

1985 Senate Bill 356

Date of enactment: April 15, 1986  
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## 1985 Wisconsin Act 242

AN ACT to repeal 949.06 (1) (b) 4 and 949.08 (4); to renumber and amend 949.06 (1) (b) 3; to amend 949.02, 949.035 (1) and (2), 949.05 (1) (b) and (c), 949.06 (1) (c) and (d) and (2), 949.08 (1), 949.11 (2), 949.13, 949.14 (1) and (3) and 949.15 (1); and to create 949.06 (1) (cm) and (f) and (1m), 949.06 (3) (e), 949.06 (5) and 949.08 (2) (f) and (2m) of the statutes, relating to crime victim compensation.

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

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

**949.02 Administration.** ~~This~~ The department shall administer this chapter ~~shall be administered by the department.~~ 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.

SECTION 1x. 949.035 (1) and (2) of the statutes are amended to read:

949.035 (1) If a Wisconsin resident suffers injury or death in a situation described in s. 949.03 except that the act occurred ~~in the United States~~ outside this state, the resident has the same rights under this chapter as if the act had occurred in this state upon a showing that the state ~~or, territory, country or political subdivision~~ of a country in which the act occurred does not have a compensation of victims of crimes law which covers the injury or death suffered by the person.

(2) The department shall keep a current record of the laws relating to compensation of victims of crimes in other states and territories of the United States ~~and, upon, The department need not keep a current record of laws in other countries. Upon request, the department~~ shall assist Wisconsin residents to determine if they meet the criteria specified in sub. (1).

SECTION 2. 949.05 (1) (b) and (c) of the statutes are amended to read:

949.05 (1) (b) In the case of personal injury to or death of the victim, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of ~~such~~ the injury to or death; or

(c) ~~In~~ Except as provided in s. 949.06 (1m), in the case of death of the victim, to or for the benefit of any one or more of the dependents of the victim. If 2 or more dependents are entitled to an award, the award shall be apportioned by the department among the dependents.

SECTION 2g. 949.06 (1) (b) 3 of the statutes is renumbered 949.06 (1) (bm) and amended to read:

949.06 (1) (bm) ~~If the sole employment of the victim at the time of the injury or death, and for the preceding 5 years was limited to performing duties and responsibilities of~~ is a homemaker, the award shall be an amount sufficient to ensure that the duties and responsibilities are continued until the victim is able to resume the performance of the duties, or until the cost of services reaches the maximum allowable under sub. (2), whichever is less.

SECTION 2r. 949.06 (1) (b) 4 of the statutes is repealed.

SECTION 3. 949.06 (1) (c) and (d) and (2) of the statutes are amended to read:

949.06 (1) (c) Reasonable replacement value of any clothing and bedding that is held for evidentiary purposes, but not to exceed ~~\$100~~ \$300.

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

(2) The department may not make an award of more than ~~\$10,000~~ \$40,000 for any one injury or death.

SECTION 6. 949.06 (1) (cm) and (f) and (1m) of the statutes are created to read:

949.06 (1) (cm) Reasonable replacement value for property, other than clothing and bedding under par. (c), that is held for evidentiary purposes and is rendered unusable as a result of crime laboratory testing, but not to exceed \$200.

(f) Reasonable and necessary costs associated with securing and cleaning up a crime scene, not to exceed \$1,000.

(1m) (a) In this subsection, "family member" means any spouse, parent, grandparent, stepparent, child, stepchild, adopted child, grandchild, foster child, brother, sister, half brother, half sister, aunt, uncle, nephew, niece, or parent or sibling of spouse.

(b) In accordance with this chapter, the department shall make awards, as appropriate, to persons who, immediately prior to the crime, lived in the same household with and to family members of a victim of s. 940.01, 940.02, 940.05, 940.06, 940.07, 940.08 or 940.09 for any of the economic losses specified in sub. (1) as a result of the person's or family member's reaction to the death. A dependent may recover both under sub. (1) and this subsection, subject to the limitation under sub. (2).

SECTION 7. 949.06 (3) (e) of the statutes is created to read:

949.06 (3) (e) From one or more 3rd parties held liable for the offender's acts.

SECTION 7m. 949.06 (5) of the statutes is created to read:

949.06 (5) (a) Except as provided in pars. (b) to (e), the department shall make awards under this section from the appropriation under s. 20.455 (5) (b).

(b) The department shall pay any portion of an award under this section from the appropriation under s. 20.455 (5) (m) if the portion of the award meets any of the following criteria:

1. Any amount for payment for work loss under sub. (1) (b) which exceeds the limits prescribed in s. 102.11.

2. Any amount for payment for reasonable replacement value of any clothing and bedding under sub. (1) (c) which exceeds \$100.

