CHAPTER 949
AWARDS FOR THE VICTIMS OF CRIMES

SUBCHAPTER I
CRIME VICTIM COMPENSATION

949.001 Legislative intent. The legislature finds and declares that the state has a moral responsibility to aid innocent victims of violent crime. In order to maintain and to strengthen our democratic system of law and social order, it is essential that the rights of the victim of a crime should be as fully protected as the rights of the criminal offender. Adequate protection and assistance of victims of crime will also encourage greater public cooperation in the successful apprehension and prosecution of criminal offenders. It is the intention of the legislature that the state should provide sufficient assistance to victims of crime and their families in order to ease their financial burden and to maintain their dignity as they go through a difficult and often traumatic period. It is also the intention of the legislature that the department should actively publicize the crime victim compensation program and promote its use.

History: 1979 c. 189.

949.01 Definitions. In this subchapter:
(1) “Crime” means an act committed in this state which would constitute a crime as defined in s. 939.12 if committed by a competent adult who has no legal defense for the act.
(1m) “Department” means the department of justice.
(2) “Dependent” means any spouse, domestic partner under ch. 770, parent, grandparent, stepparent, child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or parent of spouse or of domestic partner under ch. 770, or of a deceased victim who was wholly or partially dependent upon the victim’s income at the time of the victim’s death and includes any child of the victim born after the victim’s death.
(3) “Law enforcement agency” has the meaning designated under s. 165.83 (1) (b).
(4) “Medical treatment” includes medical, surgical, psychiatric, psychological, dental, optometric, chiropractic, podiatric and hospital care; prescription medications; medical, dental and surgical supplies; crutches; artificial members; appliances and appliances in the use of artificial members and appliances. “Medical treatment” includes any Christian Science treatment for cure or relief from the effects of injuries.
(4g) “Parent of a victim” means a person who is a parent, guardian, or legal custodian of a child under the age of 18 who is a victim under sub. (6).
(4m) “Pedestrian” has the meaning given in s. 340.01 (43).
(5) “Personal injury” means actual bodily harm and includes pregnancy and mental or psychological trauma.
(6) “Victim” means a person who is injured or killed by an incident specified in s. 949.03 (1m), or by any act or omission of any other person that is within the description of any of the offenses listed in s. 949.03 (2) or within the description of the offense listed and the condition provided in s. 949.03 (4). This definition does not apply to s. 949.165.

NOTE: The cross-references to s. 949.03 (1m), (2), and (4) were changed from s. 949.03 (1) (a), (b), and (c) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 949.03 (1).


949.03 Compensable acts. The department may order the payment of an award for personal injury or death which results from:
(1m) Preventing or attempting to prevent the commission of a crime; apprehending or attempting to apprehend a suspected criminal; aiding or attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding or attempting to aid a victim of a crime specified in sub. (2); or aiding or attempting to aid a victim of a crime specified and the condition provided in sub. (4).

NOTE: Sub. (1m) is shown as renumbered from sub. (1) (intro.) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(1m) Preventing or attempting to prevent the commission of a crime; apprehending or attempting to apprehend a suspected criminal; aiding or attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding or attempting to aid a victim of a crime specified in sub. (2); or aiding or attempting to aid a victim of a crime specified and the condition provided in sub. (4).

NOTE: Sub. (1m) is shown as renumbered from sub. (1) (intro.) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 949.03 (1) (a).

(2) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19, 940.198, 940.20, 940.201, 940.204, 940.21, 940.22 (2), 940.225, 940.23,
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940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2), 940.305, 940.31, 940.32, 940.327, 942.09, 942.02, 943.03, 943.04, 943.10, 943.20, 943.231 (1), 943.32, 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21 (1), 948.30, or 948.51.

NOTE: Sub. (2) is shown as renumbered from sub. (1) (b) by the legislative reference bureau under s. 13.92 (1) (b) 2.

(3) The commission or the attempt to commit crime described in s. 48.02 (1) (g).

NOTE: Sub. (3) is shown as renumbered from sub. (1) (bn) by the legislative reference bureau under s. 13.92 (1) (b) 2.

(4) The commission or the attempt to commit the crime specified in s. 346.67 (1) if the victim was a pedestrian, a person riding a bicycle, or a person in a buggy.

