

**2001 DRAFTING REQUEST**

**Bill**

Received: **12/19/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Missy**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - victims**

Extra Copies: **rlr**

Submit via email: **YES**

Requester's email: **Rep.Walker@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Crime victim compensation

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mdsida 02/21/2002	gilfokm 02/21/2002	haugeca 02/22/2002	_____	lrb_docadmin 02/22/2002		
/1	mdsida 02/22/2002	gilfokm 02/22/2002	rschluet 02/22/2002	_____	lrb_docadmin 02/22/2002	lrb_docadminState 02/22/2002	

FE Sent For:

<END>

→ 02-27-2002  
("1")

Requested  
By  
Greg Reiman

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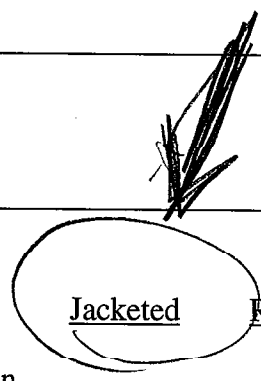
Drafting History:

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/P1	mdsida 02/21/2002	gilfokm 02/21/2002	haugca 02/22/2002		lrb_docadmin 02/22/2002		

FE Sent For:

1-2/22  
KMG

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rrr <END>



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1?	mdsida	1/11-2/21 King	CH 2-22-02	CH 2-22-02 pb			

FE Sent For:

<END>

## Memo

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 statutes, 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

81  
Fiche 69  
ch. 20

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, s.948.04, s.948.07, 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

## Dsida, Michael

---

**From:** Kocol, Kitty M.  
**Sent:** Tuesday, February 19, 2002 10:26 AM  
**To:** Dsida, Michael  
**Cc:** Gilbert, Melissa; Richard, JoAnna M.  
**Subject:** RE: Other questions relating to victim compensation

Michael: Thanks for your thoughtful questions. Here are my responses.

-----Original Message-----

**From:** Dsida, Michael  
**Sent:** Monday, February 18, 2002 1:55 PM  
**To:** Kocol, Kitty M.  
**Cc:** Gilbert, Melissa  
**Subject:** Other questions relating to victim compensation

I. a) I am not sure how you want to treat threats. Are you trying to say that people who are threatened with bodily harm (which is not necessarily a crime, unless it's treated as disorderly conduct) should be eligible for compensation under s. 949.03?

Good catch -- this element escaped the editing pen from previous drafts. Please do not include threat in the definition of personal injury.

b) I think that it makes sense to delete "means actual bodily harm" in the definition of "personal injury." The latter term clearly encompasses the former, so you wouldn't lose anything from the deletion. Otherwise, since the definition equates the two, it would effectively say that bodily harm includes emotional trauma, which seems to conflict with what how a lay person would understand "bodily harm." Is that okay? (This may be moot, depending on how you address a.)

I'd rather keep it because even though our benefits are limited to medical, mental health, lost wages and benefits and funerals, it is a common misconception that we give awards for pain and suffering. This makes it plain up front that we do not.

III. a) The first paragraph ends with an incomplete sentence ("We plan to limit the number of "). I'm not sure what you intended to address.

Add "...mental health visits covered under this benefit in the administrative rule making process."

b) Do you want to limit the applicability of what you propose as s. 949.05 (1) (d) to children of or residing with the victim of the act of domestic violence?

No. The character and nature of households has changed substantially and we want to be sure that any child (i.e. the perpetrators but not the victim's, relative children, foster children, etc.) would be covered.

c) 1. Do you want to define "violent crimes" for the purpose of what you are proposing as s. 949.05 (1) (e)? (You do not need to define it if you would prefer leaving it to the Department's discretion.)

Department's discretion -- I would like us to address that in administrative rule making.

2. I am not sure what the cross reference to s. 949.01 in that provision is intended to cover.

This is a typo. It should read 949.03(1) and refer to the list of enumerated crimes.

IV. This provision treats a person caring for another as guardian in the same way as a person caring for a related dependent. Several other provisions in ch. 949, however, only provide benefits if the people involved are relatives. See, e.g., s. 949.05 (1) (c). While there is nothing wrong with your proposed treatment of guardians in this provision, I thought you might want to know about the other provisions, in case you want to make sure (whether in this bill or another one) that the guardian-ward relationship is treated in whatever way you think appropriate throughout the chapter.

