESSION

Present: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.

Absent: (0) None.

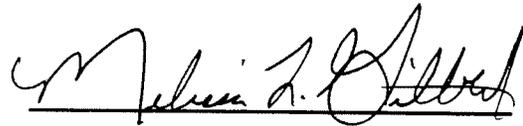
Moved by Representative Suder, seconded by Representative Balow, that **Assembly Bill 852** be recommended for passage.

Ayes: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.

Noes: (0) None.

Absent: (0) None.

PASSAGE RECOMMENDED, Ayes 10, Noes 0, Absent 0

A handwritten signature in cursive script, reading "Melvin A. Gilbert", written over a horizontal line.

Committee Clerk

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 2/27/02
 Moved by: Suder Seconded by: Balow
 Clearinghouse Rule: _____
 AB: 852 SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 AR: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|---|--|
| <input checked="" type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 10 0 0 0

Motion Carried

Motion Failed



Memo

AB 852
folder

DATE: December 6, 2001
TO: Representative Scott Walker
FROM: Kitty Kocol, Executive Director, Office of Crime Victim Services
SUBJECT: **Recommended Changes to Chapter 949 and the Crime Victim Compensation Program**

Summary

This document represents ten years of thinking and recommendations related to the needs Wisconsin citizens who are victims of crime, and opportunities to improve services to them through changes in our Crime Victim Compensation program. It is the product of the input of victim service providers from across the state as well as the staff and managers in the Office of Crime Victim Services.

Our final proposal was shaped by the week we spent at the Family Assistance Center in Manhattan from October 8-12, 2001. There, we helped victims and survivors of the World Trade Center attacks, assisting them in application for Crime Victim Compensation in New York. From that experience, it became clear to us that we in Wisconsin would be statutorily unable to help some of them if a similar disaster were to happen here.

Of the twenty-six proposed statutory changes developed within OCVS, I am proposing the following eight. They are summarized in the section immediately following, and are detailed in the sections labeled I. through VIII. Please note that fiscal estimates are provided on the final pages, but **this entire proposal can be funded through the increase we were expecting in federal funding that is designated specifically to this program** (and no other purpose). Please note that the targeted implementation date for each separate provision is either a) upon passage for those recommendations that require no additional funding; and b) on October 1, 2003 for those recommendations that will be funded using the federal increase that becomes available upon that date.

Expand benefits to include:

- Mental health services for children who witness domestic violence;
- Mental health services for parents or legal guardians of children who have been sexually or physically abused or threatened (limited benefit);
- Mental health services for persons who witness acts of violence or great bodily harm (limited benefit);
- Healing methods recognized and practiced within other cultures;
- Victims of terrorism or terrorism hoaxes;

- One week of lost wages for a family member caring for a victim; and
- An increase in the funeral benefit

Change program management to:

- Explicitly include mental health in the list of recognized medical services;
- Protect the contact information of victims, victim family members and applicants to the Crime Victim Compensation program; and
- Eliminate the distinction between uses of federal and state money so that crime victims' expenses and lost wages and benefits can be reimbursed in a timely manner.

Recommended Changes to Chapter 949: The Crime Victim Compensation Statutes

(These recommendations appear in the order in which they would appear in the statutes.)

I. In the Definition Section:

Under "Medical Treatment," broaden the services which victims can receive so that mental health services (whether or not they are medically-based) and alternative treatments (such as would be preferred by American Indians, Hmong and other victims who have their own traditional healing methods) are included in the definition (rather than only including Christian Science methods).

949.01(4) would be amended to read:

“Medical treatment” includes medical surgical, dental, optometric, chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental and surgical supplies; crutches; artificial members; appliances and training in the use of artificial members and appliances. “Medical treatment” includes any Christian Science treatment or other recognized cure or relief from the effects of injury.

Under "Personal injury," include the threat of bodily harm as a crime, and change the language so that people who suffer mental distress as a result of a crime are referred to in a more dignified and appropriate manner.

Amend 949.01(5) to read:

"Personal injury" means actual bodily harm and

includes pregnancy resulting from sexual assault and ~~mental or nervous shock or emotional trauma.~~

These changes should be implemented upon passage.

- II.** In the **Compensable Acts** section (949.03)(1)(b), add all new crimes related to **Terrorism** as crimes for which victims are eligible for Compensation.

