

STATE OF WISCONSIN
Department of Justice

STATEMENT OF SCOPE OF PROPOSED RULES

Rule No.: Wis. Admin. Code ch. Jus 11.

Relating to: Awards for victims of crime.

Rule Type: Permanent.

1. Description of the objectives of the rules:

The State of Wisconsin Department of Justice (the Department) proposes to make amendments to Wis. Admin. Code ch. Jus 11, which governs the procedures for administering crime victim compensation to innocent crime victims and their families. The objective of the proposed rules are to make revisions to ensure the chapter is statutorily compliant and remove obsolete provisions.

2. Description of existing policies relevant to the rules and of new policies proposed to be included in the rules and an analysis of policy alternatives; the history, background and justification for the proposed rules:

Victims of violent crime and family members of deceased victims may have significant out-of-pocket expenses through no fault of their own. In 1979, Chapter 949, Stats., established the Crime Victim Compensation Program (the Program) to help pay for unreimbursed eligible expenses that result from crime. This Program is administered by the Department through ch. Jus 11. In 2015 Wisconsin Act 350, the State of Wisconsin made statutory revisions providing for new benefits available for victims, along with new limitations on awards.

Act 350 simplified how the loss of support award for dependents of homicide victims is calculated. The proposed rules reflect this change, which is necessary to streamline the process of determining awards in this category. Under Act 350, the Program also gained the ability to compensate victims, parents of minor victims, and survivors of homicide victims for lost wages for up to two weeks following the crime, without a doctor certifying a medical disability. If the disability extends beyond two weeks from the date of the crime, the proposed rules require that a physician determine a disability period. The proposed rule will give the Program discretion to make a partial award if the disability is only partially due to the crime.

Act 350 also made statutory changes to s. 949.06, Stats., which strengthen the benefits which may be received. Each parent of a minor victim may now be awarded not more than \$3,000 total for reimbursement of mental health treatment and work loss due to the crime. The funeral benefit was increased to \$5,000. The Program may reimburse up to \$5,000 for reasonable and necessary housing adaptations if the victim suffered a protracted disability, and up to \$200 for the reasonable replacement of any computer or mobile telephone held as evidence. The proposed rules incorporate these statutory changes.

Some of the statutory changes enacted by Act 350 limit awards crime victims and survivors may receive through this Program. The Program may now only pay eligible expenses incurred within four years of the date of the crime. Adults victimized as children can apply for benefits. The Program can pay eligible expenses for four years or up to \$40,000 from the date of the application, or from the date that the first crime-related treatment was received, as long as the treatment date is within a year from the date of the application. These statutory changes are adopted in the proposed rules.

Additionally, some definitions and terminology were updated in the proposed rules to reflect statutory changes, including the definition of “family member” and “personal injury.” The definition of eligible mental health treatment providers and services was updated to be more consistent with other rule provisions and state law. Emergency awards are no longer utilized, so they are eliminated by the proposed rule.

The proposed rules will effectuate the statutory changes in Chapter 949, Stats., enacted in 2015 Wisconsin Act 350. The proposed rules will also revise outdated terminology and eliminate provisions that have become unnecessary.

3. Statutory authority for the rules (including the statutory citation and language):

Section 949.02, Stats., provides that “[t]he department shall administer this subchapter.” It further provides that “[t]he department shall promulgate rules for the implementation and operation of this subchapter. The rules shall include procedures to ensure that any limitation of an award is calculated in a fair and equitable manner.”

4. Estimate of the amount of time that state employees will spend to develop the rules and of other resources necessary to develop the rules:

It is estimated that state employees will spend approximately 60 hours on the rulemaking process for the proposed rules, including research, drafting, and compliance with required rulemaking procedures.

5. Description of all entities that may be impacted by the rule:

The proposed rules may affect the interests of crime victims and their families, as well as those providing qualifying services to these individuals under Chapter 949, Stats.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rules:

The proposed rules are consistent with the Victims of Crimes Act, 42 U.S.C. § 10601, et seq., which provides federal funding to qualifying state crime victim compensation programs. There is no other specific existing or proposed federal regulation that addresses the activities to be regulated by the proposed rules.

7. Anticipated economic impact of proposed rules.

The Department anticipates that the proposed rule revision will have minimal or no economic impact, either locally or statewide.

Contact Person: Assistant Attorney General Jody J. Schmelzer, Wisconsin Department of Justice, 17 West Main Street, Madison, WI 53707-7951, (608) 266-3094, schmelzerjj@doj.state.wi.us