I recognize your point but we intentionally carved out this specific benefit and are comfortable with it in the context of the program.

VI. a) Section 948.03 appears twice in the draft language. Was there a different crime you wanted to cover? Great catch -- it was a typo but brought something important to my attention. We are missing a section of crimes against children that should be enumerated in section 949.03 that should be explicitly added. They are:

948.055 Causing a child to view or listen to sexual activity  
948.06 Incest

948.08 Soliciting a child for prostitution  
948.09 Sexual intercourse with a child 16 or older  
948.095 Sexual assault of a student by a school instructional staff person

In past practice, a claim involving incest, sexual assault (child 16 or older, or child in school assaulted by a staff person) could be (and has been) covered under several other of the already enumerated statutes, so in actual benefit expansion, we would effectively be adding only soliciting a child for prostitution and causing a child to view or listen to sexual activity. I do not anticipate any substantial fiscal impact from adding these crimes, but strongly feel all of them should explicitly be included in the statutes under 949.03.

b) The only compensation provided for child victims who are covered by this provision (assuming they are not physically harmed) would be for mental health treatment for "emotional trauma." Is that your intent? Yes. Again, this is a benefit we carved out for specific circumstances.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@state.legis.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-4449(?)

MGD: f/...  
King

D. Note

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

STEF

FR  
1030 am

Gen. Cont.

1 AN ACT ~~relating to:~~ awards for crime victims and their families, persons  
2 witnessing certain crimes, and children witnessing acts of domestic violence.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 949.01 (4) of the statutes is amended to read:  
4 949.01 (4) "Medical treatment" includes medical, surgical, dental, optometric,  
5 chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,  
6 and surgical supplies; crutches; artificial members; appliances and training in the  
7 use of artificial members and appliances. "Medical treatment" includes any  
8 Christian Science treatment or other recognized treatment for cure or relief from the  
9 effects of injury.

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

3 949.01 (5) (intro.) "Personal injury" means ~~actual~~ any of the following:

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

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

6 949.01 (5) (b) Pregnancy resulting from sexual assault.

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

8 949.01 (5) (c) Emotional trauma.

9 SECTION 5. 949.01 (6) of the statutes is renumbered 949.01 (6) (intro.) and  
10 amended to read:

11 (1) 949.01 (6) (intro.) "Victim" Except as provided in s. 949.165, "victim" means a  
12 any of the following:

13 (a) A person who suffers a personal injury or is injured or killed by an incident  
14 specified in s. 949.03 (1) (a), or by any act or omission of any other person that is  
15 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the  
16 description of the offense listed and the condition provided in s. 949.03 (1) (c) or by  
17 a crime described in s. 949.03 (1) (d). ~~This definition does not apply to s. 949.165~~

*strike space*

*plain*

History: 1975 c. 344, 421; 1977 c. 239; 1979 c. 189; 1981 c. 20; 1983 a. 467; 1985 a. 135 s. 83 (3); 1989 a. 140; 1995 a. 153.

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

19 949.01 (6) (b) A child described under s. 949.03 (2).

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

21 949.01 (6) (c) A person described under s. 949.03 (3).

22 SECTION 8. 949.03 (1) (a) of the statutes is amended to read:

23 949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;  
24 apprehending or attempting to apprehend a suspected criminal; aiding or

*insert 2/21*

1 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding  
 2 or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting  
 3 to aid a victim of the crime specified and the condition provided in par. (c); or aiding  
 4 or attempting to aid a victim of a crime specified in par. (d).

History: 1975 c. 224 s. 145za; 1975 c. 344; 1977 c. 173, 239; 1979 c. 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 380, 399, 403; 1989 a. 105, 140, 359; 1993 a. 92, 227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258.

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

6 949.03 (1) (b) The commission or the attempt to commit any crime specified in  
 7 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,  
 8 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,  
 9 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,  
 10 943.04, 943.10, 943.20, 943.23 (1g), (1m)<sup>v</sup> or (1r), 943.32, 948.02, 948.025, 948.03,  
 11 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30<sup>v</sup> or 948.51.

History: 1975 c. 224 s. 145za; 1975 c. 344; 1977 c. 173, 239; 1979 c. 118; 1983 a. 199, 356, 538; 1985 a. 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 380, 399, 403; 1989 a. 105, 140, 359; 1993 a. 92, 227; 1995 a. 153, 374, 456; 1997 a. 35, 143, 258.

