

77 LSO 270

HOUSE BILL

458

Title: AN ACT to create W.S. 1-1075 through 1-1087 relating to compensation of victims of crimes; providing for creation of the crimes compensation board; providing for compensation of victims and dependents of the victims; specifying the procedure for claiming compensation, hearings thereon and awards therefor; providing for penalties; and providing for an effective date.

HOUSE BILL 458

Sponsored by:

Elean Crowley

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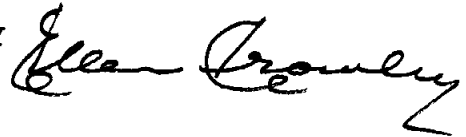
STATE OF WYOMING

77LSO-270.01

HOUSE BILL NO. 458

Compensation for victims of crime.

Sponsored by: Representative CROWLEY



A BILL

for

1 AN ACT to create W.S. 1-1075 through 1-1087 relating to
2 compensation of victims of crimes; providing for creation
3 of the crimes compensation board; providing for compen-
4 sation of victims and dependents of the victims; specify-
5 ing the procedure for claiming compensation, hearings
6 thereon and awards therefor; providing for penalties; and
7 providing for an effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. W.S. 1-1075 through 1-1087 are created to
10 read:

11 1-1075. Citation. This act shall be cited as the
12 "Victims of Crime Compensation Act".

13 1-1076. Definitions.

14 (a) As used in this act:

15 (i) "Board" means the crimes compensation

HB 458

1 board established by this act;

2 (ii) "Criminal act" means an act committed or
3 attempted in this state which is punishable as a felony
4 under the laws of this state;

5 (iii) "Dependent" means any relative of the
6 victim who was wholly or partially dependent upon his
7 income at the time of his injury or death and includes the
8 child of the victim born after his death;

9 (iv) "Personal injury" means actual bodily
10 harm;

11 (v) "Relative of the victim" means his spouse,
12 parent, grandparent, stepparent, child including natural
13 born child, stepchild or adopted child, grandchild,
14 brother or sister;

15 (vi) "Victim" means a person who suffers per-
16 sonal injury or is killed in this state as a direct result
17 of:

18 (A) A criminal act of another person;

19 (B) The person's good faith and reason-
20 able effort in attempting to prevent the commission of a
21 criminal act, or to apprehend a person engaging in a crim-

1 ment officer to do so; or

2 (C) Assisting or attempting to assist a
3 person against whom a crime is being perpetrated or
4 attempted.

5 (vii) "This act" means W.S. 1-1075 through
6 1-1087.

7 1-1077. Eligibility for compensation.

8 (a) A person is entitled to compensation under this
9 act if:

10 (i) He is a victim;

11 (ii) He is a dependent;

12 (iii) He suffered pecuniary loss resulting
13 from the injury or death of the victim;

14 (iv) The victim was not a relative of the
15 offender or was not living with the offender as a member
16 of his family or household at the time of the personal
17 injury or death;

18 (v) The injury to or death of the victim was
19 not attributable to his own wrongful act or provocation of
20 his assailant;

1 (vi) The appropriate law enforcement officials
2 were notified of the criminal act allegedly causing the
3 injury to or death of the victim as soon after its perpe-
4 tration as practical under the circumstance; and

5 (vii) The application for compensation is
6 filed with the board within one (1) year after the date of
7 the injury to or death of the victim or within any further
8 extension of time as the board allows for good cause
9 shown.

10 1-1078. Pecuniary loss.

11 (a) Pecuniary loss to an applicant under this act
12 resulting from injury or death to a victim includes, in
13 the case of injury, appropriate medical expenses and
14 hospital expenses, loss of earnings, loss of future earn-
15 ings because of a disability resulting from the injury and
16 other expenses for treatment by Christian Science practi-
17 tioners and nursing care appropriate thereto, and in the
18 case of death, additional funeral and burial expenses and
19 loss of support to the dependents of the victim.

20 (b) Loss of earnings, loss of future earnings and
21 loss of support shall be determined on the basis of the
22 victim's average monthly earnings for the six (6) months
23 immediately preceding the date of the injury or on five

1 hundred dollars (\$500.00) per month, whichever is less.