The addition of terrorism should be implemented upon passage.

- III.** Create two new sub-sections to the "Award; to whom payable" section, 949.05 to **include children who witness domestic violence and to persons who witness acts of violence.** The addition of children furthers the AG's commitment to this issue. The addition of persons witnessing violent acts would enable us to assist people who witness homicides, acts of terror, and other violent crimes. (Under current statues, Wisconsin could not cover mental health benefits for witnesses of an event like the World Trade Center. We plan to limit the number of

Amend 949.05 (1), Award to whom payable, to add:

949.05(1)(d) To children who observe or hear an act of domestic violence as defined in s.813.12(1)(a).

949.05(1)(e) To persons who witness violent criminal acts involving death or great bodily harm, as defined in s. 949.01, for mental health treatment related directly to their reaction to witnessing the crime. The department shall establish limits to this benefit.

These changes should be implemented on October 1, 2003.

- IV. Provide a lost wage benefit for family members caring for a victim.**

Allow for payment of up to one week of lost wages to family members or legal guardians who must take leave from work to care for a family member due to the family member's crime related injuries. Limit the award to a maximum of \$500.

Create 949.06 (1)(bf) under Computation of award

949.06 (1)(bf) Family members or legal guardians may receive reimbursement for up to one week of net wages lost as a result of taking unpaid leave from work to care for a relative or ward's crime related injuries. This benefit may not exceed \$500 per incident.

This change should be implemented October 1, 2003

V. Funeral and Burial Expenses

949.06(1)(d) provides for up to \$2000 for reasonable funeral and burial expenses, the lowest benefit paid by a state compensation program. More than half of the programs pay \$4000 or more, with 15 states paying \$5000 and up. Wisconsin's Workers Compensation funeral benefit is \$6000. We recommend increasing the funeral benefit by \$1000.

Amend 949.06(d) Computation of Award

949.06(d) Reasonable funeral and burial expenses, not to exceed ~~\$2,000~~ \$3000. The funeral and burial award may not be considered by the department under sub. (2).

This change should be implemented October 1, 2003

VI. Mental health services for custodial parents or legal guardians of children who have been sexually or physically abused.

Section 949.06 (1m)(b) allows for victim family members to receive appropriate benefits, including mental health counseling, if the victim dies as the result of the criminal act. Family members of victims who have survived a crime may also suffer an emotional reaction as the result of the crime against their loved one and may benefit from seeing a mental health professional to help them deal with this reaction. Additionally, especially when the victim is a child, the victim's treatment and ultimate well-being often is directly related to the ability of those close to him or her to come to terms with their own reaction(s) and to understand what the victim is going through. Rarely, do family members need extensive therapy or intervention, so providing a limited counseling benefit to them would cost very little. In fact, it has the potential of lowering the overall cost of the claim as the result of the family members enhanced ability to help the victim deal with his or her reaction to the crime.

Create 949.06 (1) (a) 1., Computation of Award

949.06(1) (a) 1. The department may make awards to custodial parents or legal guardians of children who have been the victims of sexual assault, sexual abuse or physical abuse as defined under s.948.02, s.948.025, s.948.03, s948.04, s948.07, or 948.03.

This change should be implemented October 1, 2003

VII. Allow State and Federal Compensation Funds to be used for the Same Purposes.

Although crime victim compensation receives both federal and state funds to award to victims, under current statutory language certain benefits and any awards greater than \$10,000 can only be paid from federal funds. Since the state and federal funds are received and depleted at differing times in the fiscal year, whenever one fund is depleted, it creates three classes of victims: those fully paid, those only partially paid, and those receiving no payment until the designated funds are next received.

It is very difficult for victims to understand why they cannot receive the money they need so badly, while other victims are receiving full payment. The source of the funds means nothing to the victim. It seems extremely odd, for example, to be able to reimburse a sexual assault victim for \$200 or her \$250 of withheld clothing, but not the remaining \$50, although her medical bill can be paid in full. (The first \$200 of clothing must come from state funds and the next \$100 from federal.) Or, to be unable to pay anything towards a child's \$20,000 loss of support benefit, even though we have the \$10,000 which must come from federal funds, because we do not have the first \$10,000 which must come from state funds.