NOTE: Sub. (4) is shown as renumbered from sub. (1) (c) by the legislative reference bureau under s. 13.92 (1) (b) 2.

949.035 Residents; victims of crime outside the state.

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

(3) In this section, “resident” means a person who maintains a place of permanent abode in this state.


949.04 Application for award. (1) ELIGIBILITY. (ag) Any person may apply for an award under this subchapter.

(a) Application by a minor may be made on the minor’s behalf by his or her parent or guardian.

(b) Application by an individual adjudicated incompetent may be made on the individual’s behalf by the guardian or other person authorized to administer the individual’s estate.

(2) FORMS. (a) The department shall prescribe application forms for awards under this subchapter. If the application results from the commission of or the attempt to commit a crime specified in s. 940.22 (2), 940.25, 940.30, 940.32, 940.327, 942.09, 942.02, 948.025, 948.05, 948.051, 948.06, 948.095, or 948.095 that was sexually motivated, as defined in s. 980.01 (5), any personally identifiable information, as defined in s. 19.62 (5), provided on the application form is not subject to inspection or copying under s. 19.55 (1).

(b) Upon request, the department shall furnish law enforcement agencies with the application forms under par. (a). The law enforcement agency investigating a crime shall provide information about the availability of crime victim compensation under this subchapter to each person who may be eligible to file a claim under this subchapter.

(3) MEDICAL AND DENTAL RECORDS. The applicant shall submit to the department reports from all physicians, osteopaths, dentists, optometrists, chiropractors or podiatrists who treated or examined the victim at the time of or subsequent to the victim’s injury or death. The department may also order such other examinations and reports of the victim’s previous medical and dental history, injury or death as it believes would be of material aid in its determination.


949.05 Award; to whom payable. In any case in which a person is injured or killed by an incident specified in s. 949.03 (1m), by any act or omission of any other person that is within the description of the crime listed and the condition provided under s. 949.03 (4), the department may order the payment of an award:

NOTE: The cross-references to s. 949.03 (1m), (2), and (4) were changed from s. 949.03 (1) (a), (b), and (c) by the legislative reference bureau under s. 13.92 (1) (b) 2. to reflect the renumbering under s. 13.92 (1) (b) 2 of s. 949.03 (1) (j).

(a) To or for the benefit of the injured person;

(b) In the case of personal injury to or 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.

History: 1975 c. 34; 1985 c. 135 s. 83 (3); 1985 a. 242; 1989 a. 140; 1995 a. 153; 2013 a. 165; s. 13.92 (1) (b) 2.

949.06 Computation of award. (1) In accordance with this subchapter, the department shall make awards, as appropriate, for any of the following economic losses incurred as a direct result of an injury:

(a) Medical treatment, subject to the limits set forth under par. (bg).

(b) Work loss of a victim, a parent of a victim, or in the case of a homicide, a family member of a victim, shall be subject to the limits set forth under par. (bg) and shall be determined as follows:

1. If the victim or parent of a victim was employed at the time of the injury, loss of actual earnings shall be based upon his or her net income at the time of the injury.

2. If the victim was not employed at the time of the injury or, if as a direct result of the injury, the victim suffered a disability causing a loss of potential income, the award may be based upon a sufficient showing by the victim that he or she actually incurred loss of income.

3. If a victim is released by a physician to return to work with restrictions but is unable to return to the job he or she was performing at the time the crime was committed, the award shall be reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work the victim was capable of performing, but unreasonably failed to undertake.

4. The department may award each victim, parent of a victim, or in the case of a homicide, family member of a victim not more than 2 weeks of lost wages without requiring proof of disability from a physician.

(bg) The department may award each parent of a victim not more than $3,000 total for reimbursement of expenses under par. (a) related to mental health treatment and for work loss under par. (b).

(bm) If at the time of the injury, the victim was a caregiver in his or her home, 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 s. 949.08 (1m) (a), whichever is less.

(br) If as a direct result of the personal injury, the victim suffered a protracted disability, reasonable and necessary housing accessibility adaptations, but not to exceed $5,000.
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(c) Reasonable replacement value of any clothing and bedding that is held for evidentiary purposes, but not to exceed $300.

(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.