2 (c) Nothing in this section authorizes the making of
3 child support payments for the benefit of a child con-
4 ceived as a result of the rape of its mother. Pain and
5 suffering shall not be considered in determining pecuniary
6 loss. Pecuniary loss does not include property damage.

7 1-1079. Establishment of board; powers and duties.

8 (a) There is established a crimes compensation board
9 which shall be composed of three (3) members to be
10 appointed by the governor. One (1) of the members shall
11 be designated as chairman by the governor.

12 (b) The term of office for each member of the board
13 shall be three (3) years, except that of the members first
14 appointed one (1) shall be appointed for a term of three
15 (3) years, one (1) for a term of two (2) years and one (1)
16 for a term of one (1) year. All vacancies, except through
17 the expiration of term, shall be filled for the unexpired
18 term only.

19 (c) Members of the board shall receive no salary but
20 are entitled to per diem and travel expenses authorized by
21 law for legislators.

22 (d) The board shall:

1 (i) Adopt, promulgate, amend and rescind rules
2 and regulations to carry out the provisions and purposes
3 of this act;

4 (ii) Request from county attorneys, police or
5 county sheriffs all investigation and data as will enable
6 the board to determine if, in fact, a crime was committed
7 or attempted and the extent, if any, to which the victim
8 was responsible for his own injury;

9 (iii) Hear and determine all claims for awards
10 filed with the board pursuant to this act;

11 (iv) Direct medical examinations of victims;

12 (v) Hold hearings in accordance with the
13 Wyoming Administrative Procedure Act; and

14 (vi) Report each year to the governor and
15 legislature on its activities.

16 1-1080. Application for compensation; required
17 information.

18 (a) Any person who is eligible for compensation pur-
19 suant to this act, or his parent, guardian or personal
20 representative acting on his behalf, may apply to the
21 board, under oath, on a form prescribed and furnished by

HB 458

1 the board, setting forth the following:

2 (i) The name and address of the victim;

3 (ii) If the victim is deceased, the name and
4 address of the applicant and his relationship to the
5 victim, the names and addresses of other persons dependent
6 on the victim for their support and the extent to which
7 each is dependent;

8 (iii) The date and nature of the criminal act
9 on which the application for compensation is based;

10 (iv) The date and place where and the law
11 enforcement officials to whom notification of the criminal
12 act was given;

13 (v) The nature and extent of the injuries sus-
14 tained by the victim, the names and addresses of those
15 giving medical and hospitalization treatment to the victim
16 and whether death resulted;

17 (vi) The pecuniary loss to the applicant and
18 to all other persons as specified under paragraph (a)(ii)
19 of this section resulting from the injury or death;

20 (vii) The amount of benefits, payments or
21 awards, if any, payable under the Worker's Compensation

1 Act or from local governmental, state or federal funds,
2 which the applicant and each other person listed under
3 paragraph (a) (ii) of this section has received or to which
4 each is entitled as a result of the injury or death, or
5 from any other source;

6 (viii) Releases authorizing the surrender to
7 the board all reports, documents and other information
8 relating to the matters specified under this section; and

9 (ix) All other information as the board
10 reasonably requires.

11 (b) The board may require that materials substan-
12 tiating the facts stated in the application be submitted
13 with the application. If the court finds that an applica-
14 tion does not contain the required information or that the
15 facts stated therein have not been substantiated, it shall
16 notify the applicant in writing of the specific additional
17 items of information or materials required and that he has
18 thirty (30) days in which to furnish those items to the
19 court. The board shall reject the application of an
20 applicant who although notified fails to file the
21 requested information or substantiating materials within
22 the time specified unless he requests, and the board
23 grants, an extension of time in which to furnish that

HB 468

1 information. An applicant, on his own motion, may file an
2 amended application or additional substantiating materials
3 to correct inadvertent errors or omissions at any time
4 before the original application has been disposed of by
5 the board. In either case, the filing of additional
6 information or of an amended application shall be consid-
7 ered to have been filed at the same time as the original
8 application.

9 1-1081. Hearing; findings; order.