Designating the funding source from which a particular benefit must be paid creates financial hardships for victims and administrative nightmares for claims staff, who cannot complete or close these claims and must go back over all the financial information to ensure it is current and the later date of payment. If all benefits could be paid from either funding source, all victims' claims will be treated the same; all benefits will either be paid or all victims will be delayed together.

Repeal s.949.06 (5) to allow state and federal funds for crime victim compensation to be used for the same purposes.

This change should be implemented upon passage.

VIII. Confidentiality.

Crime victims have a right to expect that the sensitive information they provide to compensation programs will remain confidential – or at least that it will not end up in the hands of those who have committed offenses against them. The Wisconsin Victims' Rights Amendment, Article I, Section 9m, Wis. Const. specifies that "This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy." We propose that **no street address, electronic address, or**

telephone number of a victim, applicant, victim family member or member of the victim's household be considered a matter of public record.

Proposed Language: Modify 949.16 to allow the department to withhold victim contact information to ensure that victims are treated with dignity and respect for their privacy.

949.16 Confidentiality of records. The record of a proceeding before an examiner or the department under this chapter is a public record. Street or electronic addresses and telephone numbers of victims, applicants and members of the victim's family or household shall not be released. Any record or report obtained by an examiner or the department, the confidentiality of which is protected by any other law or rule, shall remain confidential including street or electronic addresses and telephone numbers of victims, applicants, and members of the victim's family or household.

This change should be implemented upon passage.

Estimated fiscal impact to Wisconsin's Crime Victim Compensation Program

- **Mental health services for children who witness domestic violence:**
Based on current domestic violence volume of 100 claims per year; estimate that one-third will utilize the benefits. Estimate an average of 1.7 children per family (Milwaukee data). Anticipate that insurance or Medicaid will cover two-thirds of the children. Estimate ten counseling/therapy sessions per child at a cost of \$100 each.

100 adult victims x .33 accessing benefit = 56 children of whom 2/3 are covered = 20 children x 10 sessions x \$100 per session = **\$20,000 annually**

- **Mental health services for parents or legal guardians of children who have been sexually or physically abused or threatened** (limit benefit through administrative rules);
Based on 100 annual claims of child physical and sexual abuse; estimate 50% will obtain therapy and that 2/3 have insurance or Medicaid. Anticipate 10 session of counseling/therapy at \$100 per session.

100 child victims x .5 participation x .33 uninsured x 10 sessions x \$100 = **\$16,500 annually**

- **Mental health services for persons who witness acts of violence or great bodily harm** (limit benefit through administrative rules);
Based on eight claims specialist estimates of approximately 10 such claims each per year, and anticipating that approximately 40% of those would use the benefit

80 claims x .40 users = 32 witnesses x 5 visits x \$100 per visit = **\$16,000 annually**

- **Healing methods recognized and practiced within other cultures;**
Anticipate minimal impact = **\$2,000 annually**

- **Victims of terrorism or terrorism hoaxes;**
Anticipate approaching the state legislature for a special appropriation necessary to serve victims of terrorism in response to an act of any scale

- **Up to one week of lost wages for a family member caring for a victim** (limit benefit through administrative rules);
Based on estimate of 500 possible families, of whom approximately 10% would be working people who stayed home from paid employment to care for a victim, and who had no available paid time off benefit. Estimated three days of missed work per family at an average net salary of \$400 per week.

500 families x .10 x 3 days per week x \$80 per day = **\$12,400 annually.**

- Increase the funeral benefit by \$1000 per victim x 63 funerals = **\$63,000 annually.**

Fiscal impact (continued):

- **Explicitly include mental health in the list of recognized medical services:**
Anticipate no impact; the benefit is currently covered but not expressly listed
- **Protect the contact information of victims, victim family members and applicants** to the Crime Victim Compensation program:
Anticipate no measurable fiscal impact
- **Eliminate the distinction between uses of federal and state money** so that crime victims' expenses and lost wages and benefits can be reimbursed in a timely manner:
This provision does not alter the size or number of awards being made by the program, nor does it increase overall program spending. It does have a significant impact for victims awaiting payments.

