

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1675

H.P. 1184

House of Representatives, March 26, 1997

An Act to Amend the Victims' Compensation Fund.

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

Be it enacted by the People of the State of Maine as follows:

2
3 Sec. 1. 5 MRSA §3360, sub-§3, ¶D, as enacted by PL 1991, c.
4 806, §3, is amended to read:

5 D. Robbery as described in Title 17-A, chapter 27; or

6
7 Sec. 2. 5 MRSA §3360, sub-§3, ¶E, as amended by PL 1995, c.
8 65, Pt. A, §8 and affected by §153 and Pt. C, §15, is further
9 amended to read:

10
11 E. Operating under the influence of intoxicating liquor or
12 drugs or with an excessive blood-alcohol level, as described
13 in Title 29-A, section 2411; or

14
15 Sec. 3. 5 MRSA §3360, sub-§3, ¶F is enacted to read:

16
17 F. An act of terrorism, as defined in United States Code,
18 Title 18, Section 2331, committed outside of the United
19 States against a resident of this State.

20
21 Sec. 4. 5 MRSA §3360, sub-§5 is enacted to read:

22
23 5. Family or household member. "Family or household
24 member" means: the parent, stepparent, sibling, grandparent,
25 spouse, child or stepchild of a victim; or a person who at the
26 time or discovery of the crime was living in the household of the
27 victim or who previously had lived in the household of the victim
28 for a period of not less than 2 years.

29
30 Sec. 5. 5 MRSA §3360-B, as enacted by PL 1991, c. 806, §3, is
31 amended to read:

32
33 **§3360-B. Award of compensation; eligibility**

34
35 1. **Eligibility of victims.** The board may award
36 compensation to any individual who:

37
38 A. Suffers bodily injury as a direct result of a crime
39 specified in section 3360, committed within the jurisdiction
40 of the State;

41
42 B. Has been sexually assaulted within this State in
43 violation of Title 17-A, chapter 11 without regard to
44 whether bodily injury occurred; or

45
46 C. Would otherwise be eligible for compensation, even
47 though:
48

- 2 (1) The criminal conduct occurred in this State but
within the exclusive jurisdiction of the United States;
- 4 (2) The bodily injury resulted from conduct that
violates a criminal law of the United States; or
- 6 (3) The crime occurred in another state, but only if
8 the person is a resident of this State and the other
state does not have a victim compensation program for
10 which residents of this State are eligible, and the
person would have been eligible under this chapter if
12 the conduct had occurred in this State; or

14 D. Is a resident of this State and suffers bodily injury as
a direct result of a crime specified in section 3360,
16 subsection 3, paragraph F committed outside of the United
States.

18 2. Eligibility of financial dependents. The board may
20 award compensation for the benefit of a surviving family or
household member for lost wages of a person who dies as a direct
22 result of a crime if the family or household member was
financially dependent on the deceased person or the deceased
24 person had contributed substantially and regularly to the support
of the surviving family or household member.

26 3. Eligibility for payment of mental health treatment for
28 family members. The board may award compensation for the benefit
of a surviving family or household member of a person who dies as
30 a direct result of a crime, a family or household member who
witnessed a crime or a family or household member of a sexual
32 assault victim who is a minor for unreimbursed mental health
treatment expenses directly related to the crime.

34 Sec. 6. 5 MRSA §3360-C, sub-§2, ¶A, as enacted by PL 1991, c.
36 806, §3, is amended to read:

38 A. To any claimant who does not fully cooperate with the
board or with the reasonable requests of law enforcement
40 officers, or prosecution authorities and the board; or

42 Sec. 7. 5 MRSA §3360-D, sub-§3, as enacted by PL 1991, c. 806,
§3, is amended to read:

44 3. Forms. The board may provide forms by rule for the
46 submission of claims and claims information.

48 Sec. 8. 5 MRSA §3360-D, sub-§4 is enacted to read:

2 4. Confidentiality. All records and information obtained
3 by or in the possession of the Department of the Attorney General
4 concerning an application for or an award of compensation under
5 this chapter are confidential and may not be disclosed. However,
6 the Attorney General may provide access to those records and
7 information to the board for use in the board's official duties;
8 those records and information remain confidential in the
9 possession of the board. The records or information may, at the
10 sole discretion of the Attorney General or designee of the
11 Attorney General, be disclosed to:

12 A. Law enforcement officers to assist them with the
13 discharge of their official duties;

14 B. The courts and the Department of Corrections to provide
15 them with information to assess, collect and disburse
16 restitution;

17 C. A claimant who has requested a hearing before the board
18 or who has appealed a final decision of the board; and

19 D. Other persons to carry out the purposes of this chapter.

20 **Sec. 9. 5 MRSA §3360-E, as amended by PL 1995, c. 665, Pt.**
21 **JJ, §1 and affected by §2, is further amended to read:**

22 **§3360-E. Payment of awards; limits**

23 The board may award compensation to a claimant of up to
24 \$5,000 ~~\$7,500~~ for actual and unreimbursed losses and eligible
25 expenses of any person who is sexually assaulted or who suffers
26 bodily injury or death as the result of a crime specified in
27 section 3360, subsection 3.

