

CHAPTER 9
VICTIM ASSISTANCE PROGRAM

[Prior to 9/20/89, see Public Safety[661] Ch 17]

DIVISION I
ADMINISTRATION

61—9.1(912) Definitions.

“*Board*” means crime victim assistance board.

“*Department*” means Iowa department of justice.

“*Director*” means director of the crime victim assistance division established in the department of justice.

61—9.2(912) Board.

9.2(1) A crime victim assistance board is established pursuant to Iowa Code section 912.2A.

9.2(2) Members of the board shall serve terms for three years and are eligible for reappointment to the board by the attorney general.

9.2(3) The initial term of the board members shall commence on July 1 of the state fiscal year.

61—9.3(912) Expenses.

9.3(1) Board members shall be reimbursed from the victim’s compensation fund for expenses actually and necessarily incurred in the discharge of their duties including attendance at board meetings, board committee meetings, and other activities on behalf of the board as designated by the board chair and approved by the department. Reimbursement for expenses shall conform with guidelines established by the department of revenue and finance.

9.3(2) A member of the board may receive, in addition to actual expense reimbursement, a per diem which conforms with guidelines established by the department of revenue and finance.

9.3(3) Expenses of the board and individual members shall be submitted to the director.

61—9.4(912) Chair of the board.

9.4(1) The attorney general shall select one of the members of the board to serve as chair of the board. The chair shall serve at the pleasure of the attorney general.

9.4(2) A member who is chair of the board and relinquishes or is removed as the chair may maintain board membership for the remainder of the term for which the member was originally appointed.

61—9.5(912) Resignations.

9.5(1) Resignations from the board shall be made to the attorney general.

9.5(2) Whenever a member of the board ceases to have the statutory qualifications for appointment to the board, that member shall be considered to have resigned and a vacancy shall occur on the board.

9.5(3) A board member shall be deemed to have submitted a resignation from the board if any of the following events occur:

a. The member does not attend three or more consecutive regular meetings of the board. This paragraph does not apply unless the first and last of the consecutive meetings counted for this purpose are at least 30 days apart.

b. The person attends less than one-half of the regular meetings of the board within any period of 12 calendar months beginning July 1. This paragraph applies only to such a period beginning on or after the date when the person is appointed to the board.

c. If the member receives no notice and had no knowledge of a regular meeting and gives the attorney general a sworn statement to that effect within ten days after the person learns of the meeting, such meeting shall not be counted for the purposes of this rule.

d. The attorney general at the attorney general's discretion may accept or reject such resignation. If the attorney general accepts it, the attorney general shall notify the member, in writing, that the resignation is accepted pursuant to this rule. The attorney general shall then make another appointment to fill the vacancy.

61—9.6(912) Vacancies. Barring unusual circumstances, vacancies on the board shall be filled within 45 days after the attorney general is advised of the vacancy. Vacancies shall be filled for the remainder of the vacant term.

61—9.7(912) Meetings. The board shall meet a minimum of once per quarter. The board may also meet at the call of the chair or upon the written request to the chair of at least five members of the board.

61—9.8(912) Duties of board. The board shall adopt rules pursuant to Iowa Code chapter 17A relating to the administration of the crime victim assistance division including the adoption of administrative rules relating to the following:

1. Administration of grants received under the federal Victims of Crime Act of 1984 pursuant to Pub. L. No. 98-473, Title 2, Chapter 14, 42 U.S.C. Section 10601, as amended by the Children's Justice and Assistance Act of 1986, Pub. L. No. 99-401, 100 Stat. 903 and as amended by the Anti-Drug Abuse Act of 1988, Title VII, subtitle D, Pub. L. No. 100-690.

2. Administration of the Family Violence Prevention and Services Act grant pursuant to the federal Child Abuse Amendments of 1984, Pub. L. No. 98-457, 42 U.S.C. Section 10401, reauthorized in 1988, Pub. L. No. 100-294.

3. Administration of the domestic abuse and rape crisis funds and the Iowa domestic abuse hot-line funds provided in Iowa Code chapter 236.

4. Administration of other grants or funds available by public law for victim assistance and administered by the department.

5. Administration of the victim compensation program provided in Iowa Code chapter 912.

6. Administration of sexual abuse examination payments as provided in Iowa Code section 709.10.

7. Appeal procedures for victim compensation claims denied by the department.

8. Appeal procedures for grants administered by the department and denied by the board.

61—9.9(912) Director and staff. The attorney general shall employ a director and staff for the victim assistance division and they shall be employees of the department.

