



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1743/1
EAW:emw&wlj

2023 SENATE BILL 57

February 14, 2023 - Introduced by Senators WANGGAARD and TAYLOR, cosponsored by Representatives SORTWELL, STEFFEN, BEHNKE, DUCHOW, GREEN, GUNDRUM, MURPHY, MURSAU and PENTERMAN. Referred to Committee on Judiciary and Public Safety.

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

Analysis by the Legislative Reference Bureau

This bill adds intentional damage to a building by means of fire or explosives 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, 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.

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Under the bill, if a building is intentionally damaged by means of fire or explosives, 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 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”~~ “Victim,” except as provided under s. 949.165,
4 means ~~a-~~ any of the following:

5 (a) A person who is injured or killed by an incident specified in s. 949.03 ~~(1m)~~
6 (1) (a), or by any act or omission of any other person that is within the description
7 of any of the offenses listed in s. 949.03 ~~(2)~~ (1) (b) or within the description of the
8 offense listed and the condition provided in s. 949.03 (4). ~~This definition does not~~
9 ~~apply to s. 949.165 (1) (d).~~

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 means of fire or explosives under s. 943.02.

13 **SECTION 3.** 949.03 (intro.), (1m), (2), (3) and (4) of the statutes are renumbered
14 949.03 (1) (intro.), (a), (b), (c) and (d), and 949.03 (1) (a), as renumbered, is amended
15 to read:

16 949.03 (1) (a) Preventing or attempting to prevent the commission of a crime;
17 apprehending or attempting to apprehend a suspected criminal; aiding or
18 attempting to aid a police officer to apprehend or arrest a suspected criminal; aiding

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1 or attempting to aid a victim of a crime specified in ~~sub. (2) par. (b)~~; or aiding or
2 attempting to aid a victim of the crime specified and the condition provided in sub.
3 ~~(4) par. (d)~~.

4 **SECTION 4.** 949.03 (2m) of the statutes is created to read:

5 949.03 **(2m)** The department may order the payment of an award for damage
6 to a building that results from a violation of s. 943.02.

7 **SECTION 5.** 949.035 (1) of the statutes is amended to read:

8 949.035 **(1)** If a Wisconsin resident suffers injury or death in a situation
9 described in s. 949.03 (1) except that the act occurred outside this state, the resident
10 has the same rights under this subchapter as if the act had occurred in this state
11 upon a showing that the state, territory, country or political subdivision of a country
12 in which the act occurred does not have a compensation of victims of crimes law which
13 covers the injury or death suffered by the person.

14 **SECTION 6.** 949.04 (3) of the statutes is amended to read:

15 949.04 **(3)** MEDICAL AND DENTAL RECORDS. ~~The~~ For an application for an award
16 payment under s. 949.03 (1), the applicant shall submit to the department reports
17 from all physicians, osteopaths, dentists, optometrists, chiropractors or podiatrists
18 who treated or examined the victim at the time of or subsequent to the victim's injury
19 or death. The department may also order such other examinations and reports of the
20 victim's previous medical and dental history, injury or death as it believes would be
21 of material aid in its determination.

22 **SECTION 7.** 949.05 of the statutes is renumbered 949.05 (1m), and 949.05 (1m)
23 (intro.), as renumbered, is amended to read:

24 949.05 **(1m)** (intro.) In any case in which a person is injured or killed by an
25 incident specified in s. 949.03 ~~(1m) (1) (a)~~, by any act or omission of any other person

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1 that is within the description of crimes under s. 949.03 ~~(2)~~ (1) (b) 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 ~~(4)~~ (1) (d), the department may order the payment
4 of an award:

5 **SECTION 8.** 949.05 (2m) of the statutes is created to read:

6 949.05 **(2m)** In any case in which a building is damaged or destroyed by means
7 of fire or explosives under s. 943.02, the department may order the payment of an
8 award to the owner of the building. If 2 or more persons have ownership interest in
9 the building, the department shall apportion the award among the persons.

10 **SECTION 9.** 949.06 (1) (intro.) of the statutes is amended to read:

11 949.06 **(1)** (intro.) In accordance with this subchapter, the department shall
12 make awards, as appropriate, for any of the following economic losses incurred as a
13 direct result of an injury under s. 949.03 (1):

14 **SECTION 10.** 949.06 (3) (intro.) of the statutes is amended to read:

15 949.06 **(3)** (intro.) Any award made under this section shall be reduced by the
16 amount of any payment received, or to be received, as a result of the injury ~~or~~, death,
17 or property damage:

18 **SECTION 11.** 949.06 (3m) of the statutes is created to read:

19 949.06 **(3m)** For damage to a building under s. 949.03 (2m), the department
20 may make an award for the difference between the amount paid by insurance for the
21 damage, if any, and the lesser of the following, as proven by the victim:

22 (a) The amount of necessary repairs.

23 (b) The fair market value of the building.

24 **SECTION 12.** 949.08 (1), (1m) (a) and (2) (a) and (b) of the statutes are amended
25 to read:

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

9 (1m) (a) Except as provided in par. (b), the department may not make an award
10 of more than \$40,000 for any one injury ~~or~~, death, or damaged property and the
11 department may not make any award for expenses incurred after 4 years from the
12 date of the injury ~~or~~, death, or property damage.

13 (2) (a) Engaged in conduct which substantially contributed to the infliction
14 of the victim's injury ~~or~~, death, or property damage or in which the victim could
15 have reasonably foreseen could lead to the injury ~~or~~, death, or property damage.
16 This does not apply to awards to victims under s. 949.03 ~~(1m)~~ (1) (a).

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

19 **SECTION 13.** 949.15 (1) of the statutes is amended to read:

20 949.15 (1) Whenever the department orders the payment of an award under
21 this subchapter as a result of the occurrence of an event that creates a cause of action
22 on the part of a claimant against any person, the department is subrogated to the
23 rights of the claimant and may bring an action against the person for the amount of
24 the damages sustained by the claimant. If an amount greater than that paid under
25 the award order is recovered and collected in any such action, the department shall

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1 pay the balance to the claimant. If the person responsible for the injury or death,
2 or property damage has previously made restitution payments to the general fund
3 under s. 973.20, any judgment obtained by the department under this section shall
4 be reduced by the amount of the restitution payments to the general fund.

5

(END)