12 **SECTION 10.** 949.03 (1) (d) of the statutes is created to read:

13 949.03 (1) (d) The commission of any crime if the maximum penalty for the  
 14 crime is increased under s. 939.648.<sup>✓</sup>

15 **SECTION 11.** 949.03 (2) of the statutes is created to read:

16 949.03 (2) The department may order the payment of an award to a child who  
 17 observes or hears an act of domestic ~~violence~~<sup>abuse</sup>, as defined in s. 813.12 (1) (a).<sup>✓</sup>

18 **SECTION 12.** 949.03 (3) of the statutes is created to read:

19 949.03 (3) The department may order the payment of an award to a person who  
 20 witnesses a violent crime involving death or great bodily harm<sup>✓</sup>, as defined in  
 s. 939.22 (14)

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

22 949.05 (1) (intro.) In any case in which a person is injured or killed by an  
 23 incident specified in s. 949.03 (1) (a)<sup>✓</sup>, by any act or omission of any other person that



1 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or  
 2 omission of any person that is within the description of the crime listed and the  
 3 condition provided under s. 949.03 (1) (c), the department may order the payment of  
 4 an award:

History: 1975 c. 344; 1985 a. 135 s. 83 (3); 1985 a. 242; 1989 a. 140; 1995 a. 153.

5 **SECTION 14.** 949.05 (2) of the statutes is created to read:

6 949.05 (2) The department may order the payment of an award to a child under  
 7 s. 949.03 (2).

8 **SECTION 15.** 949.05 (3) of the statutes is created to read:

9 949.05 (3) The department may order the payment of an award to a person  
 10 ~~under~~ s. 949.03 (3). *who witnesses<sup>es</sup>  
a crime described in*

11 **SECTION 16.** 949.06 (1) (bf) of the statutes is created to read:

12 949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave  
 13 from work to care for a victim who has suffered personal injury as a result of conduct  
 14 described in s. 949.03, if the victim is a dependent of the person or if the person is the  
 15 legal guardian for the victim. This benefit may not exceed \$500 per incident.

16 **SECTION 17.** 949.06 (1) (d) of the statutes is amended to read:

17 949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed \$2,000  
 18 \$3,000. The funeral and burial award may not be considered by the department  
 19 under sub. (2).

20 **SECTION 18.** 949.06 (1) (g) of the statutes is created to read:

21 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,  
 22 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health  
 23 treatment for the child's custodial parent or legal guardian that the parent or  
 24 guardian obtains in response to the offense.

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

2           949.06 (1e) The department may order the payment of an award to a person  
3 under s. 949.03 (3) for mental health treatment directly related to the person's  
4 reaction to witnessing the crime to which that section relates. The department shall  
5 establish limits to awards under this subsection.

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

7           **SECTION 21.** 949.16 of the statutes is renumbered 949.16 (1) and amended to  
8 read:

9           949.16 (1) ~~Confidentiality of records.~~ The Except as provided in sub. (2),  
10 the record of a proceeding before an examiner or the department under this chapter  
11 is a public record. Any record or report obtained by an examiner or the department,  
12 the confidentiality of which is protected by sub. (2) or any other law or rule, shall  
13 remain confidential.

History: 1975 c. 344; 1977 c. 29; 1979 c. 189.

14           **SECTION 22.** 949.16 (2) of the statutes is created to read:

15           949.16 (2) The examiner and the department shall keep confidential the street  
16 address, the electronic address, and the telephone number of each victims, applicant,  
17 and member of the victim's family or household.

18

(END)

INS 2/21

Section #. AMO

949.02

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

949.02 - ANNOT.

History: 1975 c. 344; 1979 e. 189; 1985 a. 242.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4449/P1

MCD: *king*

Missy:

In the interest of getting you and DOJ a preliminary draft as quickly as possible, I did not include any effective dates in this bill, but I will include them in the next draft.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4449/P1dn  
MGD:lmg:ch

February 22, 2002

**Missy:**

In the interest of getting you and DOJ a preliminary draft as quickly as possible, I did not include any effective dates in this bill, but I will include them in the next draft.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

## Dsida, Michael

---

**From:** Kocol, Kitty M.  
**Sent:** Friday, February 22, 2002 10:06 AM  
**To:** Dsida, Michael  
**Subject:** RE: confidentiality

Yes -- As long as all we are talking about is keeping contact information confidential (address, phone, email) which would in no way impede public access to the hearing itself.