Estimate of total added benefits = **\$129,900**

How to fund this:

Congress has voted to increase the federal share paid to states for Compensation by 20%. Based on Wisconsin's current allocation, that increase will be approximately **\$130,000**, so we will have the funds to make these changes.

949 changes2.doc

12.6.2001



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W D A A
Sandy Williams, President
Ozaukee County Justice Center
1201 South Spring Street
P.O. Box 994
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Wisconsin District Attorneys Association

David Wambach, President Elect
Scott Horne, Secretary-Treasurer
Robert Jambois, 1st Vice President
Todd Martens, 2nd Vice President
Paul Bucher, 3rd Vice President
Vincent Biskupic, Past President
Craig Davis, Executive Director

Elma Anderson, ADA Rep.
Ruth Bachman, ADA Rep.
Patrick Kenney, ADA Rep.
Steven Tinker, DOJ Rep.
Susan Crawford, Alt. DOJ Rep.
Stuart Morse, SPO Rep.
Aleta Niebuhr, SPET Director

February 26, 2002

Representative Scott Walker
c/o Assembly Correction & Courts Committee
Room 308 North
State Capitol
P.O. Box 8953
Madison, WI 53708

RE: LRB 4449/1

AB 852

Dear Representative Walker:

On Friday, February 22, 2002, the Wisconsin District Attorney's Association Executive Board met and reviewed proposed and recommended changes to Chapter 949 and the Crime Victim Compensation Program. The Wisconsin District Attorney's Association unanimously supports the recommended changes to Chapter 949 and the Crime Victim Compensation Program. One of our primary functions in the criminal justice system as prosecutors is to work toward the goal of making victims whole. Some of the expanded benefits being recommended as well as the statutory changes would be of great assistance to assure victims being made whole. It is clear that these recommendations are necessary in order to improve services to victims of crime.

The WDAA agrees with these changes and recognizes that all of the recommended changes have been well thought out with the emphasis again properly directed at the system being able to help victims. LRB 4449/1 is important to prosecutors, victims' advocates and victims throughout the State of Wisconsin. The WDAA also wants you to know that we would be pleased to work with you and other legislatures to see that this legislation is enacted into law as soon as possible. Thank you for your efforts and assistance in this legislation.

Sincerely,



Sandy A. Williams
President of WDAA

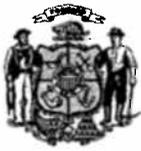
Wisconsin District Attorneys Association

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STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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Burneatta L. Bridge
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Kitty Kocol, Executive Director

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MEMORANDUM

AB 852
folder

DATE: February 27, 2002

TO: The members of the Assembly Corrections and the Courts Committee

FROM: Kitty Kocol, Executive Director, Office of Crime Victim Services,
Wisconsin Department of Justice

RE: Recommended Changes to Wisconsin's Crime Victim Compensation Program:
Testimony before the Assembly Corrections and the Courts Committee

Introduction

My name is Kitty Kocol; I serve as the executive director of the Office of Crime Victim Services in the Department of Justice. It is an honor to appear here today on behalf of victims of crime to ask the legislature for its support in strengthening Wisconsin's Crime Victim Compensation program.

The state legislature established the Crime Victim Compensation program in 1976. Its purpose then, as now, was to cover the cost of crime to innocent victims who have no insurance or other means of paying for medical expenses, mental health treatment, lost wages or support, and funeral expenses that result from their victimization. The program covers these expenses to a maximum of \$40,000 per incident.

We receive approximately 2700 claims each year; of those we approve about 1200, and make annual payments to those victims of that average about \$2,100 and total about \$2.2 million dollars annually.

We've learned quite a bit about the impact of crime on victims in the 26 years since Crime Victim Compensation began in Wisconsin. Back then, there was no such thing as a domestic violence agency; today, we have 110 programs in our state responding to the nearly 30,000 incidents that are reported annually in Wisconsin. We now have 39 sexual assault programs in our state, and we openly recognize and discuss problems like child abuse and child sexual abuse that were once considered too dark to even acknowledge. From squad cars to hospital emergency rooms to courtrooms, we've developed professional standards and procedures for treating and assisting victims of crime that have dramatically improved experiences for people who have been victimized.

