

ALABAMA CRIME VICTIMS'
COMPENSATION COMMISSION
CRESCENT CENTER SUITE 300
2400 PRESIDENTS DRIVE
MONTGOMERY, ALABAMA 36116



ANNUAL REPORT

OCTOBER 1, 2004 to SEPTEMBER 30, 2005

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PROLOGUE

We Hear The Need for Help

Violent crime continues to rise. Every day there is news about violence — murder, assault, rape. The criminal's rights, punishments and release are public knowledge. However, we are not made aware of the pain and suffering of the victims and their families which continues long after the crime has occurred.

In an effort to alleviate the hardships suffered by victims of crime, the Alabama Legislature passed the Alabama Crime Victims Compensation Commission Law June 1, 1984. The Alabama Crime Victims Compensation Commission provides the only substantial financial compensation to victims for expenses for personal injuries including medical, funeral, counseling bills, lost wages and emergency funds. All applications must meet eligibility criteria before compensation may be awarded.

As of July 27, 1995, in sexual abuse crimes and offenses, Alabama law provides for the cost of medical examinations for the purpose of

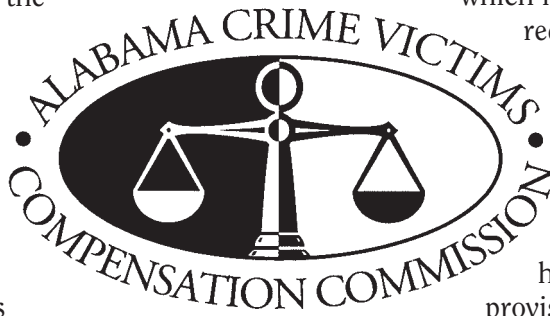
gathering evidence and treatment for preventing venereal disease.

This assistance lessens the financial burden on innocent victims of violent crime and helps violent crime victims begin to rebuild their lives after the trauma of victimization.

One of the features of Alabama's law which makes it unique is the requirement to include on the three-member Commission a victim of a crime of violence who suffered serious personal injury, or a homicide survivor. This provision insures that each

claim is viewed through the eyes of a victim. The law also provides that one member must be a law enforcement officer with a minimum of 10 years experience in or with a law enforcement agency that investigates violent crimes. This provision lends a great deal of expertise to the decision making process.

The Commission is also pleased to offer language assistance free of charge to persons with limited English proficiency.





Martin A. Ramsay
Executive Director

ALABAMA CRIME VICTIMS COMPENSATION COMMISSION

P. O. Box 1548 (36102-1548)
Crescent Center, 2400 Presidents Drive, Suite 300
Montgomery, AL 36116-1617



Commissioners
Miriam Shehane
Barbara Brown
Chief Rick Singleton

Honorable Bob Riley
Governor of Alabama
Alabama State Capitol
Montgomery, Alabama 36130

Honorable Members of the State Legislature
State of Alabama
Alabama State House
Montgomery, Alabama 36130

Dear Governor Riley, Ladies and Gentlemen:

On behalf of the Commissioners of the Alabama Crime Victims Compensation Commission and this office, it is my honor to submit the Annual Report of the Alabama Crime Victims Compensation Commission for the period October 1, 2004, through September 30, 2005. The report comprises the areas of responsibility of the Commission, as well as activities the Commission has endeavored to present and sustain each year.

This year, approximately \$3.3 million in compensation was provided by the Commission to victims of violent crimes for financial losses they incurred as a result of their victimization. Since the inception of the Crime Victims Compensation Commission in 1984, more than \$65,000,000 has been provided to innocent victims of crime in Alabama. That we are able to continue to operate for the best interests of the citizens of Alabama is a testament to the support the Commission has received from your office and the Alabama Legislature. We are indebted to the law enforcement officers, judges, district attorneys, victim service officers, and victim advocacy groups that assist the innocent victims of crime we proudly serve.

Thank you for the continuing opportunity to be of service to crime victims and their families.

Respectfully,

Martin A. Ramsay
Executive Director

MAR/kz

Meeting the Critical Needs of Crime Victims

(334) 290-4420, 1-800-541-9388, Fax (334) 290-4455
Website: www.acvcc.state.al.us



Governor Appoints Commission



Barbara Brown

Mrs. Barbara Brown was appointed to the Alabama Crime Victims Compensation Commission as the crime victim representative to serve a four-year term in November 1996 by Governor Fob James. She was reappointed to serve a second term on February 13, 2001 by Governor Don Siegelman. In 2004, Mrs. Brown was reappointed to serve for another four-year term by Governor Bob Riley. Mrs. Brown is the mother of two murdered sons, Brandon, age 19 years, and Horace Jr. age 28 years. Although no arrests have been made in either of her sons' brutal murders, she does not allow herself to rest from seeing that the murderers are brought to justice. Effective April 3, 2001, Mrs. Brown and others saw the passage of a Resolution designating that April 4, 2001, be declared as National Anti-Murder Awareness Day and The Purple Ribbon as the National Symbol Against Violence. Mrs. Brown's attitude of "we can all do something, and should never stop trying to make a difference for crime victims," makes her an outstanding role model for everyone. Barbara and her husband Horace have a daughter and reside in Selma, Alabama.



Miriam Shehane

Miriam Shehane was appointed to the original Commission in 1984 for a four-year term by Governor George Wallace and was reappointed by Governor Guy Hunt in 1988. She served until 1992 and was reappointed in July 1993 by Governor Jim Folsom, July 20, 1998 by Governor Fob James, July 2001 by Gov. Siegelman. She is a former banker and has worked as the victim service officer in the District Attorney's office in Montgomery and as the supervisor of the Attorney General's Office of Victim Assistance Division. Mrs. Shehane's dedication to the victims' movement in Alabama has been acknowledged throughout the nation where she has been asked to speak at national conferences on victims' issues. Mrs. Shehane was one of the founding members of the Victims of Crime and Leniency (VOCAL) organization, and has served on the Board since its inception in 1982. She found out about the trauma of victimization first hand when her twenty-one year old daughter Quenette, was murdered in 1976 while enrolled at Birmingham Southern. Miriam and her husband Edward have two children and seven grandchildren and reside in Clio, Alabama.



Chief Rick Singleton

Chief Rick Singleton was appointed to the Commission in June 2003 by Governor Bob Riley to serve a four-year term as the law enforcement representative. He has served as the Chief of Police of the Florence Police Department since 1996. He began his career in 1972, serving as deputy sheriff with the Lauderdale County Sheriff's office. Chief Singleton holds a Bachelor of Science in Law Enforcement and Business Administration from the University North Alabama and a Master's Degree of Science in Criminal Justice from the University of Alabama at Tuscaloosa. Chief Singleton is active in numerous civic and community activities. Chief Singleton's training and expertise in the field of front line law enforcement adds a dimension that will no doubt lend credit to the work of the commission, as claims are reviewed and decision are made. He and his wife Peggy have two children, and reside in Florence, Alabama.



From the Executive Director



Martin A. Ramsay
Executive Director

Martin A. Ramsay has served as Executive Director of the Alabama Crime Victims Compensation Commission since February 28, 2000. Since his tenure with the Commission, he has been responsible for increasing claims production and achieving the highest payout of compensation benefits ever paid to victims of violent crime in the state of Alabama in one fiscal year.

Prior to his work with the Commission, Mr. Ramsay served 12 years at the Alabama Administrative Office of Courts as State Coordinator of Court Referral Programs and Assistant Director of Trial Court Services Division. He was responsible for the implementation and management of the Alabama Court Referral Program network and the Mandatory Treatment Act.

Mr. Ramsay holds a Bachelor's degree in Criminal Justice from Troy State University in Montgomery and a Master's degree in Justice and Public Safety, with major coursework in Judicial Administration, from Auburn University at Montgomery (AUM). Additionally, he is a *Fellow* with the National Center of State Courts, Institute of Court Management, located in Williamsburg, Virginia. He is also an adjunct professor at AUM and teaches in the Criminal Justice Department.

In addition to his work within the criminal justice system, Mr. Ramsay has over twenty years experience in the substance abuse field. He is certified as a Master's Level Addictions Professional, Certified Alcohol and Drug Abuse Professional, Certified Criminal Justice Addictions Professional, Certified Prevention Manager and an Internationally Certified Alcohol and Drug Abuse Professional. Mr. Ramsay feels that "the years he has spent working with victims of violent crime have been the most rewarding of his career."

Alabama Crime Victims Compensation Commission
P.O. Box 1548
Montgomery, Alabama 36102-1548



HISTORY



State Agency Formed

Created by the Legislature in May of 1984, Alabama became the 40th state to pass a law to compensate victims of violent crime. Alabama has a unique program that incorporates the best of many other states' programs, as well as some original ideas of its own.

Law Amended

In 1986, amendments to the ACVCC law were passed to require all felons to pay a victim assessment fee.

In the 1990 regular session of the Legislature, amendments passed which increased the limits for funeral expenses from \$2,000 to \$3,000. This new amendment also provided additional funding for district attorneys to allow for at least one victim service officer in each circuit.

In the 1995 regular session of the Alabama Legislature, amendments to the law were passed which authorized payments for sexual assault examinations; further defined reasons for diminishing or denying compensation awards; and clarified that additional costs and assessments shall be assessed in certain juvenile and youthful offender cases.

1995 was a historic year for crime victims in Alabama because that is the year the Alabama Constitution was amended to include certain rights for victims of crime. This constitutional amendment provides that within seventy-two hours of the criminal event, the law enforcement agency investigating the crime will provide the victim with a form in which to invoke his/her rights pursuant to the constitution. Further, the form given by the law enforcement officer will inform the victim of the existence and availability of financial assistance from the Commission. This constitutional amendment has made it possible for more victims to be notified of the Commission and the benefits that it has to offer.

As of May 1, 1998, during the 1997/1998 regular session of the Alabama Legislature, the law was again amended to make the following changes:

- Criminally Injurious Conduct shall include the act of terrorism as defined in § 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state.
- Raised the maximum award allowance from \$10,000 to \$15,000.
- Increased the allowable for expenses relating to funeral, cremation, or burial from \$3,000 to \$5,000.
- Increased compensation for work loss, replacement services loss, and dependents' replacement service loss from \$200 to \$400 per week.
- Raised the maximum allowable expense not to exceed \$5,000 for all future economic loss.
- Clarifying language was added to §15-23-4 to keep the names and addresses of the victim or claimant confidential.
- Language was added to §15-23-12 to clarify the circumstances for filing with the Commission later than one year after the injury or death upon which the claim is based "unless" the Commission finds good cause.



- Language was added to §15-23-12 to clarify reporting to a law enforcement officer “later than” seventy-two hours after the crime occurrence, unless the Commission finds there was good cause for the failure to report within that time.

History of Compensation Payments

Over the past twenty years, the Commission has received over 34,000 applications from crime victims, and awarded more than \$65,000,000 for their actual financial losses. The graph below shows the years the claims were received and the total dollars paid:

TOTAL CLAIMS RECEIVED & PAID		
FY	RECEIVED	# PAID
84/85	215	226,638
85/86	457	704,889
86/87	563	1,019,933
87/88	653	1,507,203
88/89	829	1,935,809
89/90	1,128	2,518,898
90/91	1,557	3,628,024
91/92	1,576	3,385,069
92/93	1,499	3,053,654
93/94	1,495	3,403,686
94/95	1,485	3,176,429
95/96	1,633	3,130,017
96/97	1,712	3,387,091
97/98	1,716	3,209,107
98/99	1,819	5,962,583
99/00	1,889	3,948,364
00/01	2,508	5,105,190
01/02	2,997	6,207,440
02/03	2,793	3,510,262
03/04	2,806	3,255,164
04/05	2,893	2,977,545
TOTAL	34,223.00	65,252,995.00



Publications

Brochures created by the Commission are made available at no cost to groups providing services to violent crime victims at their training events.

- The Trial Process: Your Rights and Responsibilities as a Victim
- Innocent Victims of Crime Can Now Get Help
- A Guide to Survival For Family and Friends of Homicide Victims
- After the Trial: The Correction Process
- How Victims of Crime Can Receive Restitution for Losses
- Numerous brochures on victim specific assistance

Books

What's Left After Crime? HOPE (Revised 1998)



CLAIMS PROCESS



The Compensation Process

The Alabama Crime Victims Compensation Commission is dedicated to providing financial compensation to innocent victims of violent crime to the extent possible in a sensitive and timely manner. Alabama law grants the Commission authority to promulgate rules which further define the compensation process and claim eligibility requirements. The agency is organized as follows

The purpose of the Commission's **Administration** section is to oversee the day-to-day functioning of the agency. Administration is composed of the Executive Director's office, Staff Attorney/Personnel, Executive Secretary, Restitution Recovery, and Reception.

The **Executive Director** reviews all claims prior to the Commission meeting and renders decisions on claims less than \$2,000. The Director is accountable for the efficiency of the office to the Commission Board Members.

The **Executive Secretary** functions as an assistant to both the Executive Director and the Legal/Personnel Department. This position provides crucial support services in both these areas.

Legal/Personnel is responsible for agency legal responsibilities including appeal hearings and court appearances. The attorney also manages all agency personnel matters and promulgates rules, regulations and policies and procedures, at the Commission's request.

In 2002, the ACVCC implemented a designated **Restitution Recovery Unit** to seek ways to improve the collection restitution, subrogation fees and other court ordered monies. Two positions were revised through the Alabama State Personnel Department that consists of two Crime Victims Compensation Specialists with restitution officer designations. The role of the Restitution Recovery Officer is to:

- Work with DA's and circuit clerks to ensure the court orders or amends restitution for ACVCC.
- Provide information to VSO's and restitution officers to assist them in collecting outstanding restitution.
- Provide training to court officials, various agencies and the general public.
- Notify the Parole Board of any outstanding restitution owed by inmates who are scheduled for a parole hearing.
- Notify victims and civil attorneys of the Commission's subrogation rights when civil suits arise out of the violent crime.

The **Receptionist** answers incoming calls to the agency. The Receptionist is often a victim's first contact with the Commission. This post also distributes all mail, routes incoming telecommunications, as well as disseminates compensation applications and literature

The **Claims Divisions** are responsible for processing incoming compensation applications from victims and claimants. Administrative support assistants receive new claims, enter them into the system and do all preliminary work to establish the eligibility of the claim.

Claims are then assigned to a Crime Victims Compensation Specialist for investigation. The Specialist determines eligibility based upon the law and the Administrative Code. After contacting all parties



associated with the claim (Victim/Claimant, Law Enforcement, Forensics, medical service providers, Court officials and others), the completed claim is presented to the Commission or Executive Director for decision.

Two ***Claims Divisions*** comprise three distinct areas of claims:

- *Regular Claims* pertain to the majority of claims received that are not specific to homicide, domestic violence or sexual assault. These claims are assault, kidnapping, manslaughter, robbery, sodomy, leaving the scene of an accident and DUI related accidents, stalking, attempted rape, child physical abuse, attempted murder, harassment and human trafficking.
- Homicide claims are investigated by one crime victims compensation specialist in each team. These specialists are supported by administrative support assistants and their respective team claims manager. During the last fiscal year, the homicide specialists processed 306 homicide claims for presentation to the Commission for decision. The homicide specialists are very aware that each of these claims represents a family devastated by tragedy and loss. In all claims, each claimant/victim/survivor is contacted personally.
- The ***Domestic Violence and Sexual Assault*** unit handles two other specialized areas. Claim applications for the domestic violence cases are available through certified shelters and are limited to \$1,000, for a victim's immediate out-of-pocket expenses. Additional expenses exceeding the \$1,000 maximum award may be applied for through the regular claim application process if the victim meets the eligibility criteria for both types of claims. The Commission provides training to domestic violence shelters' staff to ensure that eligible victims receive any available assistance.

