



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5993/1
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2021 ASSEMBLY BILL 1083

March 7, 2022 - Introduced by Representatives SORTWELL and STEFFEN. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber* 949.05; *to renumber and amend* 949.01 (6); *to amend*
2 949.035 (1), 949.04 (3), 949.06 (1) (intro.), 949.06 (3) (intro.), 949.08 (1), (1m) (a)
3 and (2) (a) and (b) and 949.15 (1); and *to create* 949.01 (6) (b), 949.03 (2), 949.05
4 (2m) and 949.06 (3m) of the statutes; **relating to:** providing victim
5 compensation for damage to building from arson.

Analysis by the Legislative Reference Bureau

This bill adds damage to a building as a result of arson to the types of injury that may be compensated under the victim compensation program.

Under current law, the Department of Justice administers a program that compensates victims and their relatives for economic loss due to personal injury or death that results from the commission of a crime. Allowable expenses include loss of income, medical treatments, and replacement value for property held for evidence, and certain other types of expenses that are not paid by insurance or paid for by the perpetrator of the crime. Under current law, a person may not receive an award under the victim compensation program unless the victim suffered personal injury or death as a result of the crime, and the allowable expenses to be paid do not generally include property damage as a result of the crime. Current law limits the amount to be paid for each personal injury or death to \$40,000.

Under the bill, if a building is damaged by arson, the owner of the building may receive compensation from the victim compensation program. The amount of the award is equal to the difference between the amount paid by insurance and the cost

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of necessary repairs or the fair market value of the building, whichever is less. The bill maintains the \$40,000 cap on an award from the victim compensation program for damage to a building.

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

3 949.01 (6) (intro.) “Victim,” except as provided under s. 949.165, means a one
4 of the following:

5 (a) A person who is injured or killed by an incident specified in s. 949.03 (1) (a),
6 or by any act or omission of any other person that is within the description of any of
7 the offenses listed in s. 949.03 (1) (b) or within the description of the offense listed
8 and the condition provided in s. 949.03 (1) (c). ~~This definition does not apply to s.~~
9 ~~949.165.~~

10 **SECTION 2.** 949.01 (6) (b) of the statutes is created to read:

11 949.01 (6) (b) A person who owns a building that was damaged or destroyed by
12 arson under s. 943.02.

13 **SECTION 3.** 949.03 (2) of the statutes is created to read:

14 949.03 (2) The department may order the payment of an award for damage to
15 a building which results from arson under s. 943.02.

16 **SECTION 4.** 949.035 (1) of the statutes is amended to read:

17 949.035 (1) If a Wisconsin resident suffers injury or death in a situation
18 described in s. 949.03 (1) except that the act occurred outside this state, the resident
19 has the same rights under this subchapter as if the act had occurred in this state

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1 upon a showing that the state, territory, country or political subdivision of a country
2 in which the act occurred does not have a compensation of victims of crimes law which
3 covers the injury or death suffered by the person.

4 **SECTION 5.** 949.04 (3) of the statutes is amended to read:

5 949.04 (3) MEDICAL AND DENTAL RECORDS. The For an application for an award
6 payment under s. 949.03 (1), the applicant shall submit to the department reports
7 from all physicians, osteopaths, dentists, optometrists, chiropractors or podiatrists
8 who treated or examined the victim at the time of or subsequent to the victim's injury
9 or death. The department may also order such other examinations and reports of the
10 victim's previous medical and dental history, injury or death as it believes would be
11 of material aid in its determination.

12 **SECTION 6.** 949.05 of the statutes is renumbered 949.05 (1m).

13 **SECTION 7.** 949.05 (2m) of the statutes is created to read:

14 949.05 (2m) In any case in which a building is damaged or destroyed by arson
15 under s. 943.02, the department may order the payment of an award to the owner
16 of the building. If 2 or more people have ownership interest in the building, the
17 department shall apportion the award among the people.

18 **SECTION 8.** 949.06 (1) (intro.) of the statutes is amended to read:

19 949.06 (1) (intro.) In accordance with this subchapter, the department shall
20 make awards, as appropriate, for any of the following economic losses incurred as a
21 direct result of an injury under s. 949.03 (1):

22 **SECTION 9.** 949.06 (3) (intro.) of the statutes is amended to read:

23 949.06 (3) (intro.) Any award made under this section shall be reduced by the
24 amount of any payment received, or to be received, as a result of the injury ~~or~~, death,
25 or property damage:

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1 **SECTION 10.** 949.06 (3m) of the statutes is created to read:

2 949.06 **(3m)** For damage to a building under s. 949.03 (2), the department may
3 make awards for the difference between the amount paid by insurance for the
4 incident, if any, and the amount of necessary repairs or the fair market value of the
5 building, whichever is less, as proven by the victim.

6 **SECTION 11.** 949.08 (1), (1m) (a) and (2) (a) and (b) of the statutes are amended
7 to read:

8 949.08 **(1)** No order for the payment of an award may be made unless the
9 application was made within 1 year after the date of the personal injury ~~or~~, death, or
10 property damage, and the personal injury ~~or~~, death, or property damage was the result
11 of an incident or offense which had been reported to the police within 5 days of its
12 occurrence or, if the incident or offense could not reasonably have been reported within
13 such period, within 5 days of the time when a report could reasonably have been made.
14 The department may waive the requirements under this subsection in the interest of
15 justice.

16 **(1m)** (a) Except as provided in par. (b), the department may not make an award
17 of more than \$40,000 for any one injury ~~or~~, death, or damaged property and the
18 department may not make any award for expenses incurred after 4 years from the
19 date of the injury ~~or~~, death, or property damage.

20 **(2)** (a) Engaged in conduct which substantially contributed to the infliction
21 of the victim's injury ~~or~~, death, or property damage or in which the victim could
22 have reasonably foreseen could lead to the injury ~~or~~, death, or property damage.
23 This does not apply to awards to victims under s. 949.03 (1) (a).

24 (b) Committed a crime which caused or contributed to the victim's injury ~~or~~,
25 death, or property damage.

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1 **SECTION 12.** 949.15 (1) of the statutes is amended to read:

2 949.15 (1) Whenever the department orders the payment of an award under
3 this subchapter as a result of the occurrence of an event that creates a cause of action
4 on the part of a claimant against any person, the department is subrogated to the
5 rights of the claimant and may bring an action against the person for the amount of
6 the damages sustained by the claimant. If an amount greater than that paid under
7 the award order is recovered and collected in any such action, the department shall
8 pay the balance to the claimant. If the person responsible for the injury ~~or~~, death,
9 or property damage has previously made restitution payments to the general fund
10 under s. 973.20, any judgment obtained by the department under this section shall
11 be reduced by the amount of the restitution payments to the general fund.

12

(END)