3. Any amount for payment for reasonable replacement value of other property under sub. (1) (cm).

4. Any amount for payment of reasonable funeral and burial expenses under sub. (1) (d) which exceeds \$2,000.

5. Any amount for reasonable and necessary costs associated with securing and cleaning up a crime scene under sub. (1) (f).

(c) The department shall pay any portion of an award under this section from the appropriation under s. 20.455 (5) (m) which exceeds \$10,000. In cal-

culating the portion which exceeds \$10,000, the department shall exclude all payments under sub. (1) (d) and any payments from the appropriation under s. 20.455 (5) (m) required under par. (b) 1, 2, 3 or 5.

(d) Notwithstanding pars. (b) and (c), the department shall pay any award under sub. (1m) from the appropriation under s. 20.455 (5) (m).

(e) The department shall make payments from the appropriation under s. 20.455 (5) (m) in accordance with pars. (b) to (d). Notwithstanding any other provision of this section, the department shall make payments from s. 20.455 (5) (m) to the extent that moneys are available and in accordance with rules promulgated under s. 949.02.

SECTION 8. 949.08 (1) of the statutes is amended to read:

949.08 (1) No order for the payment of an award may be made unless the application was made within 2 years one year after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense which had been reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made. The department may waive the one-year requirement under this subsection in the interest of justice.

SECTION 9. 949.08 (2) (f) and (2m) of the statutes are created to read:

949.08 (2) (f) Has not cooperated with the department in the administration of the program.

(2m) If a claimant other than a victim has not cooperated with the department in the administration of the program, no award may be ordered for the claimant.

SECTION 10. 949.08 (4) of the statutes is repealed.

SECTION 11. 949.11 (2) of the statutes is amended to read:

949.11 (2) ~~The attorney general shall authorize a division of hearings and appeals in the department of administration shall appoint hearing examiner examiners to make findings and orders under s. 227.09 and this chapter.~~

SECTION 12. 949.13 of the statutes is amended to read:

**SECTION 15. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.101 (9)	none	949.11 (2)

SECTION 16. **Initial applicability.** (1) The treatment of sections 949.035 (1) and (2), 949.06 (3) (e), 949.08 (1), (2) (f), (2m) and (4), 949.13, 949.14 (1) and (3) and 949.15 (1) of the statutes by this act applies to compensable acts under section 949.03 (1) of the stat-

**949.13 Agency cooperation.** Upon request by the department, any state or local agency, including a district attorney or law enforcement agency, shall make available all reports, files and other appropriate information which the department requests in order to make a determination that ~~an applicant~~ a person is eligible for an award under this chapter.

SECTION 13. 949.14 (1) and (3) of the statutes are amended to read:

949.14 (1) The department may determine and allow reasonable attorney fees to be paid out of, but not in addition to, the amount of the award granted to ~~the applicant~~ a claimant. No attorney may ask for, contract for or receive any larger sum than the amount so allowed. Attorney fees shall not exceed 10% of the amount the attorney assisted the victim in obtaining.

(3) Whoever charges a fee in violation of sub. (1) shall forfeit double the amount retained by the attorney. This forfeiture shall be collected by this state in an action in debt, upon complaint of the department. Out of the sum recovered, the court shall direct payment to ~~the applicant~~ a claimant in the amount of the overcharge.

SECTION 14. 949.15 (1) of the statutes is amended to read:

949.15 (1) Whenever an order for the payment of an award for personal injury or death is or has been made under this chapter, the department is subrogated to the cause of action of ~~the applicant~~ a claimant against the person responsible for the injury or death and may bring an action against the person for the amount of the damages sustained by the ~~applicant~~ claimant. The department is also subrogated to the cause of action of the claimant against one or more 3rd parties liable for the acts of the person responsible for the injury or death. If an amount greater than that paid under the award order is recovered and collected in any such action, the department shall pay the balance to the ~~applicant~~ claimant. If the person responsible for the injury or death has previously made restitution payments to the general fund under s. 973.09, any judgment obtained by the department under this section shall be reduced by the amount of the restitution payments to the general fund.

utes occurring on or after the effective date of this subsection.

(2) The treatment of sections 949.02, 949.05 (1) (b) and (c) and 949.06 (1) (b) 3 and 4, (c), (cm), (d) and (f), (1m), (2) and (5) of the statutes applies to awards

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made on or after the effective date of this subsection, regardless of when the compensable act occurred.

(3) The treatment of section 949.11 (2) of the statutes by this act applies to hearings commenced on or after the effective date of this subsection.

SECTION 17. **Effective date.** This act takes effect on the first day of the first month commencing after its publication or on October 1, 1985, whichever occurs later.

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