(d) Reasonable funeral and burial expenses, not to exceed $5,000.

(e) Loss of support, which shall be determined on the basis of the victim’s net annual income at the time of death, and shall be calculated as follows:

1. The department shall determine the victim’s net annual income, and shall multiply that amount by 4. Subject to subds. 2. and 3., the loss of support award is this amount.

2. The department shall deduct from the amount calculated under subd. 1. an amount equal to benefits the dependents received or are to receive, over the course of 4 years, as a survivor benefit from the federal social security program.

3. The department shall deduct from the amount calculated under subd. 1. the amount of any life insurance proceeds the dependents received as a result of the victim’s death.

(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, domestic partner under ch. 770, parent, grandparent, stepparent, foster parent, child, stepchild, adopted child, grandchild, foster child, brother, sister, half brother, or half sister.

(b) In accordance with this subchapter, 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 s. 949.08 (1m) (a).

(3) Any award made under this section shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

(a) From, or on behalf of, the person who committed the crime.

(b) From insurance payments or program, including worker’s compensation and unemployment insurance. The department may reduce an award related to a crime under s. 346.62 (4), 346.63 (2) or (6), 940.09, 940.10, or 940.25, if the victim was not in compliance with s. 346.62 (1) at the time of the crime, by an amount equal to the payment the victim would have received from an insurance program or payment if the victim had been in compliance with s. 346.62 (1). The department may not reduce an award by an amount received or to be received from an insurance payment or program if it has deducted that amount from an award for economic loss under sub. (1) (e) 3.

(c) From public funds.

(d) From one or more 3rd parties held liable for the offender’s acts.

(e) From an award under s. 949.26.

(4) (a) An award may be made whether or not any person is prosecuted or convicted of any offense arising out of such act or omission.

(b) The department may suspend proceedings under this subchapter for a period it deems appropriate on the grounds that a prosecution for an offense arising out of the act or omission has been commenced or is imminent.


Cross-reference: See also ch. Jus 11, Wis. adm. code.
(3) No award may be made to any claimant if the award would unjustly benefit the offender or accomplice.


949.09 Effect of conviction.

If any person has been convicted of any offense with respect to an act or omission on which a claim under this subchapter is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or any proceeding with regard thereto is pending.

History: 1975 c. 344; 2007 a. 20.

949.11 Hearings.

(1) The procedure of ch. 227 for contested cases applies to hearings under this subchapter except as otherwise provided in this section and ss. 949.12 and 949.14.

(2) The division of hearings and appeals in the department of administration shall appoint hearing examiners to make findings and orders under s. 227.46 and this subchapter.

(3) All hearings shall be open to the public unless in a particular case the examiner determines that the hearing, or a portion thereof, shall be held in private having regard to the fact that the offender has not been 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; 2007 a. 20.

949.15 Subpoenas.

The department or any of its authorized agents may issue subpoenas for persons or records for any investigation or hearing conducted under this subchapter and may enforce compliance with such subpoenas as provided in s. 885.12.


949.16 Confidentiality of records.

The record of a proceeding before an examiner or the department under this subchapter is a public record. 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.

History: 1975 c. 344; 1977 c. 29; 1979 c. 189; 2007 a. 20.

949.18 Escrow accounts; monies received as a result of the commission of a serious crime. (1) Definition.

In this section:

(a) “Serious crime” has the meaning designated in s. 969.08 (10) (b) and includes solicitation, conspiracy or attempt to commit a serious crime.

(b) “Victim” has the meaning specified in s. 950.02 (4).

(2) Payment to and establishment of escrow accounts.

Every person or other legal entity contracting with any person, or the representative or assignee of any person, accused or convicted of a serious crime in this state, with respect to the reenactment of the serious crime, by a movie, book, magazine article, tape recording, phonograph record, radio or television presentation or live entertainment of any kind, or from the expression of the accused or convicted person’s thoughts, feelings, opinions or emotions regarding the serious crime, shall submit a copy of the contract to the department and pay over to the department any moneys which would otherwise, by terms of the contract, be owing to the person so accused or convicted or his or her representatives. This subsection applies only if the reenactment of the serious crime constitutes a substantial portion of the movie, book, article, recording, presentation, entertainment or expression. The department shall deposit the moneys in an interest-bearing escrow account for the payment of money judgments to any victim or the legal representative of any victim of serious crimes committed by:

(a) The convicted person; or

(b) The accused person, but only if the accused person is eventually convicted of the serious crime charged.

