

CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c) (2) a. and b.

I certify that the attached emergency (amendment) new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the _____ day of July, 2020.

AGENCY NAME: Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-X-1-.01 General Information and Definitions.

EFFECTIVE DATE OF RULE: July 9, 2020

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:

Adoption of this rule is necessary to ensure the Commission maintains adequate funding levels for future victims of violent crime.

STATUTORY AUTHORITY: : § 15-23-5(14), Code of Alabama

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS YES NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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Cassie T. Jones Cassie T. Jones, Ed.D.
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE
(For APA Use Only)

REC'D & FILED
JUL 9 2020
LEGISLATIVE SVC AGENCY

62-X-1-.01 General Information and Definitions.

(1) Purpose: It is the intent of the Legislature and the purpose of the Alabama Crime Victims' Compensation Commission (ACVCC) to provide financial and other assistance for victims of violent crime for the allowable expenses that are incurred as a direct result of victimization. Eligibility requirements are listed in the following sections:

(2) Program Description: ACVCC provides financial assistance for allowable expenses to victims of violent crime who have suffered personal injury, psychological injury or death. Compensation may be reduced or denied based on contribution to one's own victimization as defined in the following sections. The program provides compensation for a number of services, which are listed in the following sections. ACVCC does not award compensation for expenses which are paid by a collateral source. The program also has a statutory entitlement to subrogation when a claimant has received recovery from a collateral source after having been paid by ACVCC.

(a) ~~The maximum amount of compensation that may be awarded in any one claim is \$15,000.~~ Other limitations for specific categories are addressed in the following chapters. For incidents of criminally injurious conduct occurring on or after October 1, 2014, through July 8, 2020, the maximum amount of compensation that may be awarded in any one claim is (\$20,000). For incidents of criminally injurious conduct occurring on or after July 9, 2020, the maximum amount of compensation that may be awarded in any one claim is \$15,000.

(3) The public may obtain information about the Commission by visiting its website at www.acvcc.alabama.gov or calling the Commission at 334.290.4420. Submissions to the agency should be mailed to PO Box 231267; Montgomery, AL 36123-1267 or emailed to info@acvcc.alabama.gov. Requests for public records should be directed to the Commission's Access Officer. Public records will be provided at the Commission's cost.

(4) The Commission will maintain a Departmental Forms Index. The Departmental Forms Index (Appendix A) contains a listing of all forms a claimant/victim may be required to complete and submit in order to receive compensation benefits.

(a) The Index will be updated when forms are added or removed.

(b) A copy of forms may be obtained by following the guidelines in 262-X-1-.01(3).

(c) A list of internal forms excluded from the Departmental Forms Index may be obtained by following the guidelines in 262-X-1-.01(3).

(5) Definitions: As used in these rules the following words shall include, but are not limited to, the following meanings unless the context clearly requires a different meaning:

(a) Commission. The Alabama Crime Victims' Compensation Commission as described in Chapter 262-X-2 of these rules.

(b) Criminally Injurious Conduct: Criminally injurious conduct includes any of the following acts:

- 1. An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed; or**
- 2. An act occurring or attempted outside the geographical boundaries of this state in another state of the United States of America which is punishable by fine, imprisonment or death and which results in personal injury or death to a citizen of this state; and shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state; provided, however, such a citizen at the time such act was committed had a permanent place of residence in the geographical boundaries of this state, and in addition thereto:**

(a) Had a permanent place of employment located within the geographical boundaries of this state; or

(b) Was a member of the regular armed forces of the United States of America; or the United States Coast Guard; or was a full-time member of the Alabama National Guard, Alabama Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, U.S. Air Force Reserve; or

(c) Was retired and receiving Social Security or other retirement income;
or

(d) Was 60 years of age or older; or

(e) Was temporarily in another state of the United States of America for the purpose of receiving medical treatment; or

(f) Was temporarily in another state of the United States of America for the purpose of performing employment related duties required by an employer located within the geographical boundaries of this state as an expressed condition of employment or employee benefits; or

(g) Was temporarily in another state of the United States of America for the purpose of receiving occupational, vocational or other job-related training or instruction required by an employer located within the geographical boundaries of this state as an expressed condition of full-time employment or employee benefits; or