In 1998, Wisconsin became the first state in this nation to ensure that crime victims had specific rights under its constitution and the laws; that they had recourse in the event their rights were violated, and a place to turn for mediating complaints about those rights. Unfortunately, Wisconsin's

Crime Victim Compensation program has had limited means with which to keep pace with research and our growing understanding of the special needs of crime victims.

But we are poised at the moment of an important opportunity. Wisconsin, together with the other 49 states and U.S Territories has been notified that it will be receiving a 50% increase in funding for Crime Victim Compensation from the federal government in 2003.

Whereas the Feds now match each state's own investment in their programs with 40 cents for every dollar we spend, they will increase that investment to 60 cents for every dollar we spend. **This is money that can be spent for no other purpose, so we have a rare opportunity to significantly strengthen our mission without increasing the cost of this program to the state.**

The bill I am here to support today, AB 852, is the result of substantial dialog between the Office of Crime Victim Services and victims of crime who have applied to this program for help. It contains the recommendations of agencies serving victims all over this state and the expertise of the professional staff in the Office of Crime Victim Services. It reflects the latest research in the psychological impact of crime on victims and their future behavior. Finally, it is informed by the experiences that I shared with three of my staff in New York in early October last year.

We went to help our New York counterparts who were in desperate need of qualified people to help the victims and survivors of the World Trade Center attack. We spent a week sitting across the table from firefighters widows, restaurant workers, elevator repairmen, cops, maintenance workers and many surviving family members of brokerage and insurance firms, helping them determine what they might be eligible for and sending them away with cash that they desperately needed to live on. In too many other cases, we paid the bills for memorial services for husbands, wives and fiancées that would never be found. We learned a tremendous amount about organizing a crisis response. We also had an unusual chance to study our program side-by-side with New York's and were repeatedly reminded of one particularly glaring deficit in Wisconsin's program.

Though I first want to focus my comments on the **mission** of this program and the key components of this proposal, I want you to know that we are keenly aware of the state's current budget situation. I would not be here unless I was absolutely certain that these benefits, as all others available to victim of crime in this program as it now exists, are carefully and thoughtfully limited and controlled, and that the spending will remain within the means of this program. The Crime Victim Compensation program has a 26-year history of doing this effectively, and toward the end of my remarks, I will review the processes we use to do that.

For crime victims, this moment is an especially important moment to seize. We have never had our collective consciousness so raised as we did when watched Towers Two and then Tower One disintegrate before our eyes. As we saw the Pentagon in flames. As we heard our fellow citizens in the skies above Pennsylvania make an act of courage their final act. As Americans, we all waited together for the next shoe to drop. As our own mail seemed to pose a threat to us, we collectively experienced what it are to be victims of crime – and none of us will ever forget it.

So in this moment of profound understanding and opportunity, we have a chance to improve the lives of our fellow citizens who live with the aftermath of a personal horror, and to do it in a manner that is fiscally responsible in these difficult time. With this mission, these are the ways that I am here to propose we help.

1. Expand benefits for victims of crime and their family members who are currently not covered.

We propose to offer the following benefits to victim of crime (subject to limitations created through administrative rules and informed with the guidance of appropriate mental health and medical professionals to establish a recommended standard course of treatment and corresponding reimbursement for it). Recommended are benefits for:

a) Children who witness domestic violence will be eligible for a limited counseling benefit

Early treatment can help reduce the significant trauma many children experience and reduce the risk that these children will some day become victims or batterers themselves. This is an important mental health response as well as an investment in reducing later societal costs.

b) Parents of children who are sexually or physically abused will be eligible for a limited counseling benefit

Children who are sexually or physically victimized must rely even more heavily on the non-offending parent or guardian to help them through the harm they have suffered. Adult caregivers also suffer trauma and often need assistance to be emotionally available to help the child recover.

c) Victims of terrorism or crimes involving terrorism will statutorily be eligible for all benefits

Federal guidelines currently require us to provide full coverage for victims of terrorism; we simply need to enumerate this and related crimes in Wisconsin statutes.

d) Cover crimes against children that are currently not included in the program

Ensure that children who are victims of incest, who are caused to view or listen to sexual activity, who are solicited for prostitution or who are engaged by someone in sexual activity before the age of 18 are covered for by Compensation. These claims would be primarily limited counseling benefits.

e) Family members or guardians who take unpaid leave to stay home from work to take care of a victim crime will be eligible for up to \$500 in reimbursement of lost wages.