(3) Notice to potential claimants.

The department, at least once every 6 months for 3 years from the date it receives the moneys, shall cause to have published a legal notice in newspapers of general circulation in the county in which the serious crime was committed advising the victims that the escrow moneys are available to satisfy money judgments under this section. The department may provide
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949.18 Report by the department. The department’s biennial report under s. 15.04 (1) (d) shall include a report of its activities under this subchapter including:

(1) An explanation of the procedures for filing and processing claims under this subchapter.

(2) A description of the programs and policies instituted to promote public awareness about crime victim compensation.

(3) An analysis of future needs and suggested program improvements.

(4) A copy of the forms utilized under this subchapter.

(5) A complete statistical analysis of the cases handled under this subchapter, including:

(a) The number of claims filed.

(b) The number of claims approved and the amount of each award.

(c) The number of claims denied and the reasons for rejection.

(d) A breakdown of claims by geographic area, month, age and sex of victim, type of crime committed and other relevant facts.

(e) A summary of cases handled under this subchapter.

(6) The status of existing escrow accounts under s. 949.165.
949.20 Definitions. In this subchapter:
(1) “Cooperate with a law enforcement agency” means to report a sex offense to a law enforcement agency or to aid a law enforcement agency in the investigation of a sex offense.
(2) “Department” means the department of justice.
(3) “Examination costs” means the costs of an examination that is done to gather evidence regarding a sex offense, any procedures during that examination process that tests for or prevents a sexually transmitted disease, and any medication provided or prescribed, during that examination process, that prevents or treats a sexually transmitted disease that the person performing the examination or procedure believes could be a consequence of the sex offense. “Examination costs” does not include any processing or administrative costs, attorney fees, or other expenses.
(4) “Guardian of the victim” means one of the following:
(a) If the victim is under 18 years of age, the parent, guardian, or legal custodian of the victim.
(b) If the victim has been determined to be incompetent under ch. 54, the guardian of the victim.
(5) “Health care provider” means any person providing health care services.
(6) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).
(7) “Sex offense” means an act committed in the state that, if committed by a competent adult, would be a violation, or an attempted violation, of ss. 940.225, 948.02, 948.025, 948.05, 948.06, 948.08, or 948.09.
(8) “Sexually transmitted disease” has the meaning given in s. 252.11 (1).
(9) “Victim” means a person against whom a sex offense has been committed.


949.22 Administration. The department shall administer this subchapter. The department shall appoint a program director to assist in administering this subchapter. The 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.

History: 2007 a. 20.

949.24 Application for award. (1) ELIGIBILITY. Any health care provider who conducts an examination to gather evidence regarding a sex offense may apply for an award under this subchapter.
(2) FORMS. The department shall prescribe application forms for awards under this subchapter and shall furnish health care providers with the forms.
(3) MEDICAL RECORDS. An applicant shall submit to the department reports from any physician, physician’s assistant, or nurse who treated or examined the victim to gather evidence regarding a sex offense, performed any procedure during that treatment or examination that tests for or prevents a sexually transmitted disease, or provided or prescribed any medication to prevent or treat a sexually transmitted disease. The applicant may not submit to the department any other records than those pertaining to the examination, treatment, procedure, or medication for which the applicant is seeking an award.

History: 2007 a. 20.

949.26 Computation of awards. (1) Except as provided in sub. (1m), the department shall make an award under this section to a health care provider who conducts an examination to gather evidence regarding a sex offense to reimburse the health care provider only for the examination costs, as follows:
(a) If, under sub. (2) (b), the health care provider is not authorized to seek payment from insurance or another available source of payment, the award shall be the examination costs, regardless of whether the victim, or any guardian of the victim, cooperates with a law enforcement agency regarding the sex offense.
(b) If, under sub. (2) (b), the health care provider is authorized to seek payment from insurance or another available source of payment and the victim, or any guardian of the victim, does not cooperate with a law enforcement agency regarding the sex offense, the award shall be the examination costs, reduced by any payment to be received as a result of the authorization under sub. (2) (b).
(1m) The department may not make an award under this section if, under sub. (2) (b), the health care provider is authorized to seek payment and the victim, or any guardian of the victim, cooperates with a law enforcement agency.
(2) (a) A health care provider seeking an award under this section may not seek payment for any examination costs from the victim or any guardian of the victim.
(b) A health care provider seeking an award under this section may not seek payment for any examination costs from insurance or another available source of payment unless the victim or any guardian of the victim authorizes the health care provider to seek payment.
(3) The department may not refuse to make an award under this section because the victim or the guardian of the victim does not cooperate with a law enforcement agency regarding the sex offense, or due to lack of an investigation or prosecution of the sex offense.