61—9.10(912) Duties of department. In addition to the duties contained in Iowa Code section 13.13, the department shall:

1. Administer other funds, grants, or programs for victim assistance created by public law or the department.

2. Provide administrative support to the board.

3. Enter into agreements under Iowa Code chapter 28E or other law including agreements with other state agencies and political subdivisions for the transfer to the department of funds authorized by law for victim service programs.

4. Accept, use, and dispose of contributions of money, services, and property, which are made available by an agency or department of the state or any of its political subdivisions, the federal government, a private agency, or an individual, that are specifically designated for crime victim assistance programs.

61—9.11 to 9.24 Reserved.

DIVISION II
CRIME VICTIM COMPENSATION

61—9.25(912) Administration of the crime victim compensation program. The crime victim assistance division of the department of justice shall administer the crime victim compensation program as provided in Iowa Code chapter 912. All questions, comments, requests for information, or applications for compensation shall be directed to the crime victim assistance division. Requests should be addressed to: Crime Victim Assistance Division, Old Historical Building, Des Moines, Iowa 50319, telephone (515)281-5044 or 1-800-373-5044.

61—9.26(912) Definitions. For rules of the department of justice crime victim assistance division, crime victim compensation program, the following definitions apply:

“Applicant” includes the following individuals who file an application with the crime victim compensation program:

1. A victim of a crime as defined in Iowa Code section 912.1(5).
2. A person responsible for the maintenance of a victim.
3. A resident of Iowa who is the victim of an act that would be compensable had it occurred within the state of Iowa and the act occurred in a foreign country that does not have a victim compensation program as defined in the federal law.
4. In the event of a victim’s death, the spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim. An estate is not an eligible applicant for crime victim compensation. An estate shall, however, be reimbursed for funeral and burial expenses if the estate paid the costs on behalf of an eligible applicant pursuant to Iowa Code section 912.6(7) who shall benefit from the proceeds of the estate.
5. A legal representative authorized to act on behalf of any of the persons listed above.

“Board” means the crime victim assistance board of the department of justice.

“Compensation” means moneys awarded by the division as authorized in Iowa Code chapter 912.

“Counseling” means problem solving and support concerning emotional issues that result from a compensable crime. Counseling is a confidential service provided in person on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person’s sense of well-being and social functioning. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings.

“Director” means director of the crime victim assistance division established in the department of justice.

“Division” means the crime victim assistance division of the department of justice.

“Income” or *“wages”* means net income or net wages.

“Medical care” is defined as services provided by a person licensed by the state under Iowa Code chapter 147, 148E, 152B, or 152C, or services provided under the supervision or order of a licensed physician or surgeon, dentist, or chiropractor. Medical care also includes services rendered in accordance with a method of healing sanctioned by a federally recognized sovereign nation or tribe.

“Pecuniary loss” means the amount of medical or medical-related expenses and shall include, but not be limited to, eyeglasses, hearing aids, dentures, prosthetic devices including those which were taken, lost, or destroyed during the crime, home health care, medications, counseling, pregnancy-related services, equipment rental or purchase, property alteration, transportation for emergencies and medical care provided outside the victim’s county of residence, or payment of health insurance premiums covered by an employer previous to the victim’s disability from crime. Pecuniary loss shall also include the loss of income that the victim has incurred as a direct result of the injury to the extent the victim has not been and shall not be indemnified from any other source.

“Personal injury” or *“injury”* shall mean bodily harm or mental suffering and shall include a victim’s pregnancy or miscarriage resulting from a crime.

“Program” means the crime victim compensation program of the department of justice.

“*Reasonable charges*” means charges ordinarily charged by the provider of the service to the general public for services of a similar nature.

61—9.27(912) Duties of the division. The duties of the division shall include, but not be limited to, the duties provided for in Iowa Code sections 13.31 and 912.3, as well as to:

1. Prepare appropriate forms for the filing of compensation applications.
2. Conduct an administrative review of claims where a request for reconsideration is filed by an applicant with the director.
3. Receive moneys bequeathed, awarded, or donated to the crime victim assistance division by a public or private organization or individual.

61—9.28(912) Application for compensation. An applicant may file an application for compensation by telephone or in writing within two years of the occurrence or discovery of a crime.