-----Original Message-----

**From:** Dsida, Michael  
**Sent:** Friday, February 22, 2002 10:00 AM  
**To:** Kocol, Kitty M.  
**Subject:** confidentiality

Should I amend s. 949.11 (3) in the same way that I am amending s. 949.16?

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@state.legis.wi.us



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

①

4:00 pm Fri.

Gen. Cat.

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

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

8 **SECTION 1.** 949.01 (4) of the statutes is amended to read:  
 9 949.01 (4) "Medical treatment" includes medical, surgical, dental, optometric,  
 10 chiropractic, podiatric, mental health, and hospital care; medicines; medical, dental,

ANAL  
INsert

1 and surgical supplies; crutches; artificial members; appliances and training in the  
2 use of artificial members and appliances. "Medical treatment" includes any  
3 Christian Science treatment or other recognized treatment for cure or relief from the  
4 effects of injury.

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

7 949.01 (5) (intro.) "Personal injury" means ~~actual~~ any of the following:

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

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

10 949.01 (5) (b) Pregnancy resulting from sexual assault.

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

12 949.01 (5) (c) Emotional trauma.

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

15 949.01 (6) (intro.) ~~"Victim"~~ Except as provided in s. 949.165, "victim" means  
16 ~~a-~~ any of the following:

17 (a) A person who suffers a personal injury or is injured or killed by an incident  
18 specified in s. 949.03 (1) (a), or by any act or omission of any other person that is  
19 within the description of any of the offenses listed in s. 949.03 (1) (b) or within the  
20 description of the offense listed and the condition provided in s. 949.03 (1) (c). ~~This~~  
21 ~~definition does not apply to s. 949.165, or by a crime described in s. 949.03 (1) (d).~~

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

23 949.01 (6) (b) A child described under s. 949.03 (2).

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

25 949.01 (6) (c) A person described under s. 949.03 (3).



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

2           **949.02 Administration.** The department shall administer this chapter. The  
3 department shall appoint a program director to assist in administering this chapter.  
4 The department shall promulgate rules for the implementation and operation of this  
5 chapter. ~~The rules shall include procedures to ensure that any limitation of an award~~  
6 ~~under s. 949.06 (5) (e) is calculated in a fair and equitable manner.~~

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

8           949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;  
9 apprehending or attempting to apprehend a suspected criminal; aiding or  
10 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding  
11 or attempting to aid a victim of a crime specified in par. (b); ~~or~~ aiding or attempting  
12 to aid a victim of the crime specified and the condition provided in par. (c); or aiding  
13 or attempting to aid a victim of a crime specified in par. (d).

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

15           949.03 (1) (b) The commission or the attempt to commit any crime specified in  
16 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,  
17 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,  
18 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,  
19 943.04, 943.10, 943.20, 943.23 (1g), (1m), or (1r), 943.32, 948.02, 948.025, 948.03,  
20 948.04, 948.055, 948.06, 948.07, 948.08, 948.09, 948.095, 948.20, 948.30, or 948.51.

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

22           949.03 (1) (d) The commission of any crime if the maximum penalty for the  
23 crime is increased under s. 939.648.

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

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

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

4           949.03 (3) The department may order the payment of an award to a person who  
5 witnesses a violent crime involving death or great bodily harm, as defined in s. 939.22  
6 (14).

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

8           949.05 (1) (intro.) In any case in which a person is injured or killed by an  
9 incident specified in s. 949.03 (1) (a), by any act or omission of any other person that  
10 is within the description of crimes under s. 949.03 (1) (b) or (d), or by any act or  
11 omission of any person that is within the description of the crime listed and the  
12 condition provided under s. 949.03 (1) (c), the department may order the payment of  
13 an award:

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

15           949.05 (2) The department may order the payment of an award to a child under  
16 s. 949.03 (2).

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

18           949.05 (3) The department may order the payment of an award to a person who  
19 witnesses a crime described in s. 949.03 (3).

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

21           949.06 (1) (bf) Up to one week of net salary for a person taking unpaid leave  
22 from work to care for a victim who has suffered personal injury as a result of conduct  
23 described in s. 949.03, if the victim is a dependent of the person or if the person is the  
24 legal guardian for the victim. This benefit may not exceed \$500 per incident.

