

House File 2003 - Introduced

HOUSE FILE 2003

BY ANDERSON

A BILL FOR

1 An Act relating to crime victims, including restitution plan
2 hearings, crime victim compensation, and the identity theft
3 passport program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715A.9A, subsection 1, paragraph a, Code
2 2014, is amended to read as follows:

3 a. Is a victim of identity theft in this state as described
4 in section 715A.8 or is a resident of this state who is a victim
5 of identity theft.

6 Sec. 2. Section 910.7, subsections 2 and 3, Code 2014, are
7 amended to read as follows:

8 2. After a petition has been filed, the court, at any time
9 prior to the expiration of the offender's sentence, provided
10 the required notice has been given pursuant to subsection
11 3, may hold a hearing and modify the plan of restitution or
12 the restitution plan of payment, or both, and may extend
13 the period of time for the completion of restitution. If a
14 hearing involving the crime victim compensation program is
15 conducted, an employee of the crime victim compensation program
16 or the attorney for the crime victim compensation program may
17 participate by telephone.

18 3. If a petition related to a plan of restitution has
19 been filed, the offender, the county attorney, the department
20 of corrections if the offender is currently confined in a
21 correctional institution, the office or individual who prepared
22 the offender's restitution plan, other witnesses, and the
23 victim shall receive notice prior to any hearing under this
24 section.

25 Sec. 3. Section 915.80, subsection 2, Code 2014, is amended
26 to read as follows:

27 2. a. "Crime" means any of the following:

28 (1) ~~conduct~~ Conduct that occurs or is attempted in this
29 state, poses a substantial threat of personal injury or death,
30 and is punishable as a felony or misdemeanor, or would be so
31 punishable but for the fact that the person engaging in the
32 conduct lacked the capacity to commit the crime under the laws
33 of this state.

34 (2) A violation of section 715A.8.

35 (3) The financial exploitation of a person who is sixty-five

1 years of age or older or is a dependent adult as defined
2 in section 235B.2. For the purposes of this subparagraph,
3 "financial exploitation" means the criminal act or process of
4 taking unfair advantage of a person for one's own personal or
5 pecuniary profit, without the informed consent of the person,
6 including theft, by the use of undue influence, harassment,
7 duress, deception, false representation, false pretenses,
8 forgery, fraudulent practices, or securities fraud.

9 b. "*Crime*" does not include conduct arising out of the
10 ownership, maintenance, or use of a motor vehicle, motorcycle,
11 motorized bicycle, train, boat, or aircraft except for
12 violations of section 321.261, 321.277, 321J.2, 462A.7,
13 462A.12, 462A.14, or 707.6A, or when the intention is to cause
14 personal injury or death.

15 c. A license revocation under section 321J.9, ~~or~~ 321J.12,
16 or 707.6A shall be considered by the department as evidence
17 of a violation of section 321J.2 for the purposes of this
18 subchapter. A license suspension or revocation under section
19 462A.14, 462A.14B, or 462A.23 shall be considered by the
20 department as evidence of a violation of section 462A.14 for
21 the purposes of this subchapter.

22 Sec. 4. Section 915.80, Code 2014, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 4A. "*Homicide victim survivor*" means any
25 of the following:

26 a. A person who is one of the following relatives of a
27 homicide victim by means of blood relationship or affinity,
28 including by marriage or adoption:

- 29 (1) Spouse.
- 30 (2) Parent.
- 31 (3) Child.
- 32 (4) Sibling.
- 33 (5) Grandparent.
- 34 (6) Aunt.
- 35 (7) Uncle.

- 1 (8) Niece.
- 2 (9) Nephew.
- 3 (10) Grandchild.
- 4 (11) First cousin.
- 5 (12) Great-grandparent.
- 6 (13) Great-aunt.
- 7 (14) Great-uncle.
- 8 (15) Great-niece.
- 9 (16) Great-nephew.
- 10 (17) Great-grandchild.

11 b. The spouse of a person identified in paragraph "a".

12 c. A homicide victim's fiancée, legal custodian, legal ward,
13 legal guardian, foster child, foster parent, or foster sibling.

14 d. A former intimate partner of a homicide victim who has
15 legal guardianship of the homicide victim's child or children.

16 e. A person cohabiting with a homicide victim at the time
17 of the crime.