9.28(1) Postmarked application. An application postmarked within the prescribed time period shall be considered timely filed.

9.28(2) Multiple erroneous claims. Where two or more applications are filed by or on behalf of an individual applicant during a calendar month and the applications appear on initial review to be erroneous claims based on innocent misrepresentation or circumstances of a similar nature, the claims shall be treated as a single application.

Verification shall be investigated for each crime recorded in a multiple erroneous application file. If any of the crimes recorded in a combined application are verified as compensable crimes, the applications for compensation for those crimes shall be separated from the combined file and assigned distinct application numbers.

The department will notify the applicant whenever two or more applications have been combined as one application.

9.28(3) Cooperation with law enforcement. Reasonable cooperation by the victim may include, but is not limited to, the following:

- a. Providing law enforcement with a true and accurate report of the crime.
- b. Participating in the investigation of the crime to assist law enforcement in the identification of a suspect as requested.
- c. Participating in prosecution procedures including deposition and trial testimony as requested.

In determining whether a victim reasonably cooperated with law enforcement, the division may consider the victim’s age, physical condition and psychological state, and any compelling health or safety reasons that would jeopardize the well-being of the victim.

9.28(4) Sexual abuse victim. A victim of sexual abuse shall be deemed to have reasonably cooperated with law enforcement if the victim undergoes a sexual abuse evidentiary examination.

9.28(5) Domestic abuse victim. A victim of domestic abuse shall be deemed to have reasonably cooperated with law enforcement if a report of the crime was made to law enforcement.

9.28(6) Law enforcement reports. For the purpose of the program, a report of a crime made to any of the following shall be considered a report to the local police department or county sheriff’s office as provided in Iowa Code section 912.4(2):

- a. Sheriffs and their regular deputies.
- b. Marshals and police officers of cities.
- c. Peace officers of the department of public safety.
- d. Special security officers employed by board of regents institution as identified in Iowa Code section 262.13.
- e. Peace officers as authorized by Iowa Code section 350.5 or 456A.13.
- f. Employees of the department of transportation who are designated “peace officers” by resolution of the department under Iowa Code section 321.477.
- g. Correctional officers, including parole and probation officers.
- h. County attorneys.

i. An employee of the department of human services having jurisdiction to investigate the incident.

9.28(7) Report to law enforcement. A victim is considered to have made a report to law enforcement in accordance with Iowa Code section 912.4(2) when the victim has provided a true and accurate report of the incident, which shall include to the best of the victim's knowledge:

- a. The nature of the crime,
- b. The location of the crime,
- c. The name, whereabouts and description of the suspect, if known, and
- d. The names of witnesses.

9.28(8) Law enforcement record. A law enforcement trip record shall satisfy the requirement that the crime be reported to law enforcement.

9.28(9) Good cause. In determining whether a victim has satisfied the requirement to report a crime to law enforcement, the division may consider the victim's age, physical condition and psychological state, and any compelling health or safety reasons that would jeopardize the well-being of the victim. The department may waive the 72-hour time period required for the filing of a report if good cause is shown.

9.28(10) Child victim. If the victim is a child as defined in Iowa Code section 232.2, a report to law enforcement is considered to have been made within the 72-hour reporting requirement, provided it is made within 72 hours of the discovery of the crime by the parent or guardian.

9.28(11) Dependent adult victim. If the victim is a dependent adult as defined in Iowa Code section 235B.2(4), a report to law enforcement is considered to have been made within the 72-hour reporting requirement when it is made within 72 hours of the discovery of the crime.

9.28(12) Sexual abuse victim. For a victim of sexual abuse, the requirement to report to law enforcement is considered to have been met if a sexual abuse evidentiary examination was completed within 72 hours of a crime and the victim files a subsequent law enforcement report.

61—9.29(912) Computation of compensation. The division shall determine the amount of compensation to be awarded to an eligible applicant. Compensation shall be made up to the limits established pursuant to Iowa Code chapter 912 at the time the application is filed.

9.29(1) Counseling fees. For the purposes of establishing reasonable charges for counseling provided by a victim counselor, as defined in Iowa Code section 236A.1, where fees for services to the general public for services of a similar nature have not previously been established, the following guidelines shall apply:

a. Counseling provided by victim counselors whose position is funded, in whole or in part, or whose position is used as match requirement for federal Victims of Crime Act funds, shall not be eligible for compensation payment.

b. Counseling services provided to an eligible victim by a victim counselor shall be compensated as follows:

- (1) Individual counseling at an hourly rate of \$25.
- (2) Group counseling at an hourly rate of \$10.

c. Compensation paid, combined with other funding sources for the service, shall not be in excess of the total cost of providing the counseling hour.