This benefit will provide for limited lost income for a family caregiver when a victim needs that caregiver at home.

f) People who witness acts of homicide and acts of great bodily harm would be eligible for a limited counseling benefit

Survivors of the World Trade Center who witnessed the people jumping from the Towers were covered under New York's Compensation program but could not be covered if such an event were to happen in Wisconsin. This benefit would cover children and adults who witness horrific crimes and again, treatment and coverage would be limited by administrative rules.

g) Victims who used non-traditional healing methods (such as acupuncture or therapeutic massage) would be eligible for limited coverage of those practices

Requests for such coverage are infrequent, but statutorily, the only non-traditional healing methods we can now cover are under the religion of Christian Science. We need to expand our scope to recognize the growing diversity in of our communities in Wisconsin.

2. Improve Outcomes for Victims by Changing Rules Governing Program Management

a) Increase the funeral benefit for from \$2000 to \$3000

(Wisconsin is currently tied with Puerto Rico for having the lowest funeral benefit in the nation. Increase the maximum amount payable under the program by 50% so that families have fewer burdens at their time of greatest grief and trauma.)

b) Rewrite the definition of "medical treatment" to include mental health.

(Even though we currently pay for mental health treatment, it was never explicitly included in the definition.)

c) Protect the safety of the victims and family members served under this program by protecting the confidentiality of their contact information

(Address, phone numbers and email addresses of victims and family members should not be a matter of public record.)

d) Erase the artificial distinction between federal and state money so that we can pay victims out of any source of funding for which we already have been given the budget and spending authority.

Wisconsin appears to be the last state to retain a statutory wall between the state and federal funding streams, and this "wall" serves no productive purpose but it has a very negative impact for victims, for program management, and for providers of services to victims.

This "wall" consists of a statute that requires us to pay the first \$10,000 of a victim's medical bills, lost wages or loss of support from state funds; any remaining payments that a victim would be eligible for (up to the \$40,000 limit) must come from federal dollars.

The problem is, we currently receive 3/5 of our funding from state dollars and 2/5 from federal dollars, so we have less federal money than state, but the largest payments must often come from the federal portion.

That means we run out of federal money before we run out of year, and we end up not being able to pay victims until the next federal grant comes in. There is no earthly reason that I can see to continue this policy and it is very damaging to victims. Here are two, real life examples that will more clearly show you the problem.

Example: a domestic violence homicide

In the year 2000, ten children in a La Crosse family suffered a terrible blow. Their father murdered their mother, then killed himself and the children witnessed the aftermath. Their maternal and paternal uncles came together to find out what could be done to support the children, and I urged them to apply for Crime Victim Compensation to make up for their

mother's loss of earnings that helped to support them. The 10 children were approved for the full award of \$40,000 between them for loss of support, but we made the award in January and we had already spent all the federal grant allocated for that year. Consequently, these children received \$10,000 from state money but had to wait until October -- more than nine months -- for additional money. We actually had state funds available and could have paid them the full award, but the "wall" in the statutes would not allow us to do so. This created a great deal of stress on the uncle struggling to care for these children. Day-to-day living expenses such as food, clothes and living arrangements unnecessarily became a much greater struggle for this grieving family. On top of this bad situation, the claims specialist had to try to explain this nonsensical situation to this family that had come to believe they could rely on us for help. Finally, our staff had to keep the claim open and active an additional nine months when we could have completed it and closed it out.

Example: Attempted homicide

A woman was shot in the face as she walked down the street, causing loss of her functional eyesight and rendering her unable to work. While she might have been able to receive social security disability in the long run, she had a difficult time with day to day expenses, including rent. Because the incident occurred in February and federal funds were already depleted for that federal fiscal year, she received \$10,000 from state funds but had to wait until October to receive any federal money. She had no family for support and she was evicted from her apartment and living in shelters. She suffered the trauma of the shooting, the trauma of adjusting to a nearly sightless world and loss of a job and income, and because federal funds were not available for several months, she continued to be traumatized by the inability to meet daily living expenses.

I hope these examples help to illustrate that the requirement of artificial separation between federal and state dollars hurts victims of crime. It also compromises our ability to manage the program in a cost-effective way, for two reasons.