18 Sec. 5. Section 915.85, subsection 3, Code 2014, is amended
19 to read as follows:

20 3. To or for the benefit of one or more dependents of the
21 victim, in the case of death of the victim. ~~If two or more~~
22 ~~dependents are entitled to compensation, the compensation may~~
23 ~~be apportioned by the department as the department determines~~
24 ~~to be fair and equitable among the dependents.~~

25 Sec. 6. Section 915.86, subsections 3, 4, 8, 9, 10, 13, 14,
26 and 15, Code 2014, are amended to read as follows:

27 3. Loss of reasonable income from work that ~~the victim's~~
28 ~~parent or caretaker~~ a secondary victim would have performed and
29 for which ~~the victim's parent or caretaker~~ a secondary victim
30 would have received remuneration ~~for up to three days after~~
31 ~~the crime or the discovery of the crime to allow the victim's~~
32 ~~parent or caretaker~~ a secondary victim to assist the victim
33 and when ~~the victim's parent or caretaker~~ a secondary victim
34 accompanies the victim to medical and or counseling services,
35 not to exceed one thousand dollars per ~~parent or caretaker~~

1 secondary victim.

2 4. Loss of reasonable income from work that the victim, the
3 ~~victim's parent or caretaker, or the survivor of a homicide~~
4 ~~victim as described in subsection 10~~ a secondary victim, or a
5 homicide victim survivor would have performed and for which
6 that person would have received remuneration, where the loss of
7 income is a direct result of cooperation with the investigation
8 and prosecution of the crime or attendance at medical or
9 counseling services, funerals, or criminal justice proceedings
10 including the trial and sentencing in the case, not to exceed
11 one thousand dollars per person.

12 8. In the event of a victim's death, reasonable charges
13 incurred for counseling ~~the victim's spouse, children, parents,~~
14 ~~siblings, or persons cohabiting with or related by blood or~~
15 ~~affinity to the victim~~ a homicide victim survivor if the
16 counseling services are provided by a psychologist licensed
17 under chapter 154B, a victim counselor as defined in section
18 915.20A, subsection 1, or an individual holding at least a
19 master's degree in social work or counseling ~~and guidance,~~
20 and reasonable charges incurred by such persons for medical
21 care counseling provided ~~by a~~ under the supervision of a
22 psychiatrist licensed under chapter 148. The allowable charges
23 under this subsection shall not exceed five thousand dollars
24 per person.

25 9. In the event of a homicide, reasonable charges incurred
26 for health care for ~~the victim's spouse, child, foster child,~~
27 ~~stepchild, son-in-law, or daughter-in-law; parent, foster~~
28 ~~parent, or stepparent; sibling, foster sibling, stepsibling,~~
29 ~~brother-in-law, or sister-in-law; grandparent, grandchild,~~
30 ~~aunt, uncle, or first cousin; legal ward, or person cohabiting~~
31 ~~with the victim,~~ a homicide victim survivor, not to exceed
32 three thousand dollars per homicide victim survivor.

33 10. In the event of a homicide, loss of reasonable income
34 from work that, but for the death of the victim, would have
35 been earned by ~~the victim's spouse, child, foster child,~~

1 ~~stepchild, son-in-law, or daughter-in-law; parent, foster~~
2 ~~parent, or stepparent; sibling, foster sibling, stepsibling,~~
3 ~~brother-in-law, or sister-in-law; grandparent; grandchild;~~
4 ~~aunt, uncle, or first cousin; legal ward; or person cohabiting~~
5 ~~with the victim~~ a homicide victim survivor, not to exceed six
6 thousand dollars per homicide victim survivor.

7 13. Reasonable dependent care expenses incurred by the
8 victim, ~~the victim's parent or caretaker, or the survivor of~~
9 ~~a homicide victim as described in subsection 10~~ a secondary
10 victim, or a homicide victim survivor for the care of
11 dependents while attending medical or counseling services,
12 funerals, or criminal justice proceedings ~~or medical or~~
13 ~~counseling services including the trial and sentencing in the~~
14 case, not to exceed one thousand dollars per person.

15 14. Reasonable expenses incurred by a victim, ~~the victim's~~
16 ~~parent or caretaker, or the survivor of a homicide victim as~~
17 ~~described in subsection 10~~ a secondary victim, or a homicide
18 victim survivor to replace or install locks, windows, and other
19 residential security items at the victim's or homicide victim
20 survivor's residence or at the residential scene of a crime,
21 not to exceed five hundred dollars per residence.

22 15. Reasonable expenses incurred by the victim, a secondary
23 victim, ~~the parent or guardian of a victim, or the survivor of~~
24 ~~a homicide victim as described in subsection 10~~ or a homicide
25 victim survivor for transportation to medical, or counseling
26 services, funeral funerals, or criminal justice proceedings
27 including the trial and sentencing in the case, not to exceed
28 one thousand dollars per person.