28 An award of compensation for the benefit of a family or
29 household member is derivative of the claim of the victim. The
30 total compensation paid for all claims arising from the crime
31 against the victim may not exceed \$7,500.

32 Within the limits specified in this section, the spouse,
33 child, parent or estate of a person who when a person dies as the
34 direct result of a specified crime may seek compensation for
35 unreimbursed, any individual who pays or who is legally
36 responsible for medical, medically related and, funeral or burial
37 expenses may seek compensation for those unreimbursed expenses
38 incurred by the spouse, child, parent or estate. Only a spouse,
39 minor child, dependent parent or dependent adult child may be
40 awarded compensation for lost wages of a deceased person the
41 individual. A provider of medical or funeral services may not
42 seek reimbursement directly.

2 The board shall disburse funds awarded directly to the
claimant. The board, in its sole discretion, may disburse funds
4 awarded directly to the claimant or to the individuals or
6 entities who provided the services for which compensation was
8 awarded. In the case of more than one survivor of a deceased
person family or household member, the board may apportion the
total compensation as the board determines.

10 Sec. 10. 5 MRSA §3360-F, sub-§2, as enacted by PL 1991, c.
806, §3, is amended to read:

12 2. **Information.** In addition to the material and
14 information required by law and by the board, the claimant may
provide the board with any other information pertinent to the
16 nature or the amount of the claim. The board shall receive and
consider information provided by law enforcement agencies and
18 prosecution authorities. Identified perpetrators may also submit
20 information and, at its sole discretion, may receive and consider
relevant information from any other source.

22 Sec. 11. 5 MRSA §§3360-G and 3360-H, as enacted by PL 1991,
c. 806, §3, are amended to read:

24 **§3360-G. Appeal**

26 Only a claimant under this chapter may appeal a decision of
28 the board. An appeal of the board's final decisions must be to
the Superior Court as provided for other administrative actions
30 under chapter 375, subchapter VII. Board decisions and the
amount of awards must be upheld unless the court finds no
32 rational basis for the decision or that the board abused its
discretion.

34 **§3360-H. Victims' Compensation Fund**

36 There is created a special fund, known as the "Victims'
38 Compensation Fund," for the purpose of providing for the payment
of claims arising under this chapter and for the payment of all
40 necessary and proper expenses incurred by the board. The
Attorney General shall administer the fund.

42 All administrative costs of the board must be paid out of
44 money collected pursuant to section 3360-I and deposited in the
Victims' Compensation Fund. The fund may receive private
46 donations, federal funds and state funds designated by law that
48 may be used for the payment of claims and for administrative
costs.

2 Sec. 12. 5 MRSA §3360-J, sub-§1, as enacted by PL 1991, c.
806, §3, is amended to read:

4 1. **Administrative expenses.** Administrative expenses of the
board may be paid from the Victims' Compensation Fund. After the
6 first year, the Attorney General may use no more than 7.5% of the
Victims' Compensation Fund to defray the administrative expenses
8 of-the-board.

10 SUMMARY

12 This bill expands coverage of the Victims' Compensation
Fund to provide benefits to certain family and household members
14 of victims who suffer financial and emotional loss as a result of
crimes committed against the victims.
16

18 Terrorism is included in those crimes that are covered by
the Victims' Compensation Board. The additional coverage for
20 terrorism is required for program eligibility for federal
matching funds.
22

The bill adds a confidentiality provision to limit
24 disclosure of fund records, including law enforcement
investigative records, medical records, earnings records and
26 mental health forms.

28 The maximum award on a claim is increased from \$5,000 to
\$7,500. All awards of compensation for family or household
30 members are included in the new maximum amount.

32 The bill allows direct application by any individual, other
than a provider of services, for reimbursement of medical and
34 funeral payments made or obligations assumed for a deceased crime
victim. This eliminates the need to probate the estate solely to
36 process a claim.

38 The bill leaves to the discretion of the board whether to
make payments directly to a claimant or to the provider of
40 services for which reimbursement is sought.

42 The bill clarifies that the fund may receive federal funds,
private donations and payments from state funds other than from
44 the General Fund.

46 To eliminate inconsistencies between substantive and
budgetary bills, the bill deletes the specification of a 7.5%
48 administrative expenses limit.