In sexual assault cases, the Commission provides for the costs of medical examinations for the purpose of gathering evidence and for the treatment and prevention of sexually-transmitted diseases. When medical personnel evaluate a sexual assault victim, a forensic evidence kit is collected. The bill for these services is then forwarded to the Commission for payment consideration. This program began in 1995 to ensure that sexual assault victims would not have to pay for the collection of forensic evidence. Additional expenses incurred by sexual assault victims may be applied for through the regular claim application process. The Commission provides training to hospitals, rape crisis centers and SANE clinics to make certain that the charges for forensic evidence collection are not billed to sexual assault victims.

In addition to investigating claims, crime victims compensation specialists assist violent crime victims in obtaining needed services from other entities. Through their personal contacts with victims, the specialists are able to discern what the victims'/claimants'/survivors' needs are and assist them with referrals to community resources for counseling and other assistance.

The ***Information Technology Services Division*** of the Commission manages the technology used by the staff of the ACVCC in providing services to victims. The IT Division:

- Performs as the agency's system administrator, directing the daily activities of the Technical Services section.
- Serves as the agency contact with outside vendors and other state agencies for issues involving technology.
- Establishes hardware and software requirements of the agency and recommends product purchases to meet these needs.
- Provides training, serves as the technical training contact and provides technical assistance to agency staff as needed.
- Serves as the database administrator which includes overseeing design, implementation, and mining of agency data to ensure proper production of documentation, correspondence and statistics.



- Performs as the agency's e-mail postmaster and as the agency contact for the Unified State e-mail service.
- Staff performs as the agency's help desk and maintains all backup materials of the database and network.
- Assists with data correction, validation, and integrity on the agency database, and maintains the agency web site.

The **Accounting Division** is responsible for:

- Processing all monthly claims checks to victims, claimants and service providers.
- Revenue collection which consists of collection of city court traffic infractions, misdemeanors and/or violation of municipal ordinances and any felonies. In addition to city fines, county fines are also collected in misdemeanors, felonies and victim assessment fees, as well as city and county restitution and civil suit litigation.
- Managing accounts payable and receivable and preparing the agency budget for the Commission. This division also prepares monthly financial reports and maintains agency inventory.

Very few compensation programs in America have the advantage of having an accounting division within the compensation program. The opportunity to totally process a claim, from beginning to conclusion, within the agency is beneficial to victims. The Commission is an autonomous state agency. This eliminates the need for outsourcing most needs and expedites services to violent crime victims.

Filing a Claim for Victim Compensation

How to Apply

A crime victim or their representative (claimant) may apply by completing and signing a compensation application. Information about the Commission may be obtained by calling (334) 290-4420 or toll-free at 1-800-541-9388 (victims only), or you may visit our website at www.acvcc.state.al.us. Applications and brochures are generally available at district attorney's offices, sheriffs' offices and police departments. The application is also available on the website for downloading. A Spanish language version of the application may also be downloaded from the Commission's website. The Commission offers free language assistance to persons with limited English proficiency at no cost to them. Each district attorney's office has a victim service officer (VSO), who is available to inform and assist victims with compensation applications. The Commission staff is also available to answer questions and assist in completing the application.

Who Qualifies for Compensation?

Any person who is an innocent victim of criminally injurious conduct and who has sustained personal injuries as a result, or a surviving spouse or child of a victim who died as a result of criminally injurious conduct or a person authorized to act on behalf of a victim or a dependent may be eligible for compensation. All applicants must meet all eligibility criteria before compensation can be awarded.

What Compensation Covers?

Currently, the maximum award is \$15,000 with limitations on certain expenses. The award may cover the following:

- **Medical care** - including doctor and hospital care, dental expenses, prescriptions, medical supplies, inpatient psychiatric care, etc. This does not include expenses covered by insurance.



- **Counseling expenses** - including counselor, psychologist or psychiatric fees for counseling, unless covered by another source. This category is limited to fifty sessions or \$6,250, or up to \$8,000 for exigent circumstances. Payments are limited to \$80 per hour for licensed professional counselors and social workers; \$100 per hour for psychologists; and \$125 per hour for psychiatrists. The rate for group therapy is \$60 per hour.
- **Funeral expenses** - including funeral home expenses, cremation, burial expenses (including monument) is \$5,000. Expenses for flowers, clothing or limousines do not qualify for reimbursement.
- **Work Loss** - including the victim, claimant or immediate family member's net (take-home) weekly pay for a reasonable length of absence from work. There is a maximum of \$400 per week for work loss, annual leave, sick leave, personal leave or holiday, up to \$10,400 for twenty-six weeks may be considered.
- **Rehabilitation expenses** - including vocational or physical therapy, if not covered by another agency or source.
- **Property expenses** - including only property taken as evidence by law enforcement which was soiled or damaged as the result of the violent crime. This does not include automobile repair, insurance deductible, appliances or money. Damaged property, not to exceed \$500 for clothing, \$1,000 for real property or \$1,000 for damaged property. A maximum of \$1,000 may be awarded for eligible property expenses.
- **Moving expenses** - including security deposits, utility deposits and moving costs. There is a maximum available award of \$1,000 for moving expenses. This is only considered in extreme circumstances when the victim is in imminent physical danger and when the offense occurred at home.
- **Future economic loss** - future or additional expenses of loss to the victim or victim's dependents must be justified with explanation of how losses were calculated. The maximum award possible is \$5,000.
- **Replacement services loss** - expenses claimant would not have suffered had the victim lived. There is a maximum of \$1,500.

In fiscal year '04-'05, due to budget constraints, the Commission approved an emergency rule to provide payment of 50% of eligible medical expenses to service providers. If the victim provided payment for medical expenses, the victim was compensated at 100% for eligible out-of-pocket expenses.

The Commission pays only those expenses that are not covered by another source, such as insurance, workman's compensation, etc. The Commission will not award compensation if it results in a double recovery for the victim or claimant. Stolen property, checks and cash are not eligible for reimbursement.

In all other award categories, the victim was compensated at 100% of eligible expenses.

Supplemental Awards

Provision is made for payment of a supplemental award as additional bills arise. The victim or claimant need only submit the bills to the Commission as part of the original claim request. The Commission will review the supplemental request for eligibility. In cases where the compensation request for a supplemental award is \$1,000 or less, the executive director may rule on the eligibility of the claim.

Emergency Awards

Provision is also made for payment of emergency awards in cases where urgent need is apparent and requested.



Special Awards for Domestic Violence Victims

Provision is also made to meet the urgent needs of victims of family violence. A special emergency award is available under certain conditions as established in the Commission's administrative code.

Special Awards for Sexual Assault Crimes

In July of 1995, Alabama law was amended to allow medical providers to submit bills for the charges of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses. This step was taken in an effort to relieve the victim of the burden of being responsible for paying for the gathering of criminal evidence.

What Happens After I Apply?

When an application is received by the Commission, it begins the processing of the compensation claim. The application is date-stamped, entered into the claims management system and assigned a claim number. This claim number remains the same throughout the processing time. An administrative support assistant, who is assigned to receive claims by county, reviews the claim, and sends out letters confirming receipt of the application and also requesting additional information as needed. The claim is then assigned to a crime victim compensation specialist for the investigation/verification process.

Ineligible Claims

Compensation shall not be awarded in any of the following circumstances:

1. If the claim is filed with the Commission later than one year from the date of the crime, unless the Commission finds good cause as to why the claim was not filed within one year.
2. If the victim of the claimant was the offender, or was an accomplice of the offender.
3. If the award would unjustly benefit the offender or accomplice of the offender.
4. If the crime was reported to law enforcement later than seventy-two hours after its occurrence, unless the Commission finds good cause as to why the crime was not reported to law enforcement within seventy-two hours.
5. If the Commission finds that the victim or the claimant has not fully cooperated with law enforcement, the courts, the prosecutor's office and/or the Commission.
6. If the Commission finds that the victim was responsible in whole or part for the cause of the injury or death.
7. If the Commission finds that the victim or claimant was convicted of a felony or criminally injurious conduct after making application for compensation.
8. If the victimization was a result of a property crime and not a violent crime with injury.
9. If the victim was engaged in illegal activity or was in an illegal place of business at the time of the incident.
10. If the victim was on probation, parole, work release or any type of custodial or non-custodial release for a violent felony conviction, at the time of his/her victimization.
11. If the victim's presence in the United States of America is not lawful (claimants/victims who are certified by federal authorities as victims of human trafficking shall be eligible for compensation benefits).



Investigation

The investigation is conducted in order to determine what happened to the victim and if the case meets the eligibility criteria set forth in the *Code of Alabama* and the Commission's administrative code. Additionally, all bills for payment are verified with the medical/service provider for accuracy. Other investigations relating to the crime such as forensics evaluation, mental health evaluation, and other relevant information are performed as needed in order to make an informed recommendation for payment. The investigation also includes determining the criminal charges against the defendant, and to determine if the criminal case has reached a final disposition. This is necessary in order to ascertain whether restitution and other court-ordered money has been ordered by the court system. When the investigation is complete, a summary statement of the victimization is presented to the three-member Commission for decision.

The Commission Decides

The Commission holds open public meeting on the second Thursday of each month and other meetings at such times and places as its members may elect. From time to time, the Commission must change the regularly scheduled meetings, and will publish these changes in the newspaper and on the Alabama Secretary of State's website.

The Commissioners review the summary of facts, and render a decision based on the facts presented. In cases in which the compensation request is \$2,000 or less, the Executive Director rules on the eligibility of the claim. If the request for compensation is approved, notices are sent to the victim or claimant informing them of the payment and to whom payment is made. This information is also sent to the district attorney, the probation office and the court clerk, so that the judge may have this information at sentencing or restitution hearings.

Appeals

If a claimant disagrees with the Commission's decision in his/her claim, the claimant may request an appeal. The appeal request must be made to the Commission in writing and also must be signed by the claimant. The Commission must receive the appeal request within thirty days of the claimant's notification of the decision.

When a timely appeal request is received, the claim is placed on the Commission's appeal docket. The Commission sends the claimant notice of the hearing via certified and regular mail. The *Notice of Administrative Appeal Hearing* advises the claimant of the procedure for the hearing and also the Commission's assertions of fact and law. The hearings are presided over by an administrative law judge; however, the three-member Commission renders the final decision in the appeal hearing. After the Commission renders its final decision, a *Final Order*, detailing the Commission's findings, is prepared and sent to the claimant via certified mail.

The Commission's Philosophy

Every claim received by the Commission is reviewed on an individual basis. No two claims are alike and each claim deserves individualized attention and review. The Commission is dedicated to providing compassionate assistance in compliance with all relevant laws and the Commission's administrative code. Each Commissioner, the Executive Director and every Commission employee strives to make the claims process as speedy and as victim-friendly as possible.

FUNDING SOURCES



Court Costs

The Commission was created to provide a means for innocent victims of violent crime and their dependents to receive compensation for eligible expenses in the amount of actual expenses incurred as a direct result of violent crime victimization. The Commission is funded solely by the collection of fines, fees, restitution and a federal grant. The clerk of court for each respective judicial circuit collects the fines, fees and restitution owed to the Commission by criminal offenders. The court clerk then remits these monies to the Commission each month. The court clerk is responsible for the important task of maintaining accurate records of the amounts due the Commission for deposit into the Crime Victims Compensation Fund.

Victim Assessment Fees

Prior to 1990, the special victim assessment fee was ordered for felony convictions and ranged from twenty-five dollars (\$25) to ten thousand dollars (\$10,000). This was amended in 1990 to add a victim assessment fee to misdemeanor convictions.

Also amended in 1990 was the felony victim assessment fee which increased the minimum judges are required to order from \$25 to \$50 with the first \$25 going to the Commission and the second \$25 going to the Office of Prosecution Services and any amount over the minimum going to the Commission. The victim assessment fees are mandatory; however, the judge does have discretion in the amount of the fee ordered. Judges are required to order the assessment for juvenile and youthful offender cases as well as adult cases.

Restitution and Civil Suit Reimbursements

By operation of law, the Commission is automatically subrogated to all of the victim's/claimant's rights to receive or recover compensation from a collateral source. This includes insurance payments and civil suit recoveries and settlements. Alabama law also requires a claimant who initiates any legal proceeding to recover restitution or damages (related to the victimization), to provide the Commission written notice of that action within fifteen days of the filing of the action.

Donations

Alabama law allows the Commission to accept gifts and donations. Although very few funds are derived through this provision, the Commission is deeply grateful to those who have generously chosen to donate to the Crime Victims Compensation Fund.



Federal Grant Funds

The Victims of Crime Act (VOCA) was passed in 1984 by an act of the United States Congress. The U.S. Department of Justice mandated by the VOCA legislation, collects fines and fees from offenders convicted of federal violations. Each year these federal funds are made available to the various states' crime victims compensation programs in the form of federal grants. The Commission makes application for reimbursement funds in an amount not to exceed 60% of the total dollars received from the court system and paid as compensation to violent crime victims.

The U.S. Attorneys, the Federal Bureau of Prisons, the Federal Probation Officers and of course the Victims of Crime Fund deserve our thanks for their diligence in collecting the federal fines and disbursing those awards to the states. These federal funds make it possible for the Commission to provide compensation benefits to all eligible victims of violent crime in Alabama.

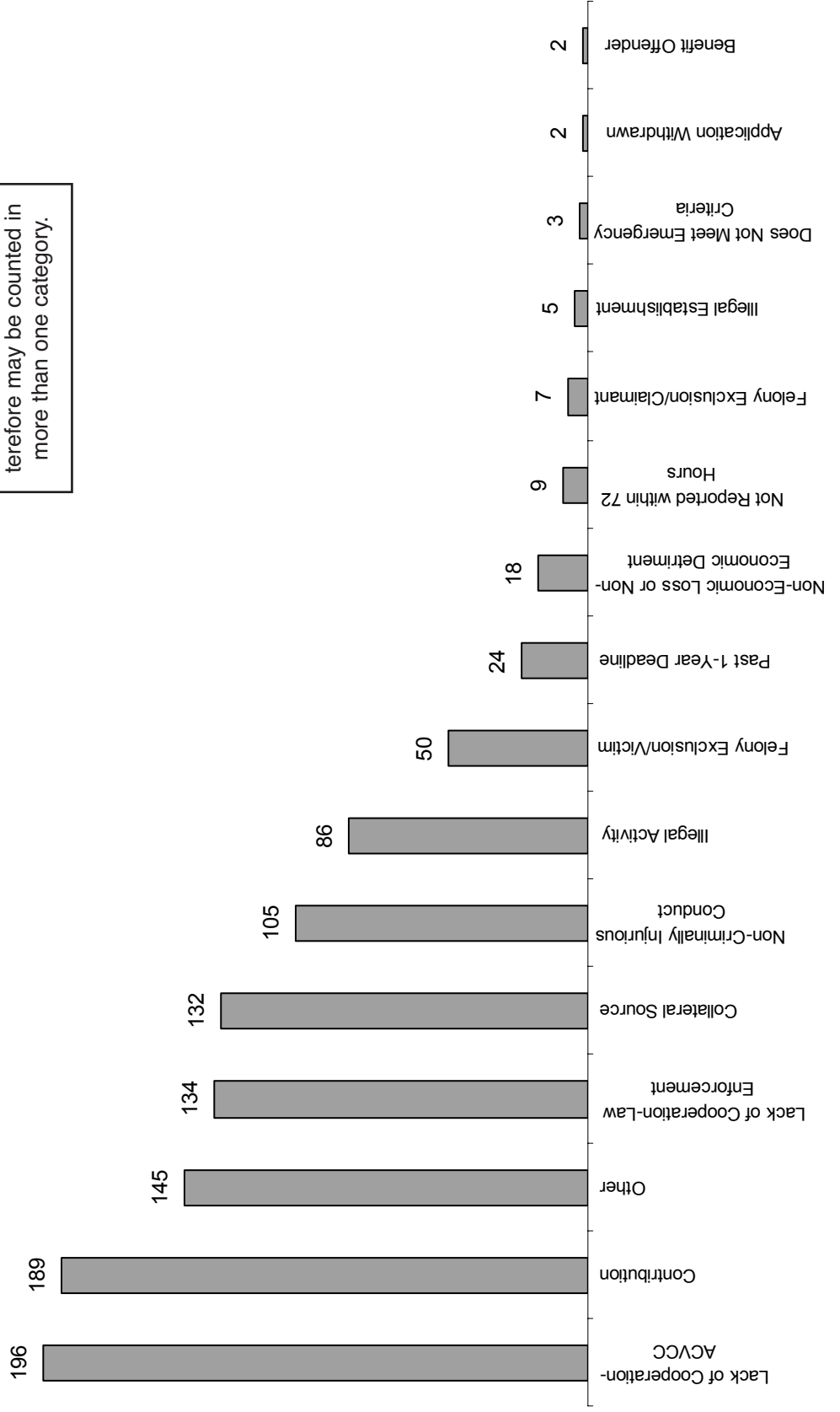
Breakdown of Approved Initial Claims by Primary Offense

