

2001 ASSEMBLY BILL 852

February 26, 2002 – Introduced by Representative WALKER. Referred to Committee on Corrections and the Courts.

1 **AN ACT to repeal** 949.06 (5); **to renumber and amend** 949.01 (5), 949.01 (6),
2 949.11 (3) and 949.16; **to amend** 949.01 (4), 949.02, 949.03 (1) (a), 949.03 (1)
3 (b), 949.05 (1) (intro.) and 949.06 (1) (d); and **to create** 949.01 (5) (b), 949.01 (5)
4 (c), 949.01 (6) (b), 949.01 (6) (c), 949.03 (1) (d), 949.03 (2), 949.03 (3), 949.05 (2),
5 949.05 (3), 949.06 (1) (bf), 949.06 (1) (g), 949.06 (1e) and 949.16 (2) of the
6 statutes; **relating to:** awards for crime victims and their families, persons
7 witnessing certain crimes, and children witnessing acts of domestic violence.

Analysis by the Legislative Reference Bureau

Under current law, the department of justice (DOJ) compensates victims of certain crimes (including persons injured or killed while trying to prevent a crime, assisting the police in responding to a crime, or aiding another victim), their caretakers, and, in cases in which the victim dies, their family members, for medical expenses, lost wages, funeral and burial expenses, and other expenses that result from the victim's injury or death. The crimes to which this program applies include violent crimes, certain property crimes, certain crimes against children, and drunk-driving offenses in which another person is injured or killed. This bill makes a number of changes to this program.

1. The bill adds terrorism and the following crimes relating to children to the list of crimes that may lead to the payment of an award: causing a child to view or

ASSEMBLY BILL 852

listen to sexual activity; incest with a child; soliciting a child for prostitution; and sexual intercourse with a child age 16 or older.

2. The bill authorizes DOJ to provide awards to children who observe or hear an act of domestic abuse.

3. The bill authorizes DOJ to provide awards for mental health treatment for persons who witness violent criminal acts involving death or great bodily harm, if the mental health treatment is directly related to their reaction to witnessing the crime.

4. Under current law, if a person is responsible for the maintenance of another individual who dies or suffers personal injury as a result of a crime committed by a third party, the person may receive an award if he or she incurs expenses as a result of the other individual's death or injury. This bill specifies that, if a child has been the victim of sexual or physical abuse, the child's custodial parent or legal guardian may receive reimbursement for the cost of mental health treatment that the parent or guardian obtains for himself or herself in response to the offense. The bill also specifies that, if a relative or guardian of a victim takes unpaid leave from his or her job to care for the victim, he or she may receive up to one week of his or her net salary, up to a maximum of \$500.

5. Under current law, a person's death or personal injury triggers DOJ's authority to provide an award. Under current law, "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock." This bill eliminates the reference to "mental or nervous shock" and specifies that emotional trauma constitutes personal injury.

6. Current law defines "medical treatment" to include medical, surgical, dental, optometric, chiropractic, podiatric, and hospital care; medicines; medical, dental, and surgical supplies; crutches; artificial members; appliances; and training in the use of artificial members and appliances. This bill specifies that "medical treatment" includes mental health treatment. Current law also specifies that "medical treatment" includes any Christian Science treatment for cure or relief from the effects of injury. This bill specifies that the term covers other recognized treatment.

7. Under current law, the family of a crime victim who dies as a result of the crime may receive up to \$2,000 for reasonable funeral and burial expenses. This bill increases that amount to \$3,000.

8. Current law provides for hearings in cases in which a person disagrees with a decision by DOJ regarding an award. Hearings are generally open to the public, and records of hearings are considered public records, but any record or report that is obtained by DOJ or a hearing examiner remains confidential if its confidentiality is required by any other law or rule. This bill requires the hearing examiner and DOJ to keep confidential the street address, the electronic address, and the telephone number of a victim, a person applying for an award, and members of the victim's family or household.

9. Current law does not permit state funds to be used for paying certain parts of crime victim awards. Federal funding is used in such cases. Under this bill, either state or federal funding may be used to pay for any part of a crime victim award.

ASSEMBLY BILL 852

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 949.01 (4) of the statutes is amended to read:

2 949.01 (4) “Medical treatment” includes medical, surgical, dental, optometric,
3 chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,
4 and surgical supplies; crutches; artificial members; appliances and training in the
5 use of artificial members and appliances. “Medical treatment” includes any
6 Christian Science treatment or other recognized treatment for cure or relief from the
7 effects of injury.

8 **SECTION 2.** 949.01 (5) of the statutes is renumbered 949.01 (5) (intro.) and
9 amended to read:

10 949.01 (5) (intro.) “Personal injury” means actual any of the following:

11 (a) Actual bodily harm ~~and includes pregnancy and mental or nervous shock.~~

12 **SECTION 3.** 949.01 (5) (b) of the statutes is created to read:

13 949.01 (5) (b) Pregnancy resulting from sexual assault.

14 **SECTION 4.** 949.01 (5) (c) of the statutes is created to read:

15 949.01 (5) (c) Emotional trauma.