(h) Was a full-time student at an academic institution, college or university located in another state of the United States of America; or

(i) Had not departed the geographical boundaries of this state for a period exceeding 30 days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

The term 'criminally injurious conduct' shall not mean: An act committed outside the geographical boundaries of this state upon a person who was not at the time such act was committed a citizen of the State of Alabama or an act committed outside the geographical boundaries of this state upon a person who at the time such act was committed had departed the geographical boundaries of this state for the purpose of becoming a citizen of another state or for the purpose of establishing a permanent place of residence in another state.

(c) Victim. A person who suffered serious personal injury, psychological injury as a result of a direct face-to-face threat of physical injury, or actual physical injury, or death as a result of criminally injurious conduct.

(d) Dependent. A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim when the death occurred as the result of criminally injurious conduct.

(e) Claimant. Any of the following persons applying for compensation under this chapter:

1. A victim;
2. A dependent of a deceased victim, if such victim died as result of criminally injurious conduct; or
3. A person authorized to act on behalf of a victim, or a dependent of a deceased victim if such victim died as a result of criminally injurious conduct.

(f) Dependent spouse. The spouse of a deceased victim, unless it is shown that he/she was voluntarily living apart from the deceased victim for the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death and it is shown that the deceased victim was not in any way contributing support to the spouse.

(g) Dependent child. An unmarried child under the age of nineteen (19) years for whom the deceased victim was a significant source of direct support to the minor child in the twelve (12) months immediately preceding the criminally injurious conduct that caused

the victim's death. A dependent child is also one over the age of nineteen (19) who is physically or mentally incapacitated from earning and it is shown that the deceased victim was a significant source of direct support to the adult child in the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death. A dependent child is also one over the age of nineteen (19), but under the age of twenty-six (26), who is enrolled in college, technical school, or vocational school and it is shown that the deceased victim was a significant source of direct support to the adult child in the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death.

(h) Allowance Expense. Charges incurred for needed products, services and accommodations, including but not limited to, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. ~~It also includes a total amount not to exceed \$5,000.00 for expenses related to a funeral, cremation or burial.~~ For incidents of criminally injurious conduct occurring on or after October 1, 2014, through July 8, 2020, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial. For incidents of criminally injurious conduct occurring on or after July 9, 2020, no more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial.

(i) Work Loss. Loss of income from work the victim would have performed if such person had not been injured or died, 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 which he or she was capable of performing but unreasonably failed to undertake. Work loss also includes loss of income of an offender charged with domestic violence under Sections 13A-6-130, 13A-6-131, and 13A-6-132 when the victim was residing with the offender at the time of commission of the offense and the offender's income was a significant source of direct support for the victim.

(j) Replacement Services Loss. Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died.

(k) Economic Loss of a Dependent. A loss after the death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim.

(l) Replacement Services Loss of Dependent. The loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those that the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by

reason of death of the victim and not subtracted in calculating the economic loss of the dependent.

(m) **Economic Loss.** Monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of the dependent, but shall not include noneconomic loss, or noneconomic detriment.

(n) **Noneconomic Loss or Detriment.** Pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

(o) **Collateral Source.** The source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the Compensation Commission which the claimant has received or is entitled to receive or is readily available to the claimant from any or more of the following:

1. The offender;
2. The government of the United States or any agency thereof, in the form of benefits, such as social security, medicare and medicaid, a state or any of its subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to the benefits under this chapter;
3. Any temporary nonoccupational disability insurance;
4. Workman's compensation;
5. Wage continuation programs of any employer;
6. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
7. A contract providing prepaid hospital and other health care services or benefits for disability.

(p) **Immediate Family.** Immediate family for purposes of determining compensation eligibility shall mean spouse, child, parent/legal guardian, siblings, aunts/uncles, grandparents, and grandchildren. Except when unusually strong personal ties exist, due to the victim or family member having been reared by a person of some relationship other than which is provided for in this definition for a period of twenty-four consecutive months or longer, this relationship may be considered as immediate family at the discretion of the Commission.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

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