10 (a) Hearings shall be held on the application and
11 shall be open to the public unless the board determines
12 that a closed hearing is necessary because:

13 (i) The alleged assailant or offender has not
14 been brought to trial and a public hearing would adversely
15 affect either his apprehension or his trial;

16 (ii) The victim or alleged assailant is a
17 minor; or

18 (iii) A public hearing would frustrate rather
19 than further the interest of justice.

20 (b) A transcript shall be kept of the proceedings of
21 hearings held before the board and shall include the
22 board's findings of fact and conclusions of the amount of

1 compensation, if any, to which the applicant and persons
2 dependent on a deceased victim are entitled. No part of
3 the transcript of any hearing before the board may be used
4 for any purpose in a criminal proceeding except in the
5 prosecution of a person alleged to have perjured himself
6 in his testimony before the board.

7 (c) At the conclusion of the hearing, the board
8 shall enter an order stating:

9 (i) Its findings of fact:

10 (ii) Its decision as to whether or not compen-
11 sation is due under this act;

12 (iii) The amount of compensation, if any,
13 which is due under this act;

14 (iv) Whether disbursement of the compensation
15 awarded is to be made in a lump sum or in periodic pay-
16 ments; and

17 (v) The person or person to whom the compen-
18 sation should be paid. The board may order temporary pay-
19 ments to be made pending its determination of the total
20 amount of compensation due under this act.

21 (d) If the board finds, in the case of an applica-

HB 458

1 tion made by a person dependent for his support on a
2 deceased victim, that persons other than the applicant
3 were also dependent on that victim for their support, it
4 shall also:

5 (i) Name those persons in its order;

6 (ii) State the percentage share of the total
7 compensation award and the dollar amount to which each is
8 entitled; and

9 (iii) Order that those amounts be paid to
10 those persons directly or, in the case of a minor or
11 incompetent, to his guardian or conservator, as the case
12 may be.

13 1-1082. Standards for compensation.

14 (a) For the purpose of determining the amount of any
15 compensation payable pursuant to this act, the board
16 shall, insofar as practicable, formulate standards for
17 uniform application of this act and shall take into con-
18 sideration rates and amounts of compensation payable for
19 injuries and death under other laws of this state and of
20 the United States and the availability of funds appropri-
21 ated for purposes of this act.

22 (b) In no event shall the compensation for each

1 application exceed five thousand dollars (\$5,000.00).

2 1-1083. Compensation award.

3 (a) In any case in which a person is injured or
4 killed by a criminal act, the board may order the payment
5 of compensation in accordance with this act:

6 (i) For the benefit of the injured person;

7 (ii) In the case of personal injury of the
8 victim, to any person responsible for the maintenance of
9 the victim who has suffered pecuniary loss or incurred
10 expenses as a result of this injury; or

11 (iii) In the case of death of the victim, for
12 the benefit of any one (1) or more of the dependents of
13 the victim.

14 (b) In determining whether to award compensation
15 under this act, the board shall consider:

16 (i) All circumstances determined to be rele-
17 vant, including provocation, consent or any other behavior
18 of the victim which directly or indirectly contributed to
19 his injury or death;

20 (ii) The prior case or social history, if any,
21 of the victim;

1 (iii) Need for financial aid; and

2 (iv) Any other relevant matters.

3 (c) The board shall not consider whether the alleged
4 assailant has been apprehended, prosecuted or convicted,
5 nor the result of any criminal proceedings against him.

6 (d) In determining the amount of compensation to be
7 allowed by order, the board shall take into consideration
8 amounts received or receivable from any other source or
9 sources by the victim or his dependents as a result of the
10 incident or offense giving rise to the application. The
11 board shall deduct the amount of benefits, payments or
12 awards payable under the "Worker's Compensation Act or
13 from local governmental, state or federal funds, which the
14 applicant or dependents have received or to which they are
15 entitled as a result of injury to or death of the victim.