29 Sec. 7. Section 915.87, Code 2014, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 3. Compensation shall not be made to a
32 secondary victim or a homicide victim survivor if the victim is
33 ineligible for compensation related to the crime.

34 Sec. 8. Section 915.94, Code 2014, is amended to read as
35 follows:

1 915.94 Victim compensation fund.

2 1. A victim compensation fund is established as a separate
3 fund in the state treasury. Moneys deposited in the fund shall
4 be administered by the department and dedicated to and used
5 for the purposes of section 915.41 and this subchapter. In
6 addition, the department may use moneys from the fund for ~~the~~
7 ~~purpose of~~ the following:

8 a. The department's prosecutor-based victim service
9 coordination, including the duties defined in sections 910.3
10 and 910.6 and this chapter, ~~and for the.~~

b. To award of funds to programs that provide services and support to for victims of domestic abuse or sexual assault as provided in chapter 236, to for victims under section 710A.2, and for homicide victim survivors. Up to twenty-five percent of the moneys available in the fund on June 30 of any fiscal year shall be used for purposes of this paragraph.

17 c. ~~and for the~~ For support of an automated victim
18 notification system established in section 915.10A.

19 d. To implement the identity theft passport program
20 established by rule pursuant to section 715A.9A.

21 2. The department may also use up to one hundred thousand
22 dollars from the fund to provide training for victim service
23 providers.

24 3. Notwithstanding section 8.33, any balance in the fund on
25 June 30 of any fiscal year shall not revert to the general fund
26 of the state.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to crime victims, including restitution
31 plan hearings, crime victim compensation, awards to programs
32 that serve crime victims, and the identity theft passport
33 program.

34 The bill allows for the issuance of an identity theft
35 passport to a person who is a resident of Iowa who is the

1 subject of identity theft outside of Iowa, in addition to
2 victims of identity theft in Iowa.

3 The bill provides that if a hearing involving the crime
4 victim compensation program is conducted, an employee of the
5 crime victim compensation program of the department of justice
6 or the program's attorney may participate in the hearing by
7 telephone. The bill includes witnesses in the list of persons
8 and entities who shall receive notice that a petition relating
9 to a plan of restitution has been filed.

10 The bill expands the definition of a "crime" for purposes of
11 the crime victim compensation program to include a violation
12 of Code section 715A.8 (identity theft) and the financial
13 exploitation of a person who is 65 or older or who is a
14 dependent adult as defined in Code section 235B.2. "Financial
15 exploitation" means the criminal act or process of taking
16 unfair advantage of a person for one's own personal or
17 pecuniary profit, without the informed consent of the person,
18 including theft, by the use of undue influence, harassment,
19 duress, deception, false representation, false pretenses,
20 forgery, fraudulent practices, or securities fraud.

21 The bill distinguishes two categories of persons who are
22 eligible for compensation for economic losses incurred as a
23 direct result of an injury to or death of a victim: a "homicide
24 victim survivor" (defined in the bill) and a "secondary victim"
25 (defined in Code section 915.80).

26 The bill eliminates the discretion in current law allowing
27 the department of justice to apportion compensation to two or
28 more dependents entitled to victim compensation in the event of
29 the death of a victim.

30 The bill specifies that a loss of income due to missed work
31 days for various categories of persons who may be awarded crime
32 victim compensation shall be computed based upon the loss of
33 reasonable income. The bill specifies that victim compensation
34 may be awarded to a homicide victim survivor for counseling
35 services. The bill includes an award of compensation for such

1 income for missed work days that the victim, secondary victim,
2 or a homicide victim survivor would have performed where the
3 loss of income is due to attendance at medical or counseling
4 services or funerals, in addition to current law which allows
5 compensation in such cases for attendance at criminal justice
6 proceedings. The bill also includes an award of compensation
7 for reasonable dependent care expenses incurred by a victim,
8 secondary victim, or a homicide survivor due to attendance at
9 funerals.

10 The bill provides that compensation shall not be made to a
11 secondary victim or a homicide victim survivor if the victim
12 is ineligible for compensation.

13 The bill provides that moneys from the victim compensation
14 fund that fund programs that provide services and support
15 for victims of domestic abuse or sexual assault and victims
16 of human trafficking may also be used for homicide victim
17 survivors. Up to 25 percent of the moneys available in the
18 fund on June 30 of any fiscal year shall be used for these
19 purposes.

20 The bill allows moneys from the victim compensation fund
21 to be used to implement the identity theft passport program
22 established by rule pursuant to Code section 715A.9A.