

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 429, As Amended in the Senate

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CRIME VICTIMS COMPENSATION; AMENDING SECTION 72-1016, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING LIMITATIONS ON AWARDS AND TO MAKE
3 TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1019, IDAHO CODE, TO RE-
4 VISE A PROVISION REGARDING PAYMENT FOR THE COSTS OF FORENSIC AND MEDICAL
5 EXAMINATIONS OF ALLEGED VICTIMS OF SEXUAL ASSAULT AND TO MAKE TECHNICAL
6 CORRECTIONS.
7

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

9 SECTION 1. That Section 72-1016, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 72-1016. LIMITATIONS ON AWARDS. (1) Compensation may not be awarded
12 unless the claim is filed with the commission within one (1) year after the
13 day the criminally injurious conduct occurred causing the injury or death
14 upon which the claim is based. The time for filing a claim may be extended by
15 the commission for good cause shown.

16 (2) Compensation may not be awarded to a claimant who is the offender or
17 an accomplice of the offender or to any claimant if the award would unjustly
18 benefit the offender or accomplice.

19 (3) Compensation may not be awarded unless the criminally injurious
20 conduct resulting in injury or death was reported to a law enforcement of-
21 ficer within seventy-two (72) hours after its occurrence or the commission
22 finds there was good cause for the failure to report within that time.

23 (4) In order to be entitled to benefits under this chapter, a claimant
24 must fully cooperate with all law enforcement agencies and prosecuting
25 attorneys in the apprehension and prosecution of the offender causing
26 the criminally injurious conduct. The commission, upon finding that the
27 claimant or victim has not fully cooperated with appropriate law enforce-
28 ment agencies or prosecuting attorneys, may deny or reconsider and reduce an
29 award of compensation.

30 (5) Subject to the limitations on payments for the costs of forensic and
31 medical examinations of alleged victims of sexual assault described in sec-
32 tion 72-1019(2), Idaho Code, compensation otherwise payable to a claimant
33 shall be reduced or denied to the extent the compensation benefits payable
34 are or can be recouped from collateral sources.

35 (6) Persons serving a sentence of imprisonment or residing in any other
36 public institution ~~which~~ that provides for the maintenance of such persons
37 are not entitled to the benefits of this chapter.

38 (7) (a) Compensation may be denied or reduced if the victim contributed
39 to the infliction of death or injury with respect to which the claim is
40 made. Any reduction in benefits under this ~~subsection~~ paragraph shall
41 be in proportion to what the commission finds to be the victim's contri-
42 bution to the infliction of death or injury.

1 (b) Compensation otherwise payable to a claimant shall be reduced by
2 fifty percent (50%) if at the time the injury was incurred the claimant
3 was engaged in a felony or was in violation of section 18-8004 or
4 67-7034, Idaho Code, and compensation otherwise payable may be further
5 reduced pursuant to regulation of the industrial commission if the
6 claimant's actions contributed to the injury.

7 SECTION 2. That Section 72-1019, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 72-1019. COMPENSATION BENEFITS. (1) A claimant is entitled to weekly
10 compensation benefits when the claimant has a total actual loss of wages due
11 to injury as a result of criminally injurious conduct. During the time the
12 claimant seeks such weekly benefits, the claimant, as a result of such in-
13 jury, must have no reasonable prospect of being regularly employed in the
14 normal labor market. The weekly benefit amount is sixty-six and two-thirds
15 percent (66 2/3%) of the wages received at the time of the criminally in-
16 jurious conduct, subject to a maximum of one hundred seventy-five dollars
17 (\$175). Weekly compensation payments shall be made at the end of each two (2)
18 week period. No weekly compensation payments may be paid for the first week
19 after the criminally injurious conduct occurred, but if total actual loss
20 of wages continues for one (1) week, weekly compensation payments shall be
21 paid from the date the wage loss began. Weekly compensation payments shall
22 continue until the claimant has a reasonable prospect of being regularly em-
23 ployed in the normal labor market.

24 (2) The commission may order payment of reasonable expenses actually
25 incurred by the claimant for reasonable services by a physician or surgeon,
26 reasonable hospital services and medicines, mental health counseling and
27 care, and such other treatment as may be approved by the commission for the
28 injuries suffered due to criminally injurious conduct. Payment for the
29 costs of forensic and medical examinations of alleged victims of sexual
30 assault performed for the purposes of gathering evidence for possible pros-
31 ecution, after collections from any federal or federally-financed third
32 party who has liability, shall be made by the commission; provided however
33 that payment for the costs of forensic and medical examinations of alleged
34 victims under eighteen (18) years of age shall be made by the commission af-
35 ter collections from any third party who has liability. The commission shall
36 establish a procedure for summary processing of such claims.