Accident - No Known Crime	12
Adult Rape (over age 16)	60
Arson	3
Assault - Family	155
Assault - Non-Family	841
Attempted Murder - Family	10
Attempted Murder - Non-Family	89
Attempted Rape (Adult-Non-Family)	4
Attempted Rape (Child-Non-Family)	1
Burglary	7
Capital Murder	45
Child Physical Abuse	4
Child Rape (under age 16)	52
Child Sexual Abuse - Family	39
Child Sexual Abuse - Nonfamily	14
Criminally Negligent Homicide	3
Domestic Violence (Regular Claim)	3
Domestic Violence Award	158
DUI/DWI	11
Harassment	15
Kidnapping	13
Leaving Scene of Accident	37
Manslaughter	7
Murder - Family	26
Murder - Non-Family	166
Other	26
Robbery	46
Sexual Assault (Regular Claim)	3
Sexual Assault Exam (07-27-95)	842
Shooting Occupied Vehicle - Dwelling	4
Sodomy - Family	10
Sodomy - Non-Family	2
Stalking	2
Vehicular Assault	50
Vehicular Homicide	32

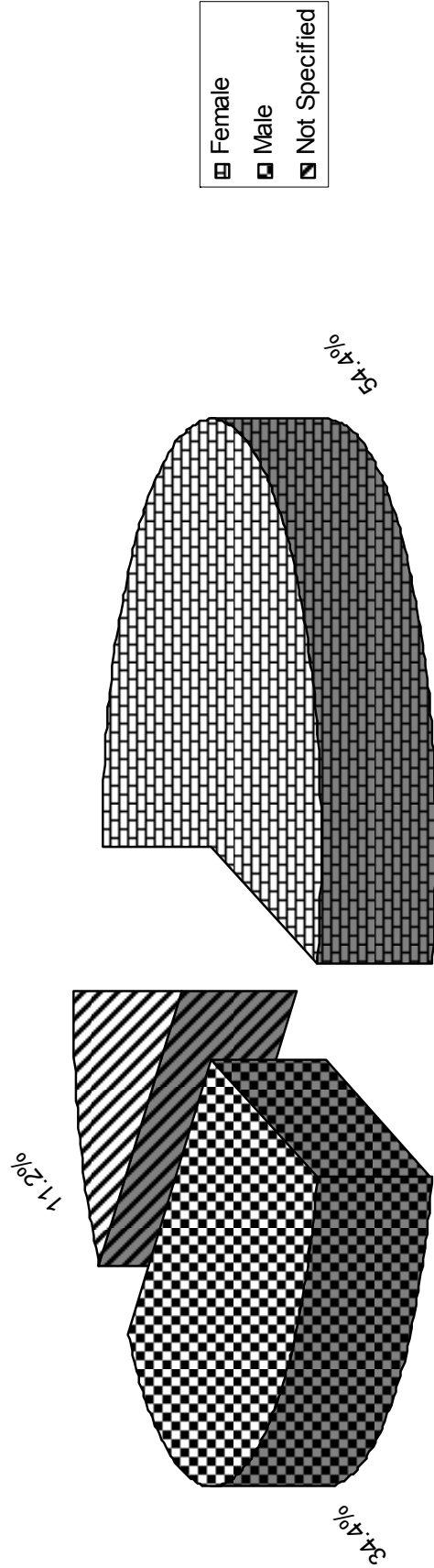


Initial Not Approved Claims by Reason

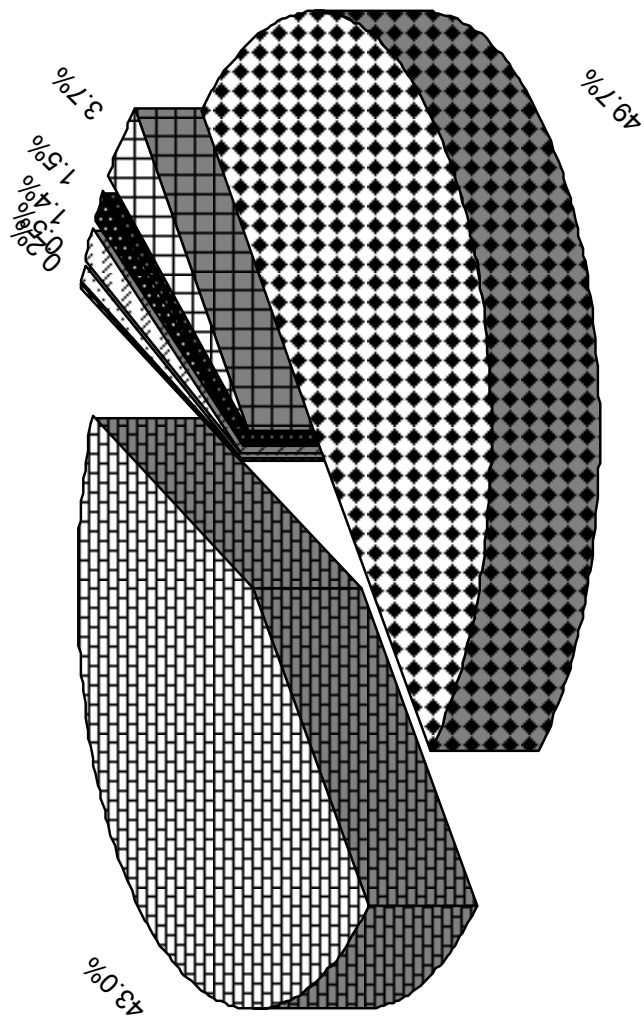
Claims may have multiple reasons for non-approval and therefore may be counted in more than one category.



Initial Claims Approved by Victim Age



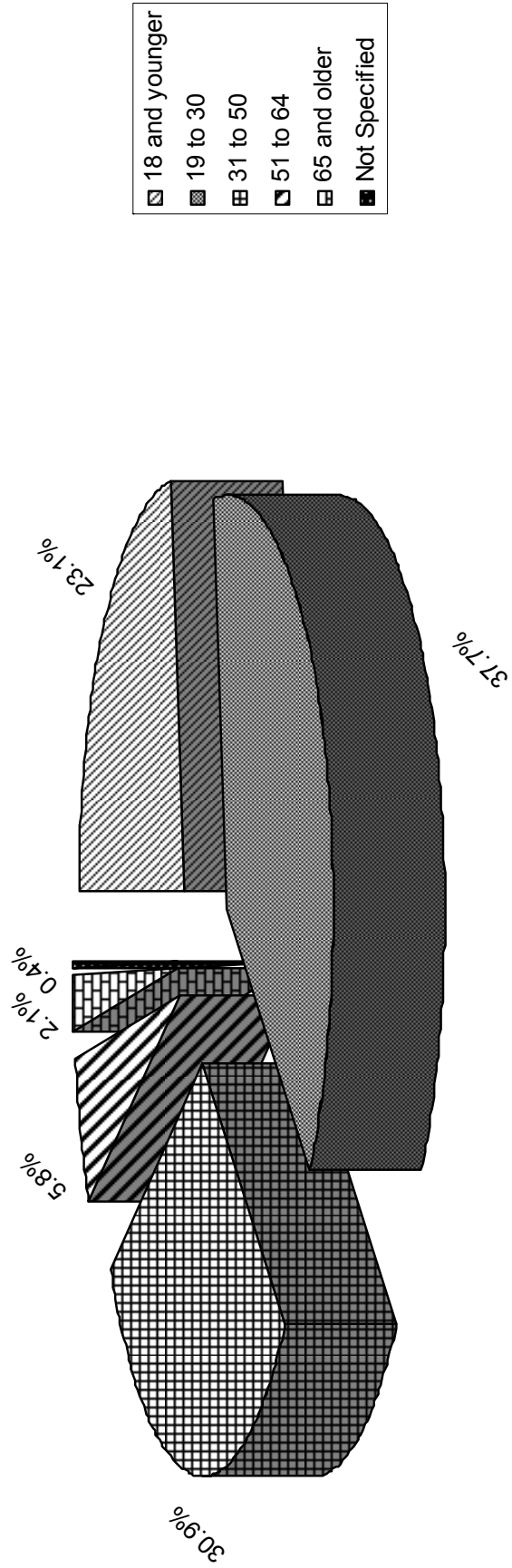
Initial Approved Claims By Ethnicity



- Black (not Hispanic)
- White
- Asian/Pacific Islander
- American/Alaskan Indian
- Hispanic
- Other
- Not Specified



Initial Approved Claims By Victim Age



Statistical Data
October 1, 2004 to September 30, 2005

Claims Received		
Regular	1466	
Homicide	359	
Domestic Violence	153	
Sexual Assault Kit Payment	915	
Total		2893
Claims Approved		
Regular	944	
Homicide	179	
Domestic Violence	114	
Sexual Assault Kit Payment	838	
Total		2075
Claims Not Approved		
Regular	758	
Homicide	127	
Domestic Violence	45	
Sexual Assault Kit Payment	29	
Total		959
Claims Processed	<small>(Does not include claims the Commission Held for Trial/Information)</small>	
Regular	1702	
Homicide	306	
Domestic Violence	159	
Sexual Assault Kit Payment	867	
Total		3034
Emergency Awards Issued		92
Claims Pending at Fiscal Year-end		669



FINANCIAL SUMMARY
October 1, 2004 - September 30, 2005

RECEIPTS

Total Court Fees - City	1,365,648.13
Total Court Fees - County	1,107,808.85
Total Victim Assessment Fees	1,140,028.04
Federal VOCA Funds	265,354.42
Restitution	333,488.59
Civil Suits	9,796.41
Interest from Investment Holdings	<5,455.63>
Miscellaneous	269.70
Total Receipts	<u>4,216,938.51</u>

DISBURSEMENTS

Awards Paid to Victims of Violent Crime	2,977,545.13
Administrative Costs:	
Personnel Costs	927,618.98
Employee Benefits	321,882.42
Travel (In-state & out-state)	7,325.32
Repairs & Maintenance	66.75
Rentals & Leases	54,539.05
Utilities & Communication	76,774.87
Professional Services	26,147.97
Office Supplies	55,045.59
Transportation Costs	3,137.13
Office Equipment	57,737.08
Miscellaneous	10,109.54
Total Administrative Costs	<u>1,540,384.70</u>
Federal Expenditures	15,534.31
Bank Charges	4,694.13
TOTAL DISBURSEMENTS	<u>4,538,158.27</u>

FUND BALANCE

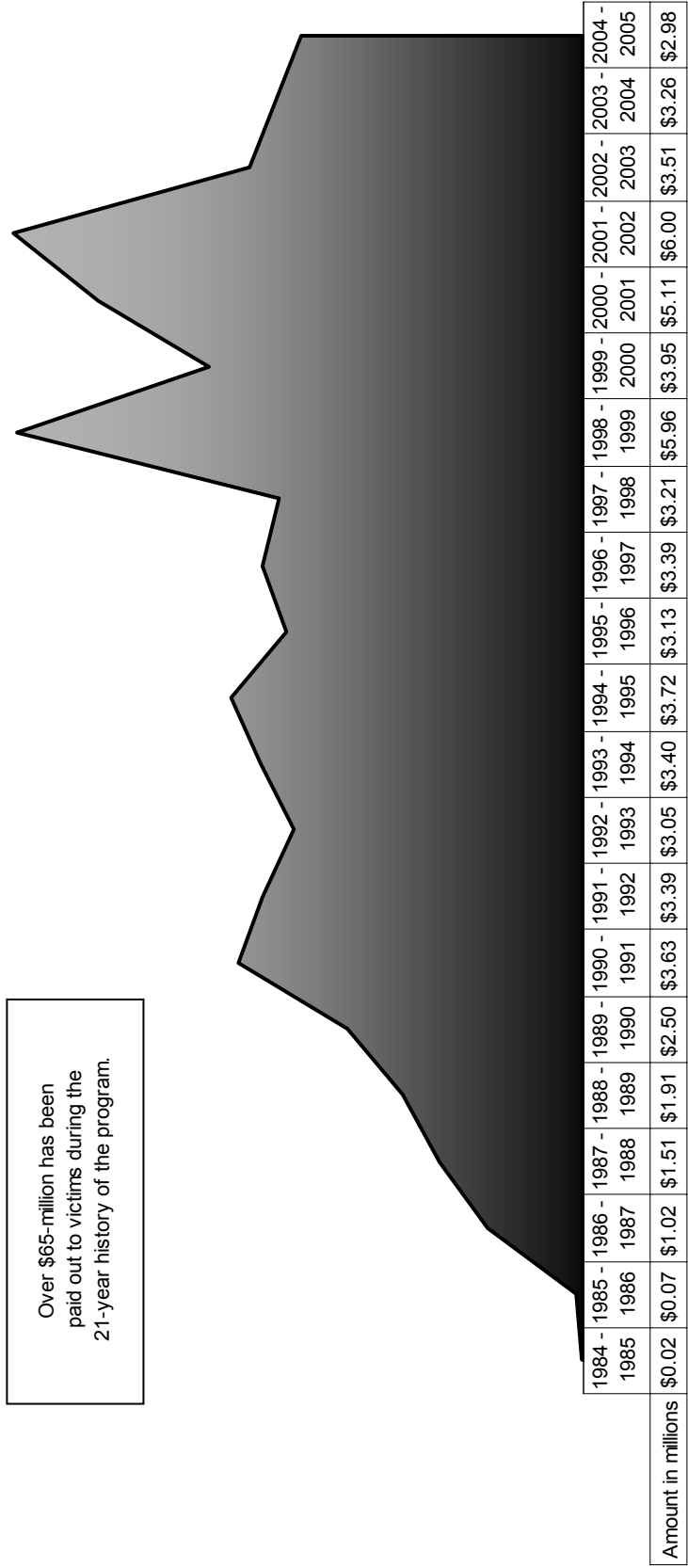
Cash Balance, October 1, 2004	7,686,829.36
Excess of Receipts over Disbursements	(321,219.76)
Cash Balance, September 30, 2005	<u>7,365,609.60</u>





Award Summary in History of Program

Over \$65-million has been paid out to victims during the 21-year history of the program.