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

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

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

5 949.06 (1) (g) If a child has been the victim of a crime under s. 940.225, 948.02,  
6 948.025, 948.03, 948.055, 948.06, 948.07, 948.08, 948.09, or 948.095, mental health  
7 treatment for the child's custodial parent or legal guardian that the parent or  
8 guardian obtains *(for himself or herself)* in response to the offense.

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

10 949.06 (1e) The department may order the payment of an award to a person  
11 under s. 949.03 (3) for mental health treatment directly related to the person's  
12 reaction to witnessing the crime to which that section relates. The department shall  
13 establish limits to awards under this subsection.

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

15 SECTION 22. 949.16 of the statutes is renumbered 949.16 (1) and amended to  
16 read:

17 949.16 (1) ~~The~~ Except as provided in sub. (2), the record of a proceeding before  
18 an examiner or the department under this chapter is a public record. Any record or  
19 report obtained by an examiner or the department, the confidentiality of which is  
20 protected by sub. (2) or any other law or rule, shall remain confidential.

21 SECTION 23. 949.16 (2) of the statutes is created to read:

22 949.16 (2) The examiner and the department shall keep confidential the street  
23 address, the electronic address, and the telephone number of each victim, applicant,  
24 and member of the victim's family or household.

25

(END)

INS 5/24

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4449/lins  
MGD:.....

1

analysis INSERT

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 <sup>AA</sup> relating to children to the list of crimes that may lead to the payment of an award: 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.

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 ~~if a child has been the victim of sexual or physical abuse~~ <sup>that,</sup> 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 <sup>if a</sup> 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.

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

1

INSERT 5/14 ✓

2

**SECTION 1.** 949.11 (3) of the statutes is renumbered 949.11 (3) (a) and amended

3

to read:

4

949.11 (3) (a) ~~All~~ Except as provided in par. (b), all hearings shall be open to

5

the public ~~unless, but the examiner and the department shall comply with s. 949.16~~

6

(2). ✓

7

(b) The hearing examiner may close a hearing or a portion of a hearing in a

8

particular case ~~the examiner determines that the hearing, or a portion thereof, shall~~

9

~~be held in private having with~~ regard to the fact that the offender has not been

10

convicted or to the interest of the victim of an alleged sexual offense.

History: 1975 c. 344; 1977 c. 239; 1979 c. 189; 1985 a. 182 s. 57; 1985 a. 242, 332.

11

INSERT 5/24 ✓

12

**SECTION 2. Effective dates.** This act takes effect on the day after publication,

13

except as follows:

14

(1) The treatment of sections 949.01 (6) (b) and (c), 949.03 (2) and (3), 949.05

15

(2) and (3), and 949.06 (1e) of the statutes takes effect on October 1, 2002.

1           (2) The treatment of section <sup>q</sup>949.06 (1) (b<sup>✓</sup>f), (d)<sup>✓</sup>, and (g)<sup>✓</sup> of the statutes takes  
2 effect on October 1, 2003.

## Emery, Lynn

---

**From:** Emery, Lynn  
**Sent:** Friday, February 22, 2002 4:32 PM  
**To:** Reiman, Greg  
**Subject:** LRB-4449/1 (attached as requested)

Lynn Emery

Program Asst. (PH. 608-266-3561)  
(E-Mail: [lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us))

Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

2/22/2002

# Memo

To: Walker

(The Draft's Requestor)

Per your request ... the attached is a fiscal estimate was prepared for your un-introduced 2001 draft.

LRB Number: LRB - 4449

Version: "/ 1"

315102

Entered In Computer And Copy Sent To Requestor Via E-Mail: 02 / 25 / 2002

Fiscal Estimate Prepared By: (agency abbr.) DOJ

If you have questions about the attached fiscal estimate, you may contact the agency/ individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

\* \* \* \* \*

To: LRB - Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this draft is **re-drafted** ... please insert this early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version.
- If this draft is **introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this early fiscal estimate into the drafting file ... after the draft's old version (the version this fiscal estimate was based on), and before mark-up of the draft on the updated version.  
Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- If this draft is **introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 AB-852



**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Monday, February 25, 2002 12:26 PM  
**To:** Rep.Walker  
**Subject:** LRB-4449/1 (FE by DOJ - attached - for your review)



FE\_Walker.pdf

FE\_Walker.pdf