SB245

MND311W-1

By Senator Weaver

RFD: Judiciary

First Read: 21-Mar-24

SYNOPSIS:

Under existing law, victims of violence and their dependents may be awarded compensation for work loss, including income loss, that resulted from the criminal act perpetrated against them.

This bill would provide that work loss includes loss of income for victims of human trafficking resulting from being exploited.

Under existing law, members of the Alabama Crime Victims Compensation Commission are paid for each day they attend a commission meeting.

This bill would provide that commission members also be paid for each day spent in the performance of their commission duties.

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama Crime Victims Compensation Commission; to amend Sections 15-23-3 and 15-23-4, Code of Alabama 1975, to further provide for the compensation a crime victim may receive; and to provide that commission members be paid for each day spent in the performance of their commission

duties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-23-3 and 15-23-4, Code of Alabama 1975, are amended to read as follows:

"§15-23-3

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

~~(1)~~ (4) COMMISSION. The Alabama Crime Victims Compensation Commission as created by Section 15-23-4.

~~(2)~~ (5) CRIMINALLY INJURIOUS CONDUCT. ~~Criminally injurious conduct includes any~~ 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~~ resident of this state, and shall include an act of terrorism, as defined in ~~Section 2331 of Title~~ 18 U.S.C. § 2331, United States Code, committed outside of the United States, against a resident of this state; provided, however, the citizen at the time ~~such~~ the 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~~ resident:

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, or 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~~.~~; or

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

c. The term ~~"criminally injurious conduct" shall not mean: An~~ does not include an act committed outside the geographical boundaries of this state upon a person who was not at the time a ~~citizen~~ resident of ~~Alabama~~ this state, 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~~ resident of, or establishing a permanent place of residence in, another state.

~~(3)~~ (13) VICTIM. A natural person who suffered serious personal injury or death as a result of criminally injurious conduct.

~~(4)~~ (6) 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)~~ (2) CLAIMANT. Any of the following persons applying for compensation under this article:

a. A victim.

b. A dependent of a deceased victim, if ~~such~~ the 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~~ the victim died as a

result of criminally injurious conduct.

~~(6)~~ (1) 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~~ The term also includes a total charge not in excess of seven thousand dollars ($7,000) for expenses related to funeral, cremation, or burial.

~~(7)~~ (14) 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. Work loss also includes loss of income of an offender charged with domestic violence under Sections 13A-6-130, 13A-6-131, and 13A-6-132 when the victim was residing with the offender at the time of commission of the offense and the offender's income was a significant source of direct support for the victim. Work loss also includes loss of income for victims of human trafficking resulting from being exploited.

~~(8)~~ (11) 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)~~(8) 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~~ that 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)~~(12) 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)~~(7) 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)~~(9) NONECONOMIC LOSS or DETRIMENT. Pain, suffering, inconvenience, physical impairment, and nonpecuniary damage.

~~(13)~~(3) COLLATERAL SOURCE. Source of income~~,~~ or 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. Workers' compensation.;

e. Wage continuation programs of any employer.;

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

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

(14)(10) OFFICE OF PROSECUTION SERVICES. The Office of Prosecution Services as established by Section 12-17-230."

"§15-23-4

(a) The Alabama Crime Victims Compensation Commission is created and shall be composed of three residents of this state, 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 appointments shall be for four-year terms. The membership of

~~the board shall be inclusive and the~~ Governor shall coordinate his or her appointments ~~so that the diversity of~~ to assure the board membership is inclusive and reflects the racial, gender, ~~race, and~~ geographical ~~areas is reflective of the makeup of this~~ urban, rural, and economic diversity of the state.

(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.

(c) At least one member shall be a victim of a crime of violence who suffered serious personal injury as a result of the crime, a member of a victim's immediate family or a member of a deceased victim's immediate family if the 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~~this state.

(d) Each year the commission shall elect a chair 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 where the State Capitol is located.

(g) The commission shall hold, at its principal place of business, quarterly public meetings at 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) The commission shall establish rules for the administration of its duties and responsibilities pursuant to this chapter.

(j) The chair 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 the record. The record of the proceedings of the commission shall be open to any member of the commission and to the public. A copy of the record, certified by the chair, shall be competent evidence in all courts.

(k) The commission may not 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.

(l) All members and employees of the commission handling money or exercising authority over any property, before entering the discharge of their duties, shall provide a bond with a surety company authorized to do business in this state, 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 monies, funds, or properties coming into their possession in the capacity of their employment.

(m) The Attorney General or the district attorney of the county where the State Capitol is located, upon written request by the commission, shall represent the commission in all litigation where 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.

(n) All commission members shall be paid two hundred fifty dollars ($250) per day and mileage for attendance of commission meetings. All commission members shall also be paid an amount, as determined by the commission, not to exceed two hundred fifty dollars ($250) per day for each day spent in the performance of their duties. 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."

Section 2. This act shall become effective on October 1, 2024.