Amount in millions

Exhibit A

Chapter 23 Alabama Crime Victims

Article 1. Crime Victims' Compensation.			
Sec.			
15-23-1	Short title.	15-23-13	Award not contingent on prosecution or conviction of offender; effect of proof of conviction; suspension of proceedings under article.
15-23-2	Legislative findings, etc.	15-23-14	Award of compensation subrogates commission to rights of claimant as to collateral source; funds recovered from collateral source held in trust for commission; disposition of trust funds; notice of action to recover damages; restitution hearings.
15-23-3	Definitions.		
15-23-4	Alabama Crime Victims Compensation Commission – Created; composition; terms; qualifications; officers; place of meeting; quorum; record of proceedings; bond; compensation.	15-23-15	Amount and method of compensation; future economic loss generally; exemption from state and local taxes, etc.
15-23-5	Alabama Crime Victims Compensation Commission – Powers and duties.	15-23-16	Alabama Crime Victims Compensation Fund; created; purposes: composition; administered or managed by commission.
15-23-6	Alabama Crime Victims Compensation Commission – Annual Report required.	15-23-17	Assessment of additional costs and penalties; collection and disposition of additional assessments, etc.
15-23-7	Audit of financial affairs of commission authorized.	15-23-18	Penalties-Influence peddling.
15-23-8	Compensation for economic loss resulting from criminal conduct – Authorized; procedure.	15-23-19	Penalties-Failure of commission member to disclose conflict of interest.
15-23-9	Compensation for economic loss resulting from criminal conduct – Collateral source contribution not required.	15-23-20	Penalties-Altercation of commission records, etc.
15-23-10	Compensation for economic loss resulting from criminal conduct- Hearing required generally; procedure in contested cases; settlement by consent order, etc.	15-23-21	Penalties-Furnishing false information; failure to disclose material fact, etc.
15-23-11	Filing claim under article constitutes waiver of physician-patient privilege.	15-23-22	Penalties-Unauthorized control over money or securities of commission.
15-23-12	When compensation not awarded, diminished, etc.; reconsideration of award.	15-23-23	Certain persons deemed ineligible for compensation.



ARTICLE 1. CRIME VICTIMS' COMPENSATION.

§ 15-23-1. Short title.

This article shall be known and may be cited as the "Alabama Crime Victims Compensation Act." (Acts 1984, No. 84-658, p. 1308, § 1.)

Collateral references. - Governmental tort liability for failure to provide police protection to specifically threatened crime victim. 46 ALR4th 948.

Validity, construction, and application of "Son of Sam" laws regulating or prohibiting distribution of crime-related

book, film, or comparable revenues to criminals, 60 ALR4th 1210.

Civil action for damages under state Racketeer Influenced and Corrupt Organizations Acts (RICO) for losses from racketeering activity. 62 ALR4th 654.

§ 15-23-2. Legislative findings, etc.

The Legislature hereby finds, determines and declares that victims of violent crime are often reduced to bereft and destitute circumstances as a result of the criminal acts perpetrated against them, that the financial or economic resources of such victims and their dependents are in many instances distressed or depleted as a result of injuries inflicted upon them by violent criminals.

That the general social and economic welfare of such victims and their dependents is and ought to be intimately affected with the public interest, that the deplorable plight of these unfortunate citizens should not go unnoticed by our institutions and agencies of government.

The Legislature hereby further finds, determines and declares that it is to the benefit of all that victims of violence and their dependents be assisted financially and socially whenever possible.

To this end the Legislature intends to provide a means whereby victims of violent crime and their dependents may be provided compensation in the amount of actual expenses incurred as a direct result of criminal acts of other persons.

The provisions of this article are to be construed so as to accomplish this purpose and to promote the same which is hereby declared to be the public policy of this state. (Acts 1984, No. 84-658, p. 1308, § 2.)

§ 15-23-3. Definitions.

As used in this article the following words shall include, but are not limited to the following meanings unless the context clearly requires a different meaning:

- (1) **COMMISSION.** The Alabama Crime Victims Compensation Commission as created by Section 15-23-4.
- (2) **CRIMINALLY INJURIOUS CONDUCT.** Criminally injurious conduct includes any of the following acts:
 - a. 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.
 - b. 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, the citizen at the time such act was committed had a permanent place of residence within the geographical boundaries of this state, and in addition thereto, any of the following circumstances apply, that the citizen:
 1. Had a permanent place of employment located within the geographical boundaries of this state.
 2. 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.
 3. Was retired and receiving Social Security or other retirement income.
 4. Was 60 years of age or older.
 5. Was temporarily in another state of the United States of America for the purpose of receiving medical treatment.
 6. 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 express condition of employment or employee benefits.
 7. 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 express condition of employment or employee benefits.
 8. Was a full-time student at an academic institution, college, or university located in another state of the United States of America.



9. 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 a citizen of Alabama, or an act committed outside the geographical boundaries of this state upon a person who at the time had departed the geographical boundaries of this state for the purpose of becoming a citizen of, or establishing a permanent place of residence in, another state.

(3) VICTIM. A person who suffered serious personal injury or death as a result of criminally injurious conduct.

(4) 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 where the death occurred as a result of criminally injurious conduct.

(5) CLAIMANT. Any of the following persons applying for compensation under this article:

a. A victim.

b. A dependent of a deceased victim, if such victim died as a result of criminally injurious conduct.

c. 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.

(6) ALLOWANCE EXPENSE. Charges incurred for needed products, services and accommodations, including, but not limited to, medical care, rehabilitation, rehabilitative occupational rehabilitation, rehabilitative occupational training, and other remedial treatment and care. It also includes a total charge not in excess of five thousand dollars (\$5,000) for expenses related to funeral, cremation, or burial.

(7) WORK LOSS. Loss of income from work the victim or claimant would have performed if the victim had not been injured or died, reduced by any income from substitute work actually performed by the victim or claimant or by income the victim or claimant would have earned in available appropriate substitute work which he or she was capable of performing but unreasonably failed to undertake.

(8) 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.

(9) ECONOMIC LOSS OF A DEPENDENT. A loss after the death or injury 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 or injury of the victim.

(10) 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 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.

(11) 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 a dependent, but shall not include noneconomic loss or noneconomic detriment.

(12) NONECONOMIC LOSS OR DETRIMENT. Pain, suffering, inconvenience, physical impairment, and nonpecuniary damage.

(13) COLLATERAL SOURCE. 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 one or more of the following:

a. The offender.

b. 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 political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.

c. Any temporary nonoccupational disability insurance.

d. Worker's compensation.

e. Wage continuation programs of any employer.

f. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.

g. A contract providing prepaid hospital and other health care services or benefits for disability.

(14) OFFICE OF PROSECUTION SERVICES. The Office of Prosecution Services as established by Section 12-17-230. (Acts 1984, No. 84-658, p. 1308, § 3; Acts 1986, No. 86-510, p. 993, § 1; Acts 1990, No. 90-470, p. 677, § 1; Act 98-492, § 1.)

The 1998 amendment, effective May 1, 1998, substituted a period for "or" throughout; in subdivision (2) inserted the "Criminally injurious conduct includes any of the following acts:" preceding paragraph a., in paragraph a. substituted "imposed." for "imposed; or", in paragraph b. inserted ", 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 "preceding"; provided", substituted "the citizen" for "such citizen" and inserted "any of the following circumstances apply, that the citizen:" following "thereto", in paragraph c. deleted the paragraph c. designator and in said undesignated paragraph substituted "the time a



citizen of Alabama,” for “the time such act was committed a citizen of the State of Alabama” deleted “such act was committed” following “time” and substituted “citizen of, or establishing” for “citizen of another state or for the purpose of establishing”, in subdivision (6) substituted “five thousand dollars (\$5,000)” for “\$3,000.00”, and made nonsubstantive changes.

Code Commissioner’s Notes.- In 1998 in subparagraph 2. of paragraph b. of subdivision (2), the Code Commissioner added the conjunction “or” for grammatical purposes.

Act 98-492, which amended this section and was approved by the Governor on May 1, 1998, provided that the act “shall become operative on the first day of the third month following its enactment.”

§ 15-23-4. Alabama Crime Victims Compensation Commission—Created; composition; terms; qualifications; officers; place of meeting; quorum; record of proceedings; bond; compensation.

(a) There is hereby created the Alabama Crime Victims Compensation Commission, which shall be composed of three citizens of the State of Alabama, who shall be appointed by the Governor with the advice and consent of the Senate, for terms of four years each or until their successors are appointed and qualified. Provided however, initial appointments shall be as follows: one member shall be appointed for two years, one member shall be appointed for three years and one member shall be appointed for four years. All appointments to fill vacancies shall be for the duration of the unexpired term and subsequent appointment shall be for four-year terms.

(b) At least one member shall be a law enforcement officer with a minimum of 10 years experience in or with a law enforcement agency which has among its primary duties and responsibilities the investigation of violent crimes and the apprehension or arrest of the perpetrators thereof.

(c) At least one member shall be a victim of a crime of violence who suffered serious personal injury as a result thereof, or a member of such victim’s immediate family or a member of a deceased victim’s immediate family if such deceased victim died as a result of a crime of violence, or an officer of a nonprofit, charitable crime victims organization established pursuant to the laws of Alabama.

(d) Each year the commission shall elect a chairman from its membership.

(e) The commission may appoint an executive director who shall serve at the pleasure of the commission and shall be paid a salary in an amount to be determined by the commission.

(f) The commission shall have its principal place of business in the county wherein the State Capitol is located.

(g) The commission shall hold at its principal place of business regular monthly public meetings on the second Thursday of each month and other meetings at such times and places as its members may elect.

(h) Any two members of the commission shall constitute a quorum for purposes of transacting the business of the commission and two votes in favor shall be necessary for a decision by the commission at any meeting of the commission.

(i) From time to time the commission shall establish rules and regulations for the administration of its duties and responsibilities pursuant to this chapter.

(j) The chairman of the commission shall keep a true record of all of the proceedings of the meetings of the commission. At the call of any member the vote on any pending question shall be taken by ayes and nays, and the same shall be entered in such record, the record of the proceedings of the commission shall be open to any member of the commission and to the public at all times and a copy of such record, certified by the chairman, shall be competent evidence in all courts.

The commission shall decline to disclose the names and addresses of victims or claimants who have applied for compensation pursuant to this article or the facts or circumstances of the criminally injurious conduct perpetrated against them.

(k) All members and employees of the commission handling money or exercising authority over any property shall, before entering the discharge of their duties, give bond with a surety company authorized to do business in the State of Alabama, as surety, payable to the commission in an amount or amounts sufficient to protect the commission against any loss with respect to the funds, money or property handled, conditioned for the faithful discharge of their duties and responsibilities and further conditioned upon their faithfully accounting for all moneys, funds or properties coming into their possession in the capacity of their employment.

(l) The Attorney General or the district attorney of the county wherein the State Capitol is located shall, upon written request by the commission represent the commission in all litigation to which the commission is a party or in which the commission has an interest. The Attorney General shall serve as a legal advisor to the commission.

(m) All commission members shall be paid seventy-five dollars (\$75) per day and mileage for attendance of commission meetings. Mileage and per diem shall be the same as allowed state employees when a commission member is traveling on official business of the commission and shall be paid from the Alabama Crime Victims Compensation Fund. (Acts 1984, No. 84-658, p. 1308, § 4; Acts 1986, No. 86-510, p. 993, § 2; Act 98-492, § 1.)

The 1998 amendment, effective May 1, 1998, in subsection (j) in the first undesignated paragraph substituted

“The commission” for “provided however, the commission,” deleted “the provision of” following “pursuant to” and deleted



“when such disclosure in the opinion of the commission would jeopardize or compromise an investigation by a law enforcement agency or a grand jury into criminally injurious conduct or in any way jeopardize or compromise a prosecution for criminally injurious conduct” following “against them”; in subsection (m) substituted “seventy-five dollars (\$75)” for “\$30.00”.

Code Commissioner’s Notes. - Act 98-492, which amended this section and was approved by the Governor on May 1, 1998, provided that the act “shall become operative on the first day of the third month following its enactment.”

§ 15-23-5. Alabama Crime Victims Compensation Commission—Powers and duties.

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission shall have the power to:

- (1) Regulate its own procedures except as otherwise provided in this chapter.
- (2) Define any term not defined in this article.
- (3) Prescribe forms necessary to carry out the purposes of this article.
- (4) Obtain access to investigative reports made by law enforcement officers or law enforcement agencies which may be necessary to assist the commission in making a determination of eligibility for compensation under this article; provided however, the reports and the information contained herein, when received by the commission, shall be confidential and under no circumstances shall the commission disclose the same except to a grand jury.
- (5) Take judicial notice of general, technical, and scientific facts within their specialized knowledge.
- (6) Publicize the availability of compensation and information regarding the filing of claims therefor.
- (7) Collect all moneys provided by this article to be collected by the commission.
- (8) Provide for and maintain all necessary administrative facilities and personnel.
- (9) Provide for payment of all administrative salaries, fees, and expenses.
- (10) Cause its moneys to be invested and its investments sold or exchanged and the proceeds and income collected.
- (11) Determine who is a victim or dependent.
- (12) Pass upon all applications for compensation or other benefits provided for in this article.
- (13) Authorize executive director to pass upon all supplemental applications for compensation in an amount not to exceed one thousand dollars (\$1,000) and to pass upon all original applications for claims in an amount not to exceed two thousand dollars (\$2,000).
- (14) Adopt rules and regulations as may be necessary or desirable to expedite the administration of the affairs of the commission not inconsistent with this article.
- (15) Provide descriptive literature respecting the commission and its duties.
- (16) Pay all compensation or other benefits that may be determined to be due under this article and under the rules and regulations of the commission.
- (17) Employ such agents, attorneys, actuaries, and other specialized personnel as shall be necessary or desirable to enable the commission to carry on its functions in a proper and sound manner.
- (18) Receive by gift, grant, devise, or bequest any moneys or properties of any nature or description.
- (19) Accept and administer loans, grants, and donations from the federal government, its agencies, and all other sources, public and private, for carrying out any of its functions.
- (20) Develop a comprehensive analysis of the problems regarding victims of crime within the criminal justice system or systems of this state and formulate model programs, plans, or methods for lessening the physical, mental, or financial burdens placed on innocent crime victims by the operation of the criminal justice system both on the state and local level.
- (21) Identify laws, rules, or regulations proposed or adopted by any agency or institution of this state or any political subdivision thereof which have or will have a significant adverse or beneficial impact upon crime victims and to advocate the adoption, repeal, or modification thereof in the interest of innocent victims of crime.
- (22) Collect, develop, and maintain statistical information, records, and reports as the commission may determine relevant or necessary to carry out its powers, duties, or functions pursuant to this article. All agencies and institutions of this state or the political subdivisions thereof shall, upon a written request by the commission, furnish to the commission statistical information or data as the commission shall deem necessary to fulfill its duties and responsibilities.
- (23) Award loans or grants of money, equipment, or personnel to public or private nonprofit corporations or associations, agencies of the State of Alabama or political subdivisions thereof, or to state, county, or municipal law enforcement, prosecutorial or judicial agencies upon terms and conditions as the commission may deem proper for the purpose of developing, enhancing, or establishing bona fide model crime victims service programs which emphasize the collection of restitution from criminals as an integral part of the criminal justice process, but the loans or grants shall only be awarded when sufficient funds are available in excess of reasonably anticipated or projected claims for compensation.



(24) Provide, for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

(25) Carry out any powers expressly granted elsewhere in this article to the commission.

(26) All other powers necessary for the proper administration of this article. (Acts 1984, No. 84-658, p. 1308, § 5; Acts 1986, No. 86-510, p. 993, § 3; Acts 1990, No. 90-470, p. 677, § 2; Acts 1995, No. 95-494, § 1.)

The 1995 amendment, effective July 27, 1995, deleted “the provisions of” preceding “this article” throughout the section; substituted “but” for “provided, however” in subdivision (23);

added subdivision (24); and made nonsubstantive changes.

§ 15-23-6. Alabama Crime Victims Compensation Commission—Annual report required.

The commission shall publish annually a report showing the fiscal transactions of the commission for the preceding year, the amount of the accumulated cash and securities of the commission and a balance sheet showing the financial condition of the commission by means of an actuarial evaluation of the assets and liabilities of the commission. (Acts 1984, No. 84-658, p. 1308, § 6.)

§ 15-23-7. Audit of financial affairs of commission authorized.