37 (3) (a) The dependents of a victim who is killed as a result of crim-
38 inally injurious conduct are entitled to receive aggregate weekly
39 benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the
40 wages received at the time of the criminally injurious conduct causing
41 the death, subject to a maximum of one hundred seventy-five dollars
42 (\$175) per week. Weekly compensation payments shall be made at the end
43 of each two (2) week period.

44 (b) Benefits under ~~subsection (3) paragraph~~ (a) of this subsection
45 shall be paid to the spouse for the benefit of the spouse and other
46 dependents unless the commission determines that other payment ar-
47 rangements should be made. If a spouse dies or remarries, benefits
48 under ~~subsection (3) paragraph~~ (a) of this subsection shall cease to be

1 paid to the spouse but shall continue to be paid to the other dependents
2 ~~se~~ as long as their dependent status continues.

3 (4) Reasonable funeral and burial or cremation expenses of the vic-
4 tim, together with actual expenses of transportation of the victim's body,
5 shall be paid in an amount not exceeding five thousand dollars (\$5,000) if
6 all other collateral sources have properly paid such expenses but have not
7 covered all such expenses.

8 (5) (a) Compensation payable to a victim and all of the victim's de-
9 pendents in cases of the victim's death, because of injuries suffered
10 due to an act or acts of criminally injurious conduct involving the same
11 offender and occurring within a six (6) month period, may not exceed
12 twenty-five thousand dollars (\$25,000) in the aggregate.

13 (b) The limitation of ~~subsection (5)~~ paragraph (a) of this subsection
14 is subject to the further limitation that payments for mental health
15 treatment received as a result of the victim's injury may not exceed two
16 thousand five hundred dollars (\$2,500) unless the industrial commis-
17 sion finds extenuating circumstances. If the commission finds a victim
18 to have extenuating circumstances as defined in section 72-1003, Idaho
19 Code, the victim is eligible for payments up to the maximum benefit al-
20 lowed under paragraph (a) of this subsection ~~(5)~~. The commission shall
21 reevaluate the victim's qualifications for extenuating circumstances
22 not less often than annually.

23 (6) Compensation benefits are not payable for pain and suffering or
24 property damage.

25 (7) (a) A person who has suffered injury as a result of criminally
26 injurious conduct and, as a result of such injury, has no reasonable
27 prospect of being regularly employed in the normal labor market, who was
28 employable but was not employed at the time of such injury, may in the
29 discretion of the commission be awarded weekly compensation benefits in
30 an amount determined by the commission not to exceed one hundred fifty
31 dollars (\$150) per week. Weekly compensation payments shall continue
32 until the claimant has a reasonable prospect of being regularly em-
33 ployed in the normal labor market or for a shorter period as determined
34 by the commission. The claimant shall be awarded benefits as provided
35 in subsection (2) of this section.

36 (b) The dependents of a victim who is killed as a result of criminally
37 injurious conduct and who was employable but not employed at the time of
38 death, may, in the discretion of the commission, be awarded, in an ag-
39 gregate amount payable to all dependents, a sum not to exceed one hun-
40 dred fifty dollars (\$150) per week, which shall be payable in the manner
41 and for the period provided by subsection (3) (b) of this section or for
42 such shorter period as determined by the commission. The claimant shall
43 be awarded benefits as provided in subsection (4) of this section.

44 (c) Compensation payable to a victim or a victim's dependents under
45 this subsection may not exceed twenty thousand dollars (\$20,000), and
46 the limitations of subsection (6) of this section apply to compensation
47 under this subsection ~~(7)~~.

48 (8) Amounts payable as weekly compensation may not be commuted to a lump
49 sum and may not be paid less frequently than every two (2) weeks.

1 (9) (a) Subject to the limitations in ~~subsections (9)~~ paragraphs (b)
2 and ~~(9)~~(c) of this subsection, the spouse, parent, grandparent, child,
3 grandchild, brother or sister of a victim who is killed, kidnapped, sex-
4 ually assaulted or subjected to domestic violence or child injury is en-
5 titled to reimbursement for mental health treatment received as a re-
6 sult of such criminally injurious conduct.

7 (b) Total payments made under ~~subsection (9)~~ paragraph (a) of this
8 subsection, may not exceed five hundred dollars (\$500) for each person
9 or one thousand five hundred dollars (\$1,500) for a family.

10 (c) With regard to claims filed pursuant to this section, in order for
11 family members of victims of crime to be entitled to benefits, the vic-
12 tim of the crime must also have been awarded benefits for the crime it-
13 self.

14 (10) A claimant or a spouse, parent, child or sibling of a claimant or
15 victim may be reimbursed for his or her expenses for necessary travel in-
16 curred in connection with obtaining benefits covered pursuant to this chap-
17 ter and in accordance with rules of the commission.