16 **SECTION 5.** 949.01 (6) of the statutes is renumbered 949.01 (6) (intro.) and
17 amended to read:

18 949.01 (6) (intro.) “Victim” Except as provided in s. 949.165, “victim” means
19 a- any of the following:

20 (a) A person who suffers a personal injury or is injured or killed by an incident
21 specified in s. 949.03 (1) (a), or by any act or omission of any other person that is

ASSEMBLY BILL 852

1 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the
2 description of the offense listed and the condition provided in s. 949.03 (1) (c).—This
3 ~~definition does not apply to s. 949.165, or by a crime described in s. 949.03 (1) (d).~~

4 **SECTION 6.** 949.01 (6) (b) of the statutes is created to read:

5 949.01 (6) (b) A child described under s. 949.03 (2).

6 **SECTION 7.** 949.01 (6) (c) of the statutes is created to read:

7 949.01 (6) (c) A person described under s. 949.03 (3).

8 **SECTION 8.** 949.02 of the statutes is amended to read:

9 **949.02 Administration.** The department shall administer this chapter. The
10 department shall appoint a program director to assist in administering this chapter.
11 The department shall promulgate rules for the implementation and operation of this
12 chapter. ~~The rules shall include procedures to ensure that any limitation of an award~~
13 ~~under s. 949.06 (5) (e) is calculated in a fair and equitable manner.~~

14 **SECTION 9.** 949.03 (1) (a) of the statutes is amended to read:

15 949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;
16 apprehending or attempting to apprehend a suspected criminal; aiding or
17 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding
18 or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting
19 to aid a victim of the crime specified and the condition provided in par. (c); or aiding
20 or attempting to aid a victim of a crime specified in par. (d).

21 **SECTION 10.** 949.03 (1) (b) of the statutes is amended to read:

22 949.03 (1) (b) The commission or the attempt to commit any crime specified in
23 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,
24 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,
25 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,

ASSEMBLY BILL 852

1 943.04, 943.10, 943.20, 943.23 (1g), (1m), or (1r), 943.32, 948.02, 948.025, 948.03,
2 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30, or 948.51.

3 **SECTION 11.** 949.03 (1) (d) of the statutes is created to read:

4 949.03 (1) (d) The commission of any crime if the maximum penalty for the
5 crime is increased under s. 939.648.

6 **SECTION 12.** 949.03 (2) of the statutes is created to read:

7 949.03 (2) The department may order the payment of an award to a child who
8 observes or hears an act of domestic abuse, as defined in s. 813.12 (1) (a).

9 **SECTION 13.** 949.03 (3) of the statutes is created to read:

10 949.03 (3) The department may order the payment of an award to a person who
11 witnesses a violent crime involving death or great bodily harm, as defined in s. 939.22
12 (14).

13 **SECTION 14.** 949.05 (1) (intro.) of the statutes is amended to read:

14 949.05 (1) (intro.) In any case in which a person is injured or killed by an
15 incident specified in s. 949.03 (1) (a), by any act or omission of any other person that
16 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or
17 omission of any person that is within the description of the crime listed and the
18 condition provided under s. 949.03 (1) (c), the department may order the payment of
19 an award:

20 **SECTION 15.** 949.05 (2) of the statutes is created to read:

21 949.05 (2) The department may order the payment of an award to a child under
22 s. 949.03 (2).

23 **SECTION 16.** 949.05 (3) of the statutes is created to read:

24 949.05 (3) The department may order the payment of an award to a person who
25 witnesses a crime described in s. 949.03 (3).

ASSEMBLY BILL 852

1 **SECTION 17.** 949.06 (1) (bf) of the statutes is created to read:

2 949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave
3 from work to care for a victim who has suffered personal injury as a result of conduct
4 described in s. 949.03, if the victim is a dependent of the person or if the person is the
5 legal guardian for the victim. This benefit may not exceed \$500 per incident.

6 **SECTION 18.** 949.06 (1) (d) of the statutes is amended to read:

7 949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed \$2,000
8 \$3,000. The funeral and burial award may not be considered by the department
9 under sub. (2).

10 **SECTION 19.** 949.06 (1) (g) of the statutes is created to read:

11 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,
12 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health
13 treatment for the child's custodial parent or legal guardian that the parent or
14 guardian obtains for himself or herself in response to the offense.

15 **SECTION 20.** 949.06 (1e) of the statutes is created to read:

16 949.06 (1e) The department may order the payment of an award to a person
17 under s. 949.03 (3) for mental health treatment directly related to the person's
18 reaction to witnessing the crime to which that section relates. The department shall
19 establish limits to awards under this subsection.

20 **SECTION 21.** 949.06 (5) of the statutes is repealed.

21 **SECTION 22.** 949.11 (3) of the statutes is renumbered 949.11 (3) (a) and
22 amended to read:

23 949.11 (3) (a) All Except as provided in par. (b), all hearings shall be open to
24 the public ~~unless, but the examiner and the department shall comply with s. 949.16~~
25 (2).