The Director of the Department of Examiners of Public Accounts shall at least once a year and at such other times as such director shall deem appropriate cause to be performed a detailed audit of the financial affairs of the commission and shall promptly notify the appropriate grand jury as to any possible violations of law. (Acts 1984, No. 84-658, p. 1308, § 7.)

§ 15-23-8. Compensation for economic loss resulting from criminal conduct—Authorized; procedure.

(a) The commission may award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met.

(b) The commission shall hear and determine all matters relating to claims for compensation, and shall have the power to reinvestigate or reopen claims without regard to statutes of limitation.

(c) The commission shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence. (Acts 1984, No. 84-658, p. 1308, § 8.)

§ 15-23-9. Compensation for economic loss resulting from criminal conduct—Collateral source contribution not required.

The commission shall not require any claimant to seek or accept any collateral source contribution, unless the claimant was receiving or was entitled to receive such benefits prior to the occurrence giving rise to the claim under the provisions of this article; provided, however, no applicant shall be denied compensation solely because such applicant is entitled to income from a collateral source. (Acts 1984, No. 84-658, p. 1308, § 9.)

§ 15-23-10. Compensation for economic loss resulting from criminal conduct—Hearing required generally; procedure in contested cases; settlement by consent order, etc.

(a) Every party to a claim shall be afforded an opportunity to appear and be heard and to offer evidence and argument on any issue relevant to the claim, and to examine witnesses and offer evidence in reply to any matter of an evidentiary nature in the record relevant to the claim.

(b) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice pursuant to regulations promulgated by the commission. A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party who shall pay transcription costs unless otherwise ordered by the commission.

(c) The commission may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default. (Acts 1984, No. 84-658, p. 1308, § 10.)

§ 15-23-11. Filing claim under article constitutes waiver of physician-patient privilege.

(a) Any person filing a claim under the provisions of this article shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant.



(b) If the mental, physical or emotional condition of a claimant is material to a claim, the commission upon physical examination may order an autopsy of a deceased victim. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made. The order shall also require the person to file with the commission a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses and other conclusions and reports of earlier examinations of the same conditions.

(c) The commission, upon request, shall furnish the victim a copy of such report. If the victim is deceased, the commission, on request, shall furnish a copy of the report to the claimant.

Collateral references—Physicians tort liability for unauthorized disclosure of confidential information about patient. 48 ALR4th 668.

(d) The commission may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed. (Acts 1984, No. 84-658, p. 1308, § 11.)

§ 15-23-12. When compensation not awarded, diminished etc.; reconsideration of award.

(a) Compensation shall not be awarded in any of the following circumstances:

(1) A claim has been filed with the commission later than one year after the injury or death upon which the claim is based, unless the commission finds there was good cause for the failure to file within that time.

(2) To a claimant who was the offender, or an accomplice of the offender or who encouraged or in any way participated in the criminally injurious conduct.

(3) If the award would unjustly benefit the offender or accomplice of the offender.

(4) The criminally injurious conduct resulting in injury or death was reported to a law enforcement officer later than 72 hours after its occurrence, unless the commission finds there was good cause for the failure to report within that time.

(b) Compensation otherwise payable to a claimant may be diminished or denied to the extent that the economic loss is recouped from collateral sources; or the extent that the degree of responsibility for the cause of the injury or death is attributable to the victim as determined by the commission.

(c) The commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw, or reduce an award of compensation.

(d) The commission, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. An order on reconsideration of an award shall not require a refund of amounts previously paid, unless the award was obtained by fraud. The right of reconsideration does not affect the finality of a commission decision for the purpose of judicial review. (Acts 1984, No. 84-658, p. 1308, § 12; Acts 1990, No. 90-470, p. 677, § 3; Acts 1995, No. 95-494, p. 994, § 2; Act 98-492, § 1.)

The 1998 amendment effective May 1, 1998, in subsection (a) inserted "in any of the following circumstances", in subdivision (1) substituted "A claim" for "Unless the claim" and substituted "based, unless" for "based or", in subdivisions (1) and (4) substituted "later than" for "within"; in subdivision (4) substituted "The criminally" for "Unless the criminally" and substituted "occurrence, unless the commission" for "occurrence or the commission"; in subsection (b) substituted

"(1) That" for "that", substituted "(2) Of" for "or to the extent that" and inserted "is" following "death"; and made nonsubstantive changes.

Code Commissioner's Notes. - Act 98-492, which amended this section and was approved by the Governor on May 1, 1998, provided that the act "shall become operative on the first day of the third month following its enactment."

§ 15-23-13. Award not contingent on prosecution or conviction of offender; effect of proof of conviction; suspension of proceedings under article.

Except as provided elsewhere in this article, an award may be made whether or not any person is prosecuted or convicted. Proof of conviction of a person whose acts give rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction or certiorari is pending, or a rehearing or new trial has been ordered. The commission may suspend the proceedings pending disposition of criminal prosecution that has been commenced or is imminent, but may make a tentative award under this section. (Acts 1984, No. 84-658, p. 1308, § 13.)

§ 15-23-14. Award of compensation subrogates commission to rights of claimant as to collateral source; funds recovered from collateral source held in trust for commission; disposition of trust funds; notice of action to recover damages; restitution hearings.



(a) If compensation is awarded, the commission shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that compensation was awarded.

(b) In the event the claimant recovers compensation, other than under the provisions of this article, for injuries or death resulting from criminally injurious conduct, the claimant shall retain, as trustee for the commission, so much of the recovered funds as necessary to reimburse the Alabama Crime Victims Compensation Fund to the extent that compensation was awarded to the claimant from that fund. The funds retained in trust shall be promptly paid over to the commission and deposited in the Alabama Crime Victims Compensation Fund.

Whenever the commission shall deem it necessary to protect, maintain or enforce the commission's right to subrogation or to exercise any of its powers or to carry out any of its duties or responsibilities the commission may initiate legal proceedings or intervene in legal proceedings.

(c) If a claimant initiates any legal proceeding to recover restitution or damages related to the criminally injurious conduct upon which compensation is claimed or awarded, the claimant shall give the commission written notice within 15 days of the filing of the action. The commission may intervene in the proceeding as a complainant to recover the compensation awarded. If a claimant fails to give such written notice to the commission within the stated time period, or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the criminally injurious conduct, the commission's right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the commission, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement; including, but not limited to, attorney's fees, expert witness fees, investigative costs or cost of court. If such notice is given, attorney fees may be awarded in an amount not to exceed 15 percent of the amount subrogated to the commission.

(d) Whenever compensation is awarded to a claimant who is entitled to restitution from a criminal defendant, the commission may initiate restitution hearings in such criminal proceedings or intervene in the same. The commission shall be entitled to receive restitution in such proceedings to the extent that compensation was awarded. The commission shall be subrogated to all the rights and remedies of such claimant for the collection of restitution to the extent compensation was awarded; provided however, the commission shall be exempt from the payment of any fees or other charges for the recording of restitution orders in the offices of the judges of probate. (Acts 1984, No. 84-658, p. 1308, § 14; Acts 1986, No. 86-510, p. 993, § 4; Acts 1990, No. 90-470, p. 677, § 4.)

Collateral references.—Civil action for damages under state Racketeer Influenced and Corrupt Organizations Acts (RICO) for losses from racketeering activity. 62 ALR4th 654.

§15-23-15. Amount and method of compensation; future economic loss generally; exemption from state and local taxes, etc.

(a) Compensation for work loss, replacement services loss, dependent's economic loss, and dependent's replacement service loss may not exceed four hundred dollars (\$400) per week.

(b) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed fifteen thousand dollars (\$15,000) in the aggregate.

(c) The commission may provide for the payment to a claimant in a lump sum or in installments. At the request of the claimant, the commission may convert future economic loss, other than allowable expense, to a lump sum, but only upon a finding by the commission of either of the following:

(1) That the award in a lump sum will promote the interests of the claimant; or

(2) That the present value of all future economic loss, other than allowable expense, does not exceed five thousand dollars (\$5,000.00).

(d) An award payable in installments for future economic loss may be made only for a period as to which the commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the commission upon its findings that a material and substantial change of circumstances has occurred.

(e) An award shall not be subject to state or municipal taxation or to execution, attachment, or garnishment, except as the same may pertain to an obligation for the support of dependent children or as the same may pertain to a creditor which has provided products, services, or accommodations, the costs of which are included in the award.

(f) An assignment by the claimant to any future award under the provisions of this article is unenforceable, except any of the following assignments:

(1) An assignment of any award for work loss to assure payment of court-ordered child support.

(2) An assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee. (Acts 1984, No. 84-658, p. 1308, § 15; Acts 1990, No. 90-470, p. 677, § 5; Act 98-492, § 1.)

The 1998 amendment, effective May 1, 1998, in subsection (a) substituted "four hundred (\$400)" for "\$200.00"; in subsection (b) substituted "fifteen thousand dollars (\$15,000)" for "\$10,000.00"; in subsection (c), in subdivision (2)



substituted "five thousand dollars (\$5,000)" for "\$3,000.00"; in subsection (f) inserted "any of the following assignments" following "except", in subdivision (1) substituted "support; or" for "support.", in subdivision (2) inserted "an" preceding "allowable"; and made nonsubstantive changes.

Code Commissioner's Notes. - Act 98-492, which amended this section and was approved by the Governor on May 1, 1998, provided that the act "shall become operative on the first day of the third month following its enactment."

§ 15-23-16. Alabama Crime Victim Compensation Fund; created; purposes; composition, administered or managed by commission.

- (a) There is hereby established a special fund to be known as the Alabama Crime Victims Compensation Fund.
 - (b) The fund shall be placed under the management or administration of the Alabama Crime Victims Compensation Commission for purposes of providing compensation or other benefits to crime victims and for purposes of implementing this article.
 - (c) The fund shall consist of all moneys collected or received by the Alabama Crime Victims Compensation Commission from any source.
 - (d) The commission shall have control of the funds not inconsistent with this article and with the laws of Alabama.
 - (e) All moneys of the commission shall be covered into the State Treasury or deposited in a special trust account and may be withdrawn therefrom by vouchers or check signed by the chair of the commission pursuant to authorization given by the commissioner. All investments of moneys in the fund shall be either deposited with the State Treasurer for safekeeping upon receipt of the State Treasurer therefor or deposited with the bank in a custodial account. The commission shall have authority to expend moneys in the fund in accordance with this article and to invest any moneys so received pending other needs therefor in any investments which are legal investments for insurance companies under the laws of the state.
 - (f) No member of the commission shall have any interest in the investments or receive any commission with respect thereto.
 - (g) It shall be the duty of the commission to keep detailed permanent records of all expenditures and disbursements from the fund.
 - (h) The commission is authorized to accept and use funds available to it from all sources, such as grants, appropriations, gifts, donations, and other sources for purposes of implementing this article.
 - (i) The commission may not award any moneys for the six months immediately following passage of this article.
 - (j) The commission may not award or promise to award more moneys than are available in the fund.
 - (k) The commission shall not spend more than 25 percent of its funds for administrative costs.
- (Acts 1984, No. 84-658, p. 1308, § 16; Acts 1995, No. 95-494, § 3.)

The 1995 amendment, effective July 27, 1995, deleted "the provisions of" preceding "this article" throughout this section; substituted "not inconsistent" for "as shall not be inconsistent" in subsection (d); deleted "any" following "deposited with" in

the second sentence of subsection (e); deleted "any" following "interest in" in subsection (f); and made nonsubstantive changes.

§ 15-23-17. Assessment of additional costs and penalties; collection and disposition of additional assessments, etc.

- (a) In all criminal and quasi-criminal proceedings for the violation of laws of the state or municipal ordinances which are tried in any court or tribunal in this state, wherein the defendant is adjudged guilty or pleads guilty, or is adjudicated a juvenile delinquent or youthful offender, or wherein a bond is forfeited and the result of the forfeiture is a final disposition of the case or wherein any penalty is imposed, there is imposed an additional cost of court in the amount of two dollars (\$2) for each traffic infraction, ten dollars (\$10) in each proceeding where the offense constitutes a misdemeanor and/or a violation of a municipal ordinance other than traffic infractions, and fifteen dollars (\$15) in each proceeding where the offense constitutes a felony, but there shall be no additional costs imposed for violations relating to parking of vehicles.
The amount of all costs shall be remitted by the person or authority collecting the costs to the chair of the commission on the tenth day of each month next succeeding that in which the cost is paid. It shall be the duty of the clerk or other authority collecting the court costs to keep accurate records of the amounts due the commission for the benefit of the fund under this section.
- (b) In addition to the imposition of any other costs, penalties, or fines imposed pursuant to law, any person convicted or pleading guilty to a felony or a misdemeanor or a violation for which the person is adjudicated a juvenile delinquent, or a youthful offender, shall be ordered to pay a victim compensation assessment of not less than fifty dollars (\$50), nor more than ten thousand dollars (\$10,000), for each felony for which the person convicted or adjudicated and



not less than twenty-five dollars (\$25.00), nor more than one thousand dollars (\$1,000.00), for each misdemeanor or violation for which the person was convicted, adjudicated, or otherwise disposed of when the court orders that costs be paid. In imposing this penalty, the court shall consider factors such as the severity of the crime, the prior criminal record, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant. Any person adjudicated a juvenile delinquent shall be ordered to pay a victim compensation assessment of not less than twenty-five dollars (\$25), nor more than one thousand dollars (\$1,000), for each adjudication, regardless of the underlying charge, but the assessment or penalty authorized by this subsection shall not be assessed or collected for any conservation, forestry, or water safety offense, nor any traffic offense, except those that are punishable as a felony offense or involve the operation or actual physical control of any vehicle while intoxicated or under the influence of drugs, or reckless driving. If a court fails to specifically impose an assessment required by this section, the clerk of court shall automatically assess a victim compensation assessment in the minimum amount provided herein. The additional assessment or penalty shall be collected by the clerk of court insuring that the first twenty-five dollars (\$25) of each felony assessment and twelve dollars and fifty cents (\$12.50) of each misdemeanor shall be promptly paid over to the commission. The second twenty-five dollars (\$25) of each felony assessment and twelve dollars and fifty cents (\$12.50) of each misdemeanor assessment shall be promptly paid to the Office of Prosecution Services. Any victim assessment fees ordered above the minimum shall be paid to the commission fund.

(c) The Office of Prosecution Services shall create a Victim Services Fund and the assessments received by the Office of Prosecution Services shall be deposited into the Victim Services Fund. The funds received by the Office of Prosecution Services shall be distributed by the Executive Committee of the Alabama District Attorneys Association to the various district attorneys' offices to employ a minimum of one full-time victim service officer in each circuit and to provide other direct services to victims as needed. (Acts 1984, No. 84-658, p. 1308, § 17; Acts 1986, No. 86-510, § 5; Acts 1990, No. 90-470, p. 677, § 6; Acts 1995, No. 95-494, § 4.)

The 1995 amendment, effective July 27, 1995, in subsection (a), in the first paragraph, inserted "or is adjudicated a juvenile delinquent or youthful offender," and substituted "but" for "provided, however, that"; in subsection (b), in the first sentence inserted "or a violation for which the person is adjudicated a juvenile delinquent, or youthful offender," inserted "or adjudicated," inserted "or violation," and inserted "adjudicated," added the present third and fourth sentences, substituted "insuring that" for "imposing the same and" in the present fifth sentence; and made nonsubstantive changes.

The words "severity of the crime" contemplate that some crimes are more reprehensible than others and that they produce greater emotional suffering and societal disdain; therefore, the trial judge was authorized to consider the fact that the crime was "severe" because of its noneconomic impact upon family, friends and society. *Ex parte Lewis*, 556 So. 2d 370 (Ala. 1989).

List not exhaustive. – Although the legislature specifically listed several factors that a sentencing judge should consider, this list is not exhaustive. *Ex parte Lewis*, 556 So. 2d 370 (Ala. 1989).