History: 2007 a. 20.

949.28 Limitations on awards. (1) No order for the payment of an award under this subchapter may be made unless the application was made within one year after the date of the examination. The department may waive the one-year requirement under this subsection in the interest of justice.
(2) The department may not make an award under this section that exceeds the examination costs of the victim.
(3) The department may not make an award under this subchapter for any part of the examination costs of the victim for which the health care provider seeking the award has received compensation from any other source.

History: 2007 a. 20.

949.31 Hearings. (1) The procedure of ch. 227 for contested cases applies to hearings under this subchapter except as otherwise provided in this section and s. 949.32.
(2) The division of hearings and appeals in the department of administration shall appoint hearing examiners to make findings and orders under s. 227.46 and this subchapter.
(3) All hearings shall be open to the public unless in a particular case the examiner determines that the hearing, or a portion of the hearing, shall be held in private having regard to the fact that the offender has not been convicted or to the interest of the victim.

History: 2007 a. 20.

949.315 Subpoenas. The department or any of its authorized agents may issue subpoenas for persons or records for any investigation or hearing conducted under this subchapter and may enforce compliance with such subpoenas as provided in s. 885.12.

History: 2007 a. 20.

949.32 Condition of victim. There is no privilege, except privileges arising from the attorney−client relationship, as to communications or records relevant to an issue of the physical condi-
tion of the victim in a proceeding under this subchapter in which that condition is an element.

History: 2007 a. 20.

949.33 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 a health care provider is eligible for an award under this subchapter.

History: 2007 a. 20.

949.36 Confidentiality. If a health care provider seeks an award under this subchapter, any personally identifiable information, as defined in s. 19.62 (5), of the victim who received the examination shall remain confidential unless written consent for the release of any personally identifiable information is provided by one of the following:

(1) Except as provided under sub. (2), the victim.

(2) If there is a guardian of the victim, the guardian of the victim.

History: 2007 a. 20.

949.37 Offenses. (1) PROHIBITION. In connection with an award under this subchapter, no person may do any of the following:

(a) Submit a fraudulent application or claim for an award.

(b) Intentionally make or cause to be made any false statement or representation of a material fact.

(c) Intentionally conceal or fail to disclose information affecting the amount of or the initial or continued right to any such award when reasonably requested to provide such information by the department.

(2) PENALTIES. Any person who violates this section shall be fined not more than $500 or imprisoned not more than 6 months or both. The person shall forfeit any benefit received and shall reimburse the state for payments received.

(3) DAMAGES. The state has a civil cause of action for relief against any person who violates this section for the amount of damages that the state sustained by reason of the violation and, in addition, for punitive damages not more than double the amount of damages that the state may have sustained, together with interest, and the cost of the suit.

(4) ACTION. The attorney general may bring any action and has such powers as may be necessary to enforce this section.

History: 2007 a. 20.

949.38 Report by the department. The department’s biennial report under s. 15.04 (1) (d) shall include a report of its activities under this subchapter including all of the following:

(1) An explanation of the procedures for filing and processing claims under this subchapter.

(2) A description of the programs and policies instituted to promote awareness about the awards under this subchapter.

(3) An analysis of future needs and suggested program improvements.

(4) A copy of the forms used under this subchapter.

(5) A complete statistical analysis of the cases handled under this subchapter, including all of the following:

(a) The number of claims filed.

(b) The number of claims approved and the amount of each award.

(c) The number of claims denied and the reasons for rejection.

(d) A breakdown of claims by geographic area and month.

History: 2007 a. 20.