



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2015 Wisconsin Act 350**  
[2015 Assembly Bill 643]

**Crime Victim Compensation  
Program**

In Wisconsin, the Crime Victim Compensation Program is administered by the Department of Justice (DOJ). 2015 Wisconsin Act 350 makes various changes to the administration of financial compensation paid to victims of crimes, including the following:

- Expanding the type of compensable medical treatment to include “psychiatric and psychological” treatment. The Act also narrows the type of “medication” that may be reimbursed to only allow costs for “prescription medications” to be reimbursed.
- Defining a “parent of a victim” to mean a person who is a parent, guardian, or legal custodian of a child under the age of 18 who is a victim for purposes of crime victim compensation.
- Amending what constitutes “personal injury” for purposes of crime victim compensation by replacing “nervous shock” with “psychological trauma.”
- Authorizing compensation for personal injury or death which results from the commission or attempt to commit any of the following:
  - The crime of invasion of privacy.
  - The crime of neglecting a child.
  - Child abuse by manufacturing methamphetamine in violation of state law, under any of the following circumstances: (1) with a child physically present during the manufacture; (2) in a child’s home, on the premises of a child’s home, or in a motor vehicle located on the premises of a child’s home; or (3) under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- Failure to stop and render aid (hit and run) if the victim is a person riding a bicycle or a person in a buggy. Under prior law, hit and run incidents were only compensable to a victim that was a pedestrian.
- Amending when DOJ is required to furnish a law enforcement agency with the application for an award under the crime victim compensation program, as well as what information a law enforcement agency must provide to each person who may be eligible to file a crime victim compensation claim. **Under the Act**, DOJ is only required to provide an application *upon request* by a law enforcement agency. Also under the Act, a law enforcement agency investigating a crime must provide *information* about the availability of crime victim compensation to each person eligible to file a claim. **Prior law** required DOJ to provide the application form to *every* law enforcement agency and required the agency to provide the *application form* to each person eligible to file a claim.
- Amending how work loss is compensated as follows:
  - Allows lost earnings to be based upon net income at the time of the injury. Under prior law, lost earnings were based upon net salary.
  - Allows lost earnings by a parent of a victim to be compensated.
  - Limits when an award must be reduced by income a victim earns from substitute work to situations where “the victim is released by a physician to return to work with restrictions but is unable to return to the job he or she was performing at the time the crime was committed.”
  - Limits awards to not more than two weeks of lost wages without requiring proof of disability from a physician.
- Limiting compensation to a parent of a victim to not more than \$3,000 total reimbursement of expenses related to mental health treatment and work loss.
- Updating the language related to a victim that is a “homemaker” to instead refer to a victim that is a “caregiver in his or her home.”
- Authorizing compensation for reasonable and necessary housing accessibility adaptations, not to exceed \$5,000, if the victim suffered a protracted disability as a direct result of the personal injury.
- Authorizing compensation for reasonable replacement value of any computer or mobile telephone that is held for evidentiary purposes, not to exceed \$200.
- Increasing the maximum amount of compensation allowed for reasonable funeral and burial expenses from \$2,000 to \$5,000.
- Simplifying how loss of support payments to dependents are calculated. The Act also limits loss of support payments to dependents by deducting the following from loss of support payments:

- An amount equal to benefits that the dependents received or will receive, over the course of four years, as a survivor benefit from the federal Social Security program.
- The amount of any life insurance proceeds the dependents received as a result of the victim's death.
- Amending who is considered a "family member" for purposes of receiving compensation in certain homicide cases. Specifically, the Act adds "foster parents" to the list of family members and eliminates an "aunt, uncle, nephew, niece, or parent or sibling of [a] spouse or of a domestic partner."
- Placing a time limit on when expenses are eligible for compensation. Under the Act, expenses that are incurred after four years from the date of the injury or death are ineligible for compensation, except when the applicant is a child. If the applicant was a child at the time of the injury, both of the following apply:
  - DOJ may consider eligible expenses that the applicant incurred not more than one year before he or she submitted an application for an award.
  - DOJ may not make any award after four years have passed since the date the person made the application or after four years have passed since the date on which the person incurred the expense prior to submitting the application, whichever occurs first.
- Authorizing DOJ to reduce a compensation award to a victim of the crime of reckless driving, homicide by the intoxicated use of a vehicle or firearm, homicide by negligent operation of a vehicle, injury by intoxicated use of a vehicle, or certain offenses related to operating under the influence of an intoxicant or other drug (OWI), if the *victim did not carry the mandatory minimum automobile insurance* required under state law. If the victim did not carry the minimum amount of automobile insurance, then DOJ may reduce the amount of compensation equal to the payment that the victim would have received from an insurance program or payment if the victim had been in compliance with state law. DOJ may not reduce an award, however, if it has already deducted that amount from an award to a dependent for the amount of any life insurance proceeds the dependent received.
- Authorizing compensation awards to be paid either in a lump sum or in period payments. **Under prior law**, the award was required to be paid in lump sum, except that periodic payments could be made in cases of death or protracted disability.
- Authorizing DOJ to waive, in the interest of justice, the requirement that an incident or offense either be reported to the police within five days of its occurrence, or if the incident or offense could not reasonably have been reported within this time frame, within five days when a report could reasonably have been made, in order for a personal injury or death award to be made.
- With respect to a victim of a crime related to either an OWI causing injury or injury by intoxicated use of a vehicle, prohibiting compensation awards if the victim is an

adult passenger in a vehicle, or commercial vehicle, and knew that the offender was under the influence of an intoxicant, a controlled substance, or another drug to a degree that renders him or her incapable of safely driving.

- Repeals the ability for DOJ to make emergency award payments in cases where DOJ determines that an award will probably be made and that undue hardship will result to the claimant if immediate payment is not made.

*Effective date:* April 13, 2016

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May 3, 2016

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