Authorization to impose both fine and assessment. – The

trial judge was authorized to impose both a fine and an assessment under that Crime Victims Compensation Act and that the total amount of the fine and assessment does not constitute an "excessive fine" since the \$10,000 assessment and the \$3,000 fine are both authorized, under the provisions of this section and § 13A-5-11, respectively. *Ex parte Lewis*, 556 So. 2d 370 (Ala. 1989).

Where both the fine and the assessment imposed upon the appellant were within the statutory limits, the total amount imposed did not constitute an "excessive fine." *Garner v. State*, 606 So. 2d 177 (Ala. Crim. App. 1992).

The Legislature has the power to authorize both a fine and as assessment under the provisions of the Alabama Crime Victims Compensation Act, and that the amount of this particular assessment is not "excessive." *Ex parte Lewis*, 556 So. 2d 370 (Ala. 1989).

Where defendant charged before amendment but sentence after amendment – Where defendant was charged with misdemeanor prior to effective date of the 1990 amendment, but was sentenced after amendment took effect, defendant could not be ordered to pay victim compensation assessment. *Taylor v. State*, 586 So. 2d 964 (Ala. Crim. App. 1991).

§ 15-23-18. Penalties—Influence peddling.

(a) Any person who confers, offers, or agrees to confer anything of value upon a member, agent or employee of the Alabama Crime Victims Compensation Commission with the intent that such member's or agent's or employee's vote, opinion, judgment or exercise of discretion or other action in such member's or agent's or employee's official capacity will thereby be influenced shall be guilty of a Class B felony.

(b) Any member, agent or employee of the Alabama Crime Victims Compensation Commission who shall solicit, accept, or agree to solicit or accept anything of value upon an agreement or understanding that such member's or agent's or employee's vote, opinion, judgment or exercise of discretion or other action as such member, agent, or employee will thereby be influenced shall be guilty of a Class B felony.

(c) It shall not be a defense to a prosecution under this section that the member, agent or employee sought to be influenced was not qualified to act in the desired way because of a lack of jurisdiction or for any other reason. (Acts 1984, No. 84-658, p. 1308, § 18.)

Collateral references. — Civil action for damages under state Racketeer Influenced and Corrupt Organizations Acts

(RICO) for losses from racketeering activity. 62 ALR4th 654.



§ 15-23-19. Penalties—Failure of commission member to disclose conflict of interest.

(a) A member, agent or employee of the Alabama Crime Victims Compensation Commission commits the crime of failing to disclose a conflict of interest if such member, agent or employee exercises any discretionary function in connection with a commission contract, purchase, payment or other pecuniary transaction pertaining to the commission without advance public disclosure of a known potential conflicting interest in the transaction.

(b) A “potential conflicting interest” exists, but is not limited to, when the member, agent or employee of the commission is a director, president, general manager or similar executive officer, or owns directly or indirectly a substantial portion of any nongovernmental entity participating in the transaction.

(c) Public disclosure shall mean a public announcement and written notification to the Attorney General.

(d) Failing to disclose a conflict of interest is a Class C felony. (Acts 1984, No. 84-658, p. 1308, § 19.)

§ 15-23-20. Penalties—Alteration of commission records, etc.

Any member, agent or employee of the Alabama Crime Victims Compensation Commission who shall knowingly make a false entry or falsely alter any commission record; or who shall intentionally destroy, mutilate, conceal, remove or otherwise impair the verity or availability of any commission record with the knowledge of a lack of authority to do so; or who shall possess a record of the commission and refuse to deliver up such record upon proper request of a person lawfully entitled to receive the same shall be guilty of a Class C felony. (Acts 1984, No. 84-658, p. 1308, § 20.)

§ 15-23-21. Penalties—Furnishing false information; failure to disclose material fact, etc.

(a) Any person who shall knowingly furnish any false information to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof with the intent to defraud the said commission; or with the intent to obtain an award of compensation for a person not entitled to receive the same shall be guilty of a Class C felony.

(b) Any person who shall knowingly fail or omit to disclose a material fact or circumstance to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof which is material to a claim for an award of compensation with the intent to defraud the commission or with the intent to cause a person to obtain or receive an award of compensation to which such person is not entitled shall be guilty of a Class C felony. (Acts 1984, No. 84-658, p. 1308, § 21.)

§ 15-23-22. Penalties—Unauthorized control over money or securities of commission.

(a) Any person who shall knowingly obtain or exert any unauthorized control over any money or securities held on behalf of or in trust for the Alabama Crime Victims Compensation Commission with intent to deprive such commission of such money or securities shall be guilty of a Class C felony.

(b) Any person who shall knowingly obtain by deception any control over any money or securities held on behalf of or in trust for the Alabama Crime Victims Compensation Commission with intent to deprive such commission of such money or securities shall be guilty of a Class C felony. (Acts 1984, No. 84-658, p. 1308, § 22.)

§ 15-23-23. Certain persons deemed ineligible for compensation.

Any person who shall perpetrate any criminally injurious conduct on the person of another or who shall be convicted of a felony after making application to the Alabama Crime Victims Compensation Commission for compensation shall not be eligible or entitled to receive compensation pursuant to any provision of this article. (Acts 1984, No. 84-658, p. 1308, § 23.)



Exhibit B

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-1. DEFINITIONS

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

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. Applicants must not have contributed to their victimization or have been convicted of felonies or acts of violence against others after making application for compensation. Other eligibility requirements that must be met are listed in the following sections.

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 in instances in which a claimant has received recovery from a collateral source after having been paid by ACVCC.

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.

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 Commission as described in Chapter 262-X-2 of these rules.
- (b) Criminally Injurious Conduct.
- (c) 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
- (d) 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:
 - (e) Had a permanent place of employment located within the geographical boundaries of this state; or
 - (f) 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
 - (g) Was retired and receiving Social Security or other retirement income; or
 - (h) Was 60 years of age or older; or
 - (i) Was temporarily in another state of the United States of America for the purpose of receiving medical treatment; or



- (j) 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
- (k) 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
- (l) Was a full-time student at an academic institution, college or university located in another state of the United States of America; or
- (m) 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.
- (n) 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.
- (o) 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.
- (p) 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.
- (q) 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.
- (r) 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.
- (s) 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;
- (t) 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.
- (u) 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.
- (v) 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.
- (w) 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.

- (x) Noneconomic Loss or Detriment. Pain, suffering, inconvenience, physical impairment and nonpecuniary damage.
- (y) 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.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-2. THE COMMISSION AND ITS MEMBERS

262-X-2-.01. Composition.

- (1) There is hereby created the Alabama Crime Victims Compensation Commission, which shall be composed of three citizens of the State of Alabama, who shall be appointed by the Governor with the advice and consent of the Senate, for terms of four (4) years each or until their successors are appointed and qualified. Provided, however, initial appointments shall be as follows: One member shall be appointed for two (2) years and one member shall be appointed for three (3) years and one member shall be appointed for four (4) years. All appointments to fill vacancies shall be for the duration of the unexpired term and subsequent appointments shall be for four-year terms.
- (2) At least one member shall be a law enforcement officer with a minimum of 10 years experience in or with a law enforcement agency which has among its primary duties and responsibilities the investigation of violent crimes and the apprehension or arrest of the perpetrators thereof.
- (3) At least one member shall be a victim of a crime of violence who suffered serious personal injury as a result thereof, or a member of such victim's immediate family or a member of a deceased victim's immediate family if such deceased victim died as a result of a crime of violence, or an officer of a nonprofit, charitable crime victims organization established pursuant to the laws of Alabama.

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262-X-2-.02. Officers.

Each year the Commission shall elect a chairman from its membership. Chairperson elections shall be held in the month of June. A Commission member shall not serve two successive terms as Chairperson. A Commission member shall not serve as Chairperson more than once in a three-year period. The Commission may appoint an executive director who shall serve at the pleasure of the Commission and shall be paid a salary in an amount to be determined by the Commission.



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262-X-2-.03 Meetings.

The Commission shall have its principle place of business in the county wherein the state capital is located. The Commission shall hold at its principle place of business regular monthly public meetings on the second Thursday of each month and other meetings at such times and places as its members may elect. Any two (2) members of the Commission shall constitute a quorum for the purposes of transacting the business of the Commission and two (2) votes in favor shall be necessary for a decision by the Commission at any meeting of the Commission. The Commission shall meet on the second Thursday of each month at 10:00 a.m. at the Commission office. The monthly Commission meeting shall be advertised in the major newspapers of the state. Any change to the regular Commission meeting shall also be so advertised.

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CHAPTER 262-X-2. THE COMMISSION AND ITS MEMBERS

262-X-2-.04. Rulemaking.

From time to time the Commission shall establish rules and regulations for the administration of its duties and responsibilities pursuant to this chapter. All rules shall be passed by a majority vote of the three member Commission. A copy of the current rules shall be published in each year's annual report and shall be made available to the public upon request.

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CHAPTER 262-X-2. THE COMMISSION AND ITS MEMBERS

262-X-2-.05 Records.

The chairman of the Commission shall keep a true record of all the proceedings of the meetings of the Commission. At the call of any member the vote on any pending question shall be taken by 'ayes' and 'nays', and the same shall be entered in such record. The written minutes of the proceedings shall be maintained by the agency. The Commission shall meet in Executive Session when the good name and character of individuals is to be discussed. The record of the proceedings of the Commission shall be open to any member of the Commission and to the public at all times and a copy of such record, certified by the chairman shall be competent evidence in all courts. Provided, however, the Commission shall decline to disclose the names and addresses of victims or claimants who have applied for compensation pursuant to the provisions of this chapter or the facts or circumstances of the criminally injurious conduct perpetrated against them.

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CHAPTER 262-X-2. THE COMMISSION AND ITS MEMBERS

262-X-2-.06. Bond.

All members and employees of the Commission handling money or exercising authority over any property shall, before entering the discharge of their duties, give bond with a surety company authorized to do business in the State of Alabama, a surety, payable to the Commission in an amount or amounts sufficient to protect the Commission against any loss with respect to the funds, money or property handled, conditioned for



the faithful discharge of their duties and responsibilities and further conditioned upon their faithfully accounting for all monies, funds, or properties coming into their possession in the capacity of their employment.

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262-X-2-.07. Duties Of The Attorney General.

The attorney general or the district attorney of the county wherein the state capital is located shall, upon written request by the Commission represent the Commission in all litigation to which the Commission is a party or in which the Commission has an interest. The attorney general shall serve as legal advisor to the Commission.

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CHAPTER 262-X-2. THE COMMISSION AND ITS MEMBERS

262-X-2-.08 Compensation Of Commission Members.

All Commission members shall be paid \$75.00 per day and mileage for attendance of Commission meetings. Mileage and per diem shall be the same as allowed state employees when a Commission member is traveling on official business of the Commission and shall be paid from the Alabama Crime Victims Compensation Fund.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.01. The Commission-General Powers And Duties.

The Commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the Commission. In addition to any other powers and duties specified elsewhere in this chapter, the Commission shall have the power to:

- (a) Regulate its own procedures except as otherwise provided in this chapter;
- (b) Define any term not defined in this chapter;
- (c) Prescribe forms necessary to carry out the purposes of this chapter;
- (d) Obtain access to investigative reports made by law enforcement officers or law enforcement agencies which may be necessary to assist the Commission in making a determination of eligibility for compensation under the provisions of this chapter; provided, however, such reports and the information contained therein, when received by the Commission, shall be confidential and under no circumstances shall the Commission disclose the same except to a grand jury;
- (e) Take judicial notice of general, technical and scientific facts within their specialized knowledge;
- (f) Publicize the availability of compensation and information regarding the filing of claims therefore;
- (g) Collect all monies provided by this chapter to be collected by the Commission;
- (h) Provide for and maintain all necessary administrative facilities and personnel;
- (i) Provide for payment of all administrative salaries, fees, and expenses;
- (j) Cause its monies to be invested and its investments sold or exchanged and the proceeds and income collected;
- (k) Determine who is a victim or dependent;
- (l) Pass upon all applications for compensation or other benefits provided for in this chapter;
- (m) Authorize executive director to pass upon all supplemental applications for compensation in an

amount not to exceed \$1000 and to pass upon all original applications for claims in an amount not to exceed \$2000.

- (n) Pay all compensation or other benefits that may be determined to be due under this chapter and under the rules and regulations of the Commission;
- (o) Employ such agents, attorneys, actuaries and other specialized personnel that shall be necessary or desirable to enable the Commission to carry on its functions in a proper and sound manner;
- (p) Receive by gift, grant, devise or bequest any monies or property of any nature or description;
- (q) Accept and administer loans, grants, and donations from the federal government, its agencies and all other sources, public and private, for carrying out any of its functions;
- (r) Develop a comprehensive analysis of the problems regarding victims of crime within the criminal justice system or systems of this state and formulate model programs, plans or methods for lessening the physical, mental or financial burdens placed on innocent crime victims by the operation of the criminal justice system, both on the state and local level;
- (s) Identify laws, rules or regulations proposed or adopted by any agencies or institution of this state or any political subdivision thereof which have or will have a significant adverse or beneficial impact upon crime victims and to advocate the adoption, repeal, or modification thereof in the interest of innocent victims of crime;
- (t) Collect, develop and maintain statistical information, records and reports as the Commission may determine relevant or necessary to carry out its powers, duties or functions, pursuant to the provisions of this chapter. All agencies and institutions of this state or the political subdivisions thereof shall, upon written request by the Commission, furnish to the Commission such statistical information or data as the Commission shall deem necessary to fulfill its duties and responsibilities;
- (u) Award loans or grants of money, equipment or personnel to public or private nonprofit corporations or associations, agencies of the State of Alabama or political subdivisions thereof, or to state, county, or municipal law enforcement, prosecutorial or judicial agencies upon such terms and conditions as the Commission may deem proper for the purpose of developing, enhancing or establishing bona fide model crime victims service programs which emphasize the collection of restitution from criminals as an integral part of the criminal justice process; provided, however, such loans or grants shall only be awarded when sufficient funds are available in excess of reasonably anticipated or projected claims for compensation;
- (v) Carry out any powers expressly granted elsewhere in this chapter to the Commission; and
- (w) All other powers necessary for the proper administration of the provisions of this chapter.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.02. Annual Report Required.

The Commission shall publish annually a report showing the fiscal transactions of the Commission for the preceding year, the amount of the accumulated cash, and securities of the Commission and a balance sheet showing the financial condition of the Commission by means of an actuarial evaluation of the assets and liabilities of the Commission. The current agency administrative code shall be published in each year's annual report.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.03. Audit Of Financial Affairs Of Commission Authorized.

The Director of the Department of Examiners of Public Accounts shall at least once every other year and at such other times as such director shall deem appropriate cause to be performed a detailed audit of the finan-



cial affairs of the Commission and shall promptly notify the appropriate grand jury as to any possible violations of law.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.04. Compensation For Economic Loss Resulting From Criminal Conduct- Authorized; Procedure.

- (1) The Commission may award compensation for economic loss arising from criminally injurious conduct as satisfied by a preponderance of the evidence that the requirements for compensation have been met.
- (2) The Commission shall hear and determine all matters relating to claims for compensation, and shall have the power to reinvestigate or reopen claims without regard to statutes of limitation.
- (3) The Commission shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.05. Collateral Source Contribution Not Required.

The Commission shall not require any claimant to seek or accept any collateral source contribution, unless the claimant was receiving or was entitled to receive such benefits prior to the occurrence giving rise to the claim under the provisions of this chapter; provided, however, no applicant shall be denied compensation solely because such applicant is entitled to income from a collateral source. All claimants filing a civil suit for damages resulting from the victimization for which they filed for compensation must promptly report the filing of such suit to the Commission.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-3. THE COMMISSION—POWERS AND DUTIES

262-X-3-.06 Procedure in Contested Cases

- (1) All administrative appeal hearings shall be held in accordance with the Alabama Administrative Procedures Act.
- (2) All claimants shall receive a minimum of forty (40) days notice of the administrative appeal hearing.
- (3) Pursuant to *Ala. Code* § 41-22-12(a) (2000), the Commission shall deliver to the claimant the notice of administrative appeal hearing by first class mail, postage prepaid, to be effective upon the deposit of the notice in the mail. The notice of the administrative appeal hearing shall also be delivered to the claimant by certified mail, return receipt requested.
- (4) The claimant must sign the request for an administrative appeal hearing in order for it to be processed.



ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. ELIGIBILITY CRITERIA FOR COMPENSATION

262-X-4-.01 Filing Of Claims.

- (1) A claim must be filed with the Commission within one (1) year after the death or injury upon which the claim is based or the Commission finds that there was good cause for the failure to file within that time. The date on which each claim is received by the Commission shall be documented. A completed and signed ACVCC application must be submitted in order for a compensation request to be processed. In the event that information is needed by the Commission that is not contained in the claim, said information shall be furnished to the Commission within 45 days of request of same. Failure to provide information within the time prescribed by these rules may, at the Commission's discretion, result in the dismissal of that claim.
- (2) Separate claims may be filed for individual family members who are victims. However, no more than \$15,000.00 can be awarded per claim.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. ELIGIBILITY CRITERIA FOR COMPENSATION

262-X-4-.02. Eligibility Criteria-Generally.

- (1) The incident must have occurred on or after June 1, 1984.
- (2) The incident must have been reported within 72 hours after its occurrence or the Commission must find there was good cause for the failure to report within that time. Good cause includes, but is not limited to the minority, infirmity or incapacity of the claimant.
- (3) The application must be filed within one (1) year of the incident unless the Commission finds there was good cause for the failure to report within that time.
- (4) The victim must have suffered bodily injury, psychological injury as the result of a direct, face-to-face threat of physical injury, or actual physical injury or death as a result of the criminal actions of another.
- (5) The claimant or victim must cooperate fully with law enforcement and the Commission staff. If law enforcement officials or Commission staff are not satisfied with the victim's or claimant's cooperation, the Commission may deny, reduce or declare the claim ineligible.
- (6) Requested expenses shall not be eligible for compensation in the event that they have been paid by a collateral source.
- (7) The victim or claimant must not be the offender or an accomplice of the offender.
- (8) No portion of the compensation shall benefit the offender or accomplice.
- (9) If the applicant, after making application for compensation to the Commission, then perpetrates any criminally injurious conduct or is convicted of a felony, the applicant shall be ineligible for compensation.
- (10) Any incident occurring at a place known for illegal activity (shot house, house of gambling, house of prostitution or drug house) or arising out of acts involving violations of the Alabama Criminal Code shall not be eligible for compensation under this chapter. This shall not include persons who were in such areas for a legitimate purpose and not involved in any type of illegal activity.
- (11) Any person confined in a jail, penitentiary or other correctional facility at the time of the crime as a result of a felony conviction or who is later convicted of a felony or is confined as the result of criminally injurious conduct perpetrated on the person of another or who is later convicted of criminally injurious conduct shall not be eligible for compensation.
- (12) Any person convicted of a violent felony who is on probation, parole, work release or any type of custodial or non-custodial release at the time of his/her victimization shall not be eligible for



compensation. This includes, but is not limited to the following: Work release centers; boot camps; SIR (supervised intensive restitution) and PDL (Pre-Discretionary Leave).

- (13) The victim's presence in the United States of America must be lawful.
- (14) Illegal aliens who are victims of human trafficking that meet the requirements set forth for eligibility pursuant to 22 U.S.C. § 7105 shall be eligible for compensation.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
262-X-4-.03. CONTRIBUTION TO OFFENSE

262-X-4-.03. Contribution To Offense.

Compensation may not be awarded "to a claimant who was the offender, or an accomplice of the offender, or who encouraged or in any way participated in the criminally injurious conduct." Contribution to the offense will be determined by the actions of the victim at the time of or immediately preceding the crime.

- (a) Compensation may be reduced or denied based on the victim's degree of contribution to the offense. The reduction or denial will be based on the extent of the degree of responsibility for the cause of injury or death attributable to the victim/claimant's actions and/or involvement in the events that led to the crime. Compensation may be reduced in whole or in part if contributory conduct is determined.
- (b) Eligibility for compensation can be affected by a victim/claimant's involvement in the events that led to the crime. The victim/claimant's actions do not have to be illegal to be deemed contributory conduct. Such actions must relate significantly to the occurrence that caused the victimization and be such that a reasonable or prudent person would know that the actions could lead to their victimization.
- (c) Contributory conduct is a voluntary action by the victim, which directly or indirectly, produced the victim's injury at the time of the victimization which gives rise to the compensation claim. This action may include, but is not limited to, provocation, drug use, alcohol intoxication, consent or incitement by the victim.
- (d) Contributory conduct is a factor when the victim knowingly participated in conduct that:
 - (1) Caused, resulted in, or reasonably could have led to the specific crime which caused the victimization; or
 - (2) Was itself clearly wrongful or illegal, thereby placing him/herself in a position to be victimized; or
 - (3) Clearly put him/herself into a situation where the crime was a reasonably expected and/or a prudent person would have avoided.
- (e) Contributory conduct to the offense may be determined by the victim's actions or nature of the victim's involvement in the events leading up to victimization. The following factors may be considered in the determination of contributory conduct:
 - (1) Alcohol intoxication that resulted in the use of poor judgment by the victim;
 - (2) The presence of illegal drugs in the victim's body at the time of victimization;
 - (3) If the offender verbally insulted the victim and the victim failed to retreat, a contribution factor may be assessed;
 - (4) If it appears the victim was injured as a result of poor judgment or as a result of his/her conduct being less than that of a prudent person in the same situation, a contribution factor may be assessed;
 - (5) If it appears that the victim first physically assaulted the offender, the victim's claim for compensation may be denied.
 - (6) When drugs are found in the possession of the victim at the time of victimization the claim may be ineligible. However, in death cases, if the police investigation reveals that it is more probable than not that the drugs were planted after the victim's death, a contribution factor may not be assessed.



- (f) The Commission may consider all information relevant to the circumstances, including, but not limited to:
- (1) Level of responsibility of the victim's conduct;
 - (2) Foreseeability of the consequences of such conduct;
 - (3) Ability to avoid the situation (Victim's failure to retreat or withdraw from situation where an option to do so existed.)
 - (4) Whether there is a direct causal relationship between the victim's actions and his/her victimization.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. COMPENSATION AWARDS – AMOUNTS AND METHODS OF PAYMENT

262-X-4-.04 Compensation Awards - Amounts And Methods Of Payment.

- (1) Compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of fifteen thousand dollars (\$15,000.00).
- (2) Compensation for lost wages may not exceed four hundred (\$400.00) dollars per week.
- (3) The Commission may provide for the payment to a claimant in a lump sum or installments or the Commission may choose to make payments directly to the service provider. Compensation payable to service providers for medical treatment shall be compensated at a reduced rate. Outstanding charges for medical treatment shall be compensated at a reduced rate of fifty percent (50%) for eligible charges up to a maximum amount of seven thousand five hundred dollars (\$7,500). In instances in which the victim/claimant has already paid out-of-pocket for medical treatment and services, the victim/claimant shall be fully reimbursed for all eligible expenses.
- (4) At the request of the claimant, the Commission may convert future economic loss, other than allowable expense leave to a lump sum, but only upon a finding by the Commission of either of the following:
 - (a) That the award in a lump sum will promote the interest of the claimant; or
 - (b) That the present value of all future economic loss, other than allowable expense, does not exceed five thousand dollars (\$5,000.00).
- (5) An award payable in installments for future economic loss may be made only for a period as to which the Commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the Commission upon its findings that a material and substantial change of circumstances has occurred.
- (6) No more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial.
- (7) Approved claims will be paid in the order of their approval by the Commission as funds become available.
- (8) Payments may be made in lump sums or in installments.
- (9) Lost wages shall be verified by obtaining written documentation from the employer or by submission of a W-2 tax document.
- (10) When a victim or claimant has an excess of fifteen thousand dollars (\$15,000.00) in bills, the victim may, with the Commission's approval, also elect to be paid for lost wages, future economic losses, replacement services loss, etc., before the service providers are paid.
- (11) Annual leave, sick leave, personal leave or holidays shall not be considered a collateral source and may be reimbursed by the Commission.
- (12) Lost wages may be considered for the victim, claimant and immediate family members at a prorated amount, not to exceed a total sum of \$10,400. If the victim was not employed but is now disabled as a result of the crime, the victim's spouse may apply for his/her lost wages only if the spouse took time from work to care for victim. If the victim died as a result of the crime, the spouse as claimant may apply for the victim's lost wages up to 26 weeks. Anticipated work may be considered for compensation when accompanied by documentation certifying a definite start date.



- (13) Lost wages are limited to \$400.00 per week for a maximum of 26 weeks. Life insurance will be considered a collateral source for all claims. In the event that life insurance does not fully compensate the victim for the eligible expenses he/she incurred as a result of the victimization, the remaining eligible expenses may be eligible for compensation.
- (14) Life insurance shall be considered a collateral source for compensation.
- (15) The maximum award for moving expenses is \$1,000.00. Written estimates for moving expenses and receipts shall be required. The Commission may award the \$1000 maximum for moving expenses in cases in which the crime occurred in the victim's home or moving the victim's personal belongings is necessary.
- (16) Airline tickets or mileage at the State of Alabama's current rate for state employees and the current State of Alabama per diem rate. Travel will be allowed for two family members to travel out-of-town to attend the victim's trial if not subpoenaed as a witness. Travel will be allowed for medical and psychological treatment that is needed as a result of the victimization. Travel required to procure needed services may be considered for the victim, claimant and immediate family members at a prorated amount. Travel may be awarded for emergency circumstances, as determined by the Commission.
- (17) Exclusion from Payment - Any expense related to the prosecution of the criminal case shall be excluded from payment. The following is not an exclusive listing of such items: expert testimony; photographs for evidence; blood samples for evidence; court consultation for psychologists or other expert witnesses; and travel expenses for witnesses in trial. Compensation shall not be awarded for guard dogs or weapons.
- (18) Payment Limitations - Damaged property may be restored to its condition prior to victimization, up to \$1000, with appropriate documentation. Damaged clothing may also be replaced up to \$500. The \$500 allowance for damaged clothing shall be considered as part of the \$1000 maximum award for damaged property. Alarm systems, fences and burglar bars, installed after victimization, may be considered for a maximum of \$1000 for the victim's real property.
- (19) Lost wages and future economic loss may both be considered, but not to exceed a maximum of \$10,400 per claim.
- (20) A maximum of \$1500.00 for replacement services may be awarded per claim.
- (21) Supplemental awards: The expenses submitted in the supplemental claim must be related to the original injury and must be supported by documentation.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. EMERGENCY AWARDS

262-X-4-.05. Emergency Awards.

The Commission may make or authorize the executive director to make in advance an emergency award of compensation to the applicant prior to taking action on an application or pending a final decision when it appears that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made. The Commission may consider undue hardship to exist in the following circumstances:

- (a) The applicant is without income at the time of application or immediately prior thereto resulting in loss of food, heat or shelter;
- (b) The applicant is in fear or danger for his/her life due to his/her victimization; or
- (c) The applicant cannot receive emergency services without emergency payment;
- (d) Crime scene clean up shall be considered an emergency service. The maximum award for crime scene clean up shall not exceed five hundred dollars (\$500.00).

The applicant may request in the initial application that consideration be given for an emergency award and provide justification for such award. A decision denying an emergency award shall not be appealable. The amount of such emergency award shall not exceed one thousand dollars (\$1,000.00) unless otherwise noted



herein. An emergency award shall be deducted from the final compensation made to the applicant. If the final award is less than the amount of the emergency award, the applicant must repay the excess award to the Commission. All emergency awards are subject to the Code of Alabama (1975).

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. GARNISHMENT AND ASSIGNMENT OF
COMPENSATION AWARDS

262-X-4-.06. Garnishment And Assignment Of Compensation Awards.

- (1) An award shall not be subject to state or municipal taxation or to execution, attachment, or garnishment, except as same may pertain to an obligation for the support of dependent children or as the same may pertain to a creditor which has provided products, services or accommodations, the cost of which are included in the award.
- (2) An assignment by the claimant to any future award is unenforceable, except:
 - (a) an assignment of any award for work loss to assure payment of court- ordered child support; or
 - (b) an assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-4. MENTAL HEALTH BENEFITS

262-X-4-.07 Mental Health Benefits

- (1) Qualified Providers
 - (a) To receive payments for counseling/psychotherapy, the mental health professional must be licensed by the State of Alabama. Psychiatrists, psychologists, licensed professional counselors, and licensed clinical social workers are required to have an active license by their respective professional licensing board.
- (2) Appropriate Treatment
 - (a) ACVCC must receive a letter from the clinician certifying that the victim is engaged in necessary treatment due to his/her victimization.
 - (b) The clinician shall be required to provide the Commission with quarterly updates certifying that the treatment is necessary and the result of victimization.
 - (c) The clinician must provide an itemized list of treatment sessions.
- (3) Eligibility for Payment
Those eligible for counseling costs enumerated in the law are:

VICTIM: A person who suffered serious bodily injury, psychological injury as the result of a direct, face-to-face threat of physical injury or death as a result of criminally injurious conduct.

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 where the death occurred as a result of criminally injurious conduct.

CLAIMANT: Any of the following persons applying for compensation under this chapter:

- (a) A victim;



- (b) a dependent of a deceased victim, if such victim died as a result of criminally injurious conduct; or
 - (c) a person authorized by law to act on behalf of a victim or dependent of a deceased victim if such victim died as a result of criminally injurious conduct;
 - (d) a victim's immediate family members as defined by the State of Alabama Family and Medical Leave Act requirements.
- (5) Cost Containment
- (a) Individual Therapy Rates:
 - \$ 80.00 per hour—Licensed Counselor/Social Worker
 - \$100.00 per hour—Psychologists (Ph.D.); Licensed Therapists
 - \$125 per hour—Psychiatrists (M.D.)
 - (b) Group Therapy Rates:
 - \$ 60.00 per hour
 - (c) Counseling shall not exceed \$6,250, or 50 sessions, unless exigent circumstances exist and the amount of the expenses for counseling will be expended before the victim/claimant has been adequately assisted on an outpatient basis.

Exigent circumstances may include, but are not be limited to homicide-survivors, child victims, and Post traumatic stress disorder in which the victim/claimant requires continuing therapy. In no instance shall counseling expenses exceed \$8,000. Reasonable effort should be made to inform victim/claimants counseling services are provided by community mental health centers on a sliding fee schedule. Inpatient treatment shall be considered a medical condition for purposes of compensation.

- (d) Supplemental therapy bills may be submitted to ACVCC as accrued, for consideration of payment. They will only be considered and paid every three (3) months.
 - (e) In instances in which counseling services have been provided by mental health centers, ACVCC will only pay what the victim has been charged on a sliding fee scale.
- (6) Criteria for Payment of Counseling. Eligibility for payment of counseling expenses is based upon the following factors:
- (a) The reasonableness of the charges;
 - (b) The relationship between the therapy and the crime;
 - (c) The cooperation of the therapist in submitting the requested information which includes evidence that therapy is necessary as a result of the crime, a bill indicating dates, times and cost of therapy, evidence that the therapist is licensed or, if not, evidence that the therapist is supervised regularly by a psychologist or psychiatrist.

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ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-5. COOPERATION WITH LAW ENFORCEMENT

262-X-5-.01. Cooperation With Law Enforcement.

The Commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies or the Commission staff in the processing of a claim, the Commission may deny, withdraw, or reduce an award of compensation. The Commission shall determine the extent of the cooperation by the victim and the following criteria shall be used:

- (a) The claimant's failure to assist and cooperate with the prosecution of the case or to appear as a witness shall constitute noncooperation and the claim shall be denied.
- (b) In instances in which the claimant initially fails to cooperate with law enforcement but subsequently begins to cooperate, compensation may be reduced or denied to the extent which

- his/her failure to cooperate hindered the investigation and/or prosecution of the case.
- (c) If law enforcement indicates that the claimant was reluctant to give information pertaining to the crime; failed to appear when requested, without good cause, gave false or misleading information, or attempted to avoid law enforcement, the award shall be denied.
 - (d) A claimant's failure to cooperate with ACVCC's processing of the claim shall also be a basis for rendering a claim ineligible.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-6. COMPENSATION BENEFITING OFFENDER

262-X-6-.01. Compensation Benefiting Offender.

Compensation shall not be awarded if the award would unjustly benefit the offender or accomplice of the offender.

262-X-6-.02. Domestic Abuse.

No claim resulting from an incident of domestic abuse shall be denied based solely upon a finding that a claimant resides or has resided with the alleged offender of the crime for which the claim has been filed. The Commission shall not deny payments to third party vendors based solely upon a finding that the victim and offender are maintaining a relationship.

- (a) Procedures. When victims of domestic abuse have submitted claims for lost wages, and where the Commission finds that the victim is living with the offender, or if the Commission is unable to determine whether a claimant is living with the offender of the crime for which the claim is filed, the Commission shall, by mail, request that the claimant clarify whether the offender is residing with the claimant. The Commission shall, as part of this request, collect information, which determines whether there has been, and continues to be criminal justice, mental health, or human service program involvement.
- (b) Claim Determination. When an individual who has committed domestic violence is residing with a claimant who has requested lost wages, the Commission shall not deem the claim ineligible based solely on the cohabitation if there is reasonable evidence that the offender has been held accountable through the criminal justice system, human services involvement or intervention; or when there is evidence that the payment of lost wages will sustain the victim's living expenses. No claim shall be denied solely because it succeeds one previous claim for victimization by the same offender.
- (c) The continuance of a relationship between the victim and offender shall not in itself preclude payment.

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ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-7. RECOVERY FROM COLLATERAL SOURCES

262-X-7-.01. Recovery From Collateral Sources.

- (1) If compensation is awarded, the Commission shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that compensation was awarded.
- (2) If the claimant received compensation from a source other than the Commission after the Commission has made an award to the claimant, the claimant will be required by law to reimburse the Alabama Crime Victims Compensation Commission Fund. Failure to do so will result in a Class C felony.
- (3) If a claimant files a civil suit to recover damages related to the criminally injurious conduct upon which compensation has been claimed or awarded, the claimant shall give the Commission written



notice within 15 days of the filing of the action. The commission may intervene in the proceedings as a complainant to recover the compensation awarded. If the Commission does give notice, attorneys fees may be awarded in an amount not to exceed fifteen percent (15%) of the amount subrogated to the Commission.

- (4) If the offender is ordered to pay restitution to the claimant, the claimant must notify the Commission of this action in writing.
- (5) In the case where compensation has already been paid to the claimant, the judge may award restitution to be paid directly to the Alabama Crime Victims Compensation Commission Fund.
- (6) Whenever compensation is awarded to a claimant who is entitled to restitution from a criminal defendant, the Commission may initiate restitution hearings in such criminal proceedings or intervene in same. The Commission shall be entitled to receive restitution in such proceedings to the extent that compensation was awarded. The Commission shall be subrogated to all the rights and remedies of such claimant for the collection of restitution to the extent compensation was awarded; provided, however, the Commission shall be exempt from the payment of fees or other charges for the recording of restitution orders in the offices of the judges of probate.
- (7) The Commission may reduce an award amount based on the amount already received from a collateral source contribution, unless the claimant was receiving or was entitled to receive such benefits prior to the incident for which a claim is filed.
- (8) In the event the claimant recovers compensation, other than through the provisions of this chapter, for injuries or death resulting from criminally injurious conduct, the claimant shall retain, as trustee for the Commission, so much of recovered funds as necessary to reimburse the Alabama Crime Victims Compensation Commission Fund to the extent that compensation was awarded to the claimant from that fund.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-8. PENALTIES FOR FILING FALSE CLAIMS

262-X-8-.01. Penalties For Filing False Claims.

- (1) Any person who shall knowingly furnish any false information to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof with the intent to defraud said Commission, or with the intent to obtain an award of compensation for a person not entitled to receive same, shall be guilty of a Class C felony.
- (2) Any person who shall knowingly fail or omit to disclose a material fact or circumstance to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof which is material to a claim for an award of compensation with the intent to defraud the Commission or with the intent to cause a person to receive an award of compensation to which such person is not entitled shall be guilty of a Class C felony.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-9. APPEALS PROCEDURE

262-X-9-.01. Appeals Procedure.

- (1) In the event an application is approved in a modified form denied or rendered ineligible, the executive director of the Commission shall notify the claimant by certified mail, return receipt requested, within ten (10) calendar days of the Commission's action setting forth the basis of the Commission's decision.
- (2) The claimant shall have the right to appeal and may do so by notifying the executive director in writing by certified mail, return receipt requested, of the intent to appeal within thirty (30) calen-



dar days of the date of the notification letter setting forth the Commission's decision. Regular mail is accepted, however, certified mail is strongly recommended.

- (3) The claimant shall then be entitled to a formal hearing before the Commission. The hearing shall be held within sixty (60) calendar days of the receipt by the executive director of the notice from the claimant stating claimant's intent to appeal.
- (4) In an appeal hearing, all parties shall be afforded an opportunity to appear and be heard.
- (5) The Commission may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default.
- (6) The Commission shall render its decision relative to the appeal within ten (10) calendar days of the formal hearings and the applicant will be notified by mail.
- (7) An impartial hearing officer from the attorney general's office shall be provided by the Commission to preside over all hearings and perform such parliamentary functions as said hearing officer deems necessary. Witnesses may also be subpoenaed when a timely request to do so is submitted by the victim/claimant.
- (8) A certified court reporter shall be used to transcribe each appeal hearing. A record of the proceedings shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the Commission.
- (9) The victim or claimant forfeits his/her rights to an appeal if said victim requests a hearing and fails to appear without good cause.

ALABAMA ADMINISTRATIVE CODE
ALABAMA CRIME VICTIMS COMPENSATION COMMISSION
CHAPTER 262-X-10. ATTORNEY'S FEES

262-X-10-.01. Attorney's Fees.

If a claimant or victim chooses to be represented by an attorney, said claimant or victim will be responsible for the payment of his or her attorney's fees.

262-X-11.01 Sexual Assault Examination Payments

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual offenses for the purpose of obtaining evidence to pursue criminal charges against sexual assault offenders. Expenses incurred for processing sexual assault examination kits are eligible. Sexual assault examination kits developed by the Alabama Department of Forensics and comparable kits shall be eligible for payment pursuant to this section. Child sexual assault examinations shall also be eligible for payment pursuant to this section.

- (A) Application and Payment Procedures
 1. Charges for the sexual assault examination must be submitted by a hospital, physician or SANE (Sexual Assault Nurse Examiner) program to be eligible for payment pursuant to this section.
 2. Payment for the examination shall be made regardless of whether the victim pursues prosecution of the offender.
 3. Testing and preventative treatment for sexually transmitted diseases and pregnancy shall be eligible for payment pursuant to this section when submitted with proper documentation. The victim must make application for compensation to have other treatment related to the incident considered for payment.
- (B) Payment for the following shall not be eligible for payment under this section:
 - a. treatment for injuries;
 - b. medication such as anti-depressants, sedatives or tranquilizers.
- (C) Payment shall be submitted directly to the service provider unless payment has been made by the victim in which case the victim shall be reimbursed.



262-X-11-.02 Eligibility Criteria For Sexual Assault Payments.

In order to be eligible for payment, the request or billing statement must meet the following criteria:

- (1) Expenses must have been incurred on or after July 27, 1995;
- (2) Proof that the incident was reported to a law enforcement agency within seventy-two hours after its occurrence, unless the Commission finds there was good cause for the failure to report within that time. In the case of child victims, proof the incident was reported within seventy-two hours of disclosure to a Law Enforcement Agency or the Department of Human Resources (DHR) unless the Commission finds there was good cause for the failure to report within that time;
- (3) The victim is not required to prosecute in order to be eligible under this section. If investigation determines that a rape or sexual assault did not occur (i.e., repeat false reports), the submitted bill shall be denied;
- (4) The Commission shall reduce an award amount by the amount already received from a collateral source;
- (5) Reimbursement shall not be made for the cost of the Sexual Assault Evidence Collection Kit if the kit was provided at no cost to the health care provider.

262-X-12-.01 Domestic Violence Special Assistance Award

Program Description: The purpose of this award is to assist domestic violence victims in establishing independent, violence-free living by providing assistance for needed products, services and accommodations.

- (1) In order to qualify under this section, the victim and offender must be family or household members as defined in §15-10-3(a)(8), *Code of Alabama (1975)*.
- (2) The victim must be a current resident of an Alabama Coalition Against Domestic Violence Shelter for no less than ten (10) consecutive days or receiving non-residential services from a Domestic Violence Shelter Program with a minimum of three (3) face-to-face contacts with Domestic Violence Shelter Program personnel.
- (3) The incident for which the victim contacted a shelter program and is filing for assistance under this section must have been reported to a law enforcement agency within seventy-two hours after its occurrence, unless the Commission finds there was good cause for the failure to report within that time. Qualifying incidents include a violation of a Protection/Restraining Order. Prosecution of the offense is not required for eligibility under this section.
- (4) The maximum award pursuant to this section is one thousand dollars (\$1,000). Recipients of an award under this section shall not be eligible for an emergency award in the event that a compensation claim is filed for the incident.



Exhibit C Organizational Chart

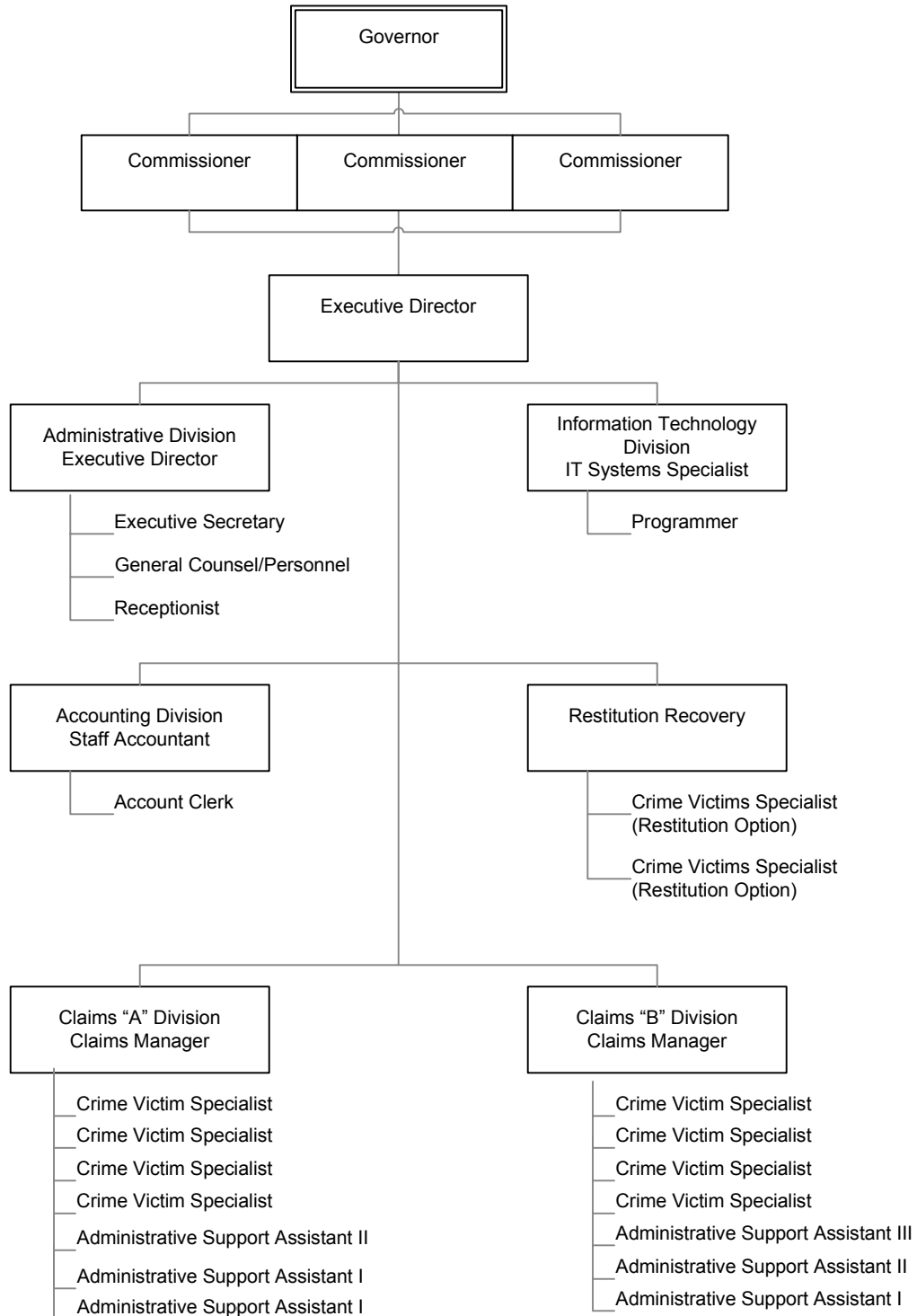


Exhibit D

CRIME CLOCK

One murder **EVERY 32 MINUTES.**^a

One violent crime **EVERY 6 SECONDS.**^b

One robbery **EVERY 55 SECONDS.**^b

One assault **EVERY 7 SECONDS.**^b

One theft **EVERY 2 SECONDS.**^b

One burglary **EVERY 10 SECONDS.**^b

One rape/sexual assault **EVERY 2 MINUTES.**^b

56 women are victimized by an intimate **EVERY HOUR.**^b

A teenager is victimized **EVERY 19 SECONDS.**^b

3 women and/or men become victims
of stalking **EVERY MINUTE.**^c

A child is abused and/or neglected
in America **EVERY 35 SECONDS.**^d

EVERY 19 SECONDS a violent crime is
committed against a person at work or on duty.^e

A person is killed in an alcohol-related
traffic crash **EVERY 30 MINUTES.**^f

An identity theft is reported **EVERY 3 MINUTES.**^g

THE NATIONAL CENTER FOR Victims of Crime

Victim Services Helpline:
1-800-FYI-CALL
TTY: 1-800-211-7996
www.ncvc.org
(202)467-8700
2000 M Street, NW Suite 480
Washington, DC 20036

a Federal Bureau of Investigation. (2003). Crime in the United States, 2002. Washington, D.C.: Federal Bureau of Investigation, U.S. Department of Justice.

b Rennison, Callie. (2003). Criminal Victimization 2002. Washington, D.C.: Bureau of Justice Statistics, U.S. Department of Justice.

c Tjaden & Thoennes. (1998). Stalking in America: Findings from the National Violence Against Women Survey. Washington, D.C.: National Institute of Justice, U.S. Department of Justice.

d Children's Bureau. (2003). Child Maltreatment 2000. Washington, D.C.: Children's Bureau, U.S. Department of Health and Human Services.

e Duhart, Detis. (2002). Violence in the Workplace, 1993-99. Washington, D.C.: Bureau of Justice Statistics, U.S. Department of Justice.

f National Highway Traffic Safety Administration. (2003). Alcohol Involvement in Fatal Crashes, 2001. Washington, D.C.: NHTSA, U.S. Department of Transportation.

g Federal Trade Commission. (2003). Identity Theft Complaint Data: Figures and Trends on Identity Theft January 2002 through December 2002. Washington, D.C.: Federal Trade Commission.