First, it requires our staff to keep files open and active much longer than is necessary -- and likely, much longer than the victim would like. And it forces them to continually explain to victims why we can't pay their claim even though we've approved it. Our explanations don't make sense to victims don't make sense to us. Secondly, it compromises our ability to negotiate for reduced fees from providers -- something many providers are willing to do in exchange for prompt payment. When you approve a bill for payment in February, but don't pay it until October, it's not prompt.

I hope this explanation helps you see that this "wall" of separation between state and federal funds must come down.

Now that I've had the opportunity to present these recommended changes, I'd like to conclude by revisiting the issues of both cost and program management so that you have the highest degree of assurance that these are changes that Wisconsin can financially afford.

Cost

Again, the Crime Victim Compensation program will be receiving and increase in federal match from 40 cents for every dollar Wisconsin spends, to 60 cents for every dollar we spend and again, these dollars can be spent for no purpose other than Crime Victim Compensation.

Under this proposal, all of the benefits that that we do not currently provide and that would increase cost to the program will not take effect until after the new federal money is available to pay for them beginning in October of 2003.

Management

Finally, I'd like to share with you a short list of the management practices and strategies that we use in the Compensation Program to make sure that we manage within our means.

1. This program is by design, quite limited. We only pay benefits if there is no other source of payment, and the benefits are limited to several narrow categories of cost that are directly connected to the crime.
2. We pay no benefits to people whose name appears on the state lien docket if they owe child support and have no payment plan with their county.
3. To be eligible for benefits, victims must have reported the crime within five days after it occurs and must file their compensation claim within a year of the time the crime was committed.
4. Victims must cooperate with law enforcement.
5. They must cooperate with the program and follow through by sending us all the bills and paperwork that we need to pay their claim.
6. We will not pay a claim for injury or death if a victim gets in a car with a driver they know to be intoxicated.
7. We will not pay a claim if the award would unjustly benefit the offender.
8. We will not pay a claim if the victim's own conduct substantially contributed to his or her own injury or death.
9. We will not pay if a victim is committing a crime when their injury took place.
10. Benefits are further limited by administrative rules and program policies; each and every one of the new benefits will be accompanied by rules that limit them, and we will use the appropriate professional experts to advise us in the rule making process. (For instance, we will consult with mental health experts to determine a reasonable course of treatment for a child who witnesses domestic violence, and will adopt that standard in our administrative rules.)
11. We currently negotiate with providers to make program dollars go farther. We have agreements with provider hospitals to accept 2/3 of the cost of their usual and customary charges as complete payment. We also routinely negotiate payments with other, non-hospital providers, generally offering to pay 2/3 usual and customary charges on any bill exceeding \$3,000. We are often successful in these negotiations.
12. We have 26 years of experience in operating this program, and can effectively predict the flow of claims into the program. Though our expenses fluctuate slightly from year to year, they have remained essentially unchanged in the last ten years.

In conclusion

Crime Victim Compensation program has provided a steady and predictable level of service and benefits to the people of Wisconsin for many years, but we have a unusual moment in front of us. This is an opportunity to improve our response to our fellow citizens who are victims of crime, and at the same time, maintain the fiscal control and integrity that have been so much a part of the history of this program.

I urge you to recommend passage of AB 852, to vigorously support it, and to advance the progress and leadership that Wisconsin has shown to victims of crime in our state. Thank you.



Assembly Republican Majority

Bill Summary

AB 852: Crime Victim Compensation Update

Relating to: awards for crime victims and their families, persons witnessing certain crimes, and children witnessing acts of domestic violence.

By Representative Walker.

Date: March 6, 2002

BACKGROUND

Under current law, the Office of Crime Victim Services in the Department of Justice provides financial assistance to victims and families of victims of certain crimes if those persons meet strict eligibility requirements. For example, victims may be compensated for medical treatment, work loss and funeral and burial expenses if such individuals lack insurance or other means to cover the loss.

Since the Sept. 11 attacks on the World Trade Center towers and Pentagon, the federal government has increased the amount of money available to states for crime victim compensation. In Wisconsin, the extra award is expected to total \$130,000. This money may be used for no purpose other than that for which it is intended.