16 (e) The board may order the payment of compensation
17 under this act for:

18 (i) Expenses actually and reasonably incurred
19 as a result of the personal injury or death of the victim;

20 (ii) Loss of earning power as a result of
21 total or partial incapacity of the victim;

1 (iii) Pecuniary loss to the dependents of the
2 deceased victim; and

3 (iv) Any other loss resulting from the per-
4 sonal injury or death of the victim which the court deter-
5 mines to be reasonable.

6 1-1084. Recovery from offender.

7 (a) When an order for the payment of compensation
8 for personal injury or death is or has been made under
9 this act, the state shall, upon payment of the amount of
10 the order, be subrogated to the right of the applicant to
11 collect damages from the person or persons responsible for
12 the injury or death and the state shall be entitled to
13 bring an action against the responsible person or persons
14 for the amount of the damages sustained by the applicant.

15 (b) The applicant or other recipient must give writ-
16 ten notice to the board of the making of a claim or demand
17 or the filing of a suit for the damages specified in sub-
18 section (a) of this section.

19 1-1085. Waivers and releases void; compensation
20 exempt from creditors claims. Any agreement by an indi-
21 vidual to waive, release or commute his rights under this
22 act is void. Compensation due under this act may not be

1 assigned, pledged, encumbered, released or commuted.
2 Compensation under this act is exempt from all claims of
3 creditors and from levy, execution and attachment or other
4 remedy for recovery or collection of a debt, and this
5 exemption may not be waived.

6 1-1086. Fees not chargeable. No fee may be charged
7 to the applicant in any proceeding under this act except
8 as provided by this act. If the applicant is represented
9 by counsel in making application under this act or in any
10 further proceedings provided for in this act, the counsel
11 may receive no payment for his services except an amount
12 as the board determines to be reasonable.

13 1-1087. Penalties for violation of act. Applica-
14 tions and other written documents submitted pursuant to
15 this act shall be under penalty of perjury. No compen-
16 sation under this act may be paid to an applicant who vio-
17 lates this section or knowingly acquiesces in a violation
18 of this section.

19 Section 2. This act is effective July 1, 1977.

20

(END)

FISCAL NOTE

Fiscal Note No. 731
 Requester Representative Crowley

L.S.O.	Draft
270	L1
Bill No.	Jt. Res. No.

Part I. Fiscal Data:

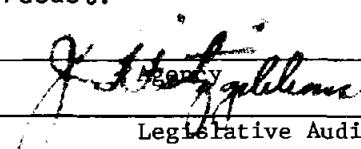
SHORT TITLE OF BILL: <u>Compensation for victims of crime</u>	STATUTORY REFERENCE Nos. <u>to create W.S.</u> <u>1-1075/1087</u>	NAME OF FUND <u>None shown</u>
AGENCY TITLE: SOURCE OF APPROPRIATION/REVENUE <u>None shown</u>		New Program (X) Change in Existing Program () Local Government Impact ()

If more than one appropriation is involved, show overall effect below, but show breakdown by appropriation and fiscal year on a separate page. Round to nearest hundred dollars.

EFFECT OF PROPOSAL	FISCAL PERIODS		
	BIENNIAL INCREASE OR (-) DECREASE		
	First Biennial	Second Biennial	Third Biennial
Salaries & Number of Personnel	\$		
Supporting Expenses			
Permanent Property			
Aids to Localities	See below.		
Other			
ESTIMATED TOTAL COST	\$		
GENERAL FUND			
FEDERAL FUND			
OTHER			
ESTIMATED TOTAL REVENUE	\$		

Part II. Explain in a clear and concise manner what effect this measure will have on the costs and revenues of state government. Specify the source of funds for appropriations. Include effect on the current biennium and also the long-range fiscal effect, if any. Show how you arrived at the estimate. Use attached sheet and any additional sheets which you may need.

The bill does not disclose funding for the board expenses. Also expenses are at the legislative rate instead of the usual state employee rate of per diem and mileage. Compensation to pay any victims must come from some appropriation which is not identified in the bill or how local government funds are to be appropriated for this purpose. Article 3, Section 35, Wyoming Constitution requires appropriations before expenditures except for interest on public debt. The possible costs involved are impossible to forecast.

Date <u>1/31/77</u>		Authorized Representative
Date	Legislative Auditor Clearance	

HB 458