SUMMARY OF AB 852

Assembly Bill 852 builds upon existing state statutes by expanding both the scope of services that may be provided and the kinds of victims who may receive those services. These changes are listed as follows:

1. "Medical treatment" is expanded to include mental health and other recognized, non-traditional methods of treatment;
2. "Personal injury" is re-defined as actual body harm, pregnancy resulting from sexual assault and emotional trauma;
3. Mental health treatment is authorized for children who witness domestic abuse;
4. Mental health treatment is also authorized for persons who witness violent criminal acts involving death or great bodily harm;
5. Mental health treatment is authorized for the non-offending custodial parent or legal guardian of a child subjected to sexual or physical abuse; likewise, a relative or guardian of a victim who takes unpaid leave to care for the victim may be reimbursed for one week of work at his or her net salary, up to a maximum of \$500;
6. Terrorism, causing a child to view or listen to sexual activity, incest with a child, soliciting a child for prostitution and sexual intercourse with a child age 16 or older are all added to the list of crimes that may lead to the payment of an award;
7. And the maximum reimbursement for funeral and burial expenses is increased from \$2,000 to \$3,000.

Finally from an administrative standpoint, AB 852 makes two important changes. First, the bill requires the hearing examiner and DOJ to keep confidential the contact information for a person applying for compensation, as well as the contact information for his or her family members. Second, the legislation eliminates the imaginary wall between state and federal money so that victims may be paid from either source of funds.

AMENDMENTS

Assembly Amendment 1 (?) has been requested by the Office of Crime Victim Services to clarify that 1) a child who hears or observes (rather than witnesses) domestic violence is eligible for mental health treatment, 2) terrorism is a crime for which victims may receive compensation, 3) department rules shall include procedures to ensure that any limitation of an award is calculated in a fair and equitable manner, 4) the victim does not have to be a dependent (but does have to be a family member) in order for a person who takes unpaid leave to care for that person to receive compensation and 5) any address of a crime victim or his or her family member who applies for compensation must be kept confidential. The amendment also clarifies which provisions take effect on Oct. 1, 2002, and which provisions take effect on Oct. 1, 2003.

Assembly Amendment 2 (?) specifies that financial assistance to crime victims may not include abortion-related services.

FISCAL EFFECT

A fiscal estimate prepared by the Department of Justice indicates no impact on state government since federal revenue is expected to increase by \$130,000 and the expanded scope of services is estimated to generate and additional \$129,000 in costs to the state's Crime Victim Compensation Program.

PROS

1. AB 852 will enable more victims and witnesses of crimes to receive crucial mental health services.
2. The bill adds terrorism to the list of crimes for which victim compensation is available.
3. There is no additional cost to the state to expand the scope existing assistance because the additional funding available can be used only for crime victim compensation.
4. Specifying that contact information for applicants be kept confidential will help protect victims from perpetrators.
5. Eliminating the artificial wall between state and federal money will allow the Office of Crime Victim Compensation to provide assistance when it is needed rather than when a specific influx of funds occurs.

CONS

1. By making pregnancy a compensable "injury," state and federal funds may be used for abortion-related purposes.
2. If federal funding is ever reduced, state taxpayers will need to pick up the slack to pay for the expanded scope of crime victim coverage.

SUPPORTERS

Rep. Scott Walker, author; Kitty Kocol, Dept. of Justice; District Attorney Robert Jambois, Kenosha County; Julie Foley, Dane County DA/Victim/Witness program; Patricia Krueger, Wisconsin Victim/Witness program; Henry Starkey, Crime Victims Council and Parents of Murdered Children; Lisa Macaulay, Wisconsin Coalition Against Sexual Assault; Mary Lauby, Wisconsin Coalition Against Domestic Violence; Ray Maida, Madison; Jane Lombardo, Madison Police Dept.; M. Colleen Wilson, Wisconsin Catholic Conference; and Jill Jacklitz, Wisconsin Council on Children and Families.

OPPOSITION

No one testified or registered in opposition to Assembly Bill 852.

HISTORY

Assembly Bill 852 was introduced on February 26, 2002, and referred to the Assembly Committee on Corrections and the Courts. A public hearing was held on February 27, 2002. On February 27, 2002, the Committee voted 10-0 to recommend passage of AB 852.

CONTACT: Melissa Gilbert, Office of Rep. Scott Walker