9.29(2) Counseling with the perpetrator. Compensation for counseling shall be payable only for counseling sessions in which the perpetrator takes part where the purpose of the session is for the perpetrator to apologize to the victim and where victim is allowed to confront the perpetrator as to the effects of the compensable crime.

9.29(3) Family counseling. Compensation for family counseling shall be payable only for sessions where the focus of the session is to assist the victim in recovery from a compensable crime.

9.29(4) Lost wages or income. Eligible victims shall receive compensation for lost wages or income when unable to work as the result of a crime. A victim seeking lost wages or income for a period of more than two weeks of regular employment must provide the department with a disability statement from a licensed medical or osteopathic physician or surgeon.

Lost wages or income due to crime is determined as follows:

a. Lost wages are computed as the net rate of pay times the number of scheduled hours of work missed. To establish net rate of pay, gross wages are reduced by state, federal and FICA withholding tax or as follows:

(1) If the victim earns less than \$25,000 annually, gross wages are reduced by 15 percent to establish the net rate of pay.

(2) If the victim earns more than \$25,000 annually, gross wages are reduced by 20 percent to establish the net rate of pay.

b. Income that is variable shall be computed based on the average income earned during a minimum 28-day period within the three months preceding the crime.

c. Lost wages or income shall not be reduced by vacation pay.

d. If the victim is terminated from employment as a result of crime-related injuries, the victim shall receive compensation for lost wages or income until medically released to work.

e. If the victim receives an offer of employment but is unable to begin employment because of injury due to the crime, the victim shall be reimbursed for lost wages or income until medically released to work.

9.29(5) Residential homicide scene cleanup. Cleaning a residential homicide scene means to remove, or attempt to remove, from the crime scene blood, dirt, stains, or other debris caused by the crime or the processing of the crime scene. The division shall compensate an eligible applicant for the reasonable out-of-pocket cost of cleaning supplies, equipment rental, labor, and the replacement value of property held for evidentiary purposes.

9.29(6) Loss of support. Compensation for loss of support shall be awarded for the dependents of a homicide victim or a victim disabled for a period of 60 days or more when the applicant documents that the dependent relied on the victim wholly or partially for physical care or financial support.

a. Loss of support shall be awarded for the remaining period of dependency, up to the limits established in Iowa Code section 912.6(5), in an amount equal to the lost wages or income the victim was earning at the time of death or disability. The amount of compensation shall be subject to reduction by the amount of collateral sources designated as support pursuant to Iowa Code section 912.7(1).

b. Loss of support shall be awarded at the current hourly rate of the Iowa minimum wage for dependent care, provided by a person other than the victim, if the victim was providing physical care to the dependent at the time of the crime.

9.29(7) Clothing and bedding. Compensation shall be made for clothing and bedding held as evidence by law enforcement and not returned to the victim. Compensation shall not be made for the clothing of a deceased victim which is held as evidence.

9.29(8) Payer of last resort. Compensation shall not be paid for services where the provision for those services is mandated by law or administrative rule to be the responsibility of another government unit, private agency or program.

61—9.30(912) Reductions and disqualifications. The division shall reduce and disqualify compensation as follows:

9.30(1) Consent, provocation, and incitement. In assessing consent, provocation or incitement on the part of the victim, pursuant to Iowa Code section 912.7(2)“a,” the division may consider, but is not limited to, the following factors:

a. Whether charges are filed against the suspect;

b. Whether the victim attempted to withdraw from the incident;

c. Comparable or reasonable force on the part of the suspect in response to an action of the victim;

d. The amount of time from the beginning of the interaction between the victim and the suspect and the criminal act committed by the suspect;

e. The age of the victim; and

f. Comparable size or strength of the victim and suspect.

9.30(2) Consent. In assessing consent pursuant to Iowa Code section 912.7(2)“a,” the division may consider the victim’s age, physical condition and psychological state, and any compelling health

or safety reasons that would jeopardize the well-being of the victim. Where the victim was the passenger of a drunk driver, the division may also consider whether the victim could have reasonably known the intoxication level of the driver, the driver's behavior or judgment appeared impaired, the victim encouraged or discouraged the driver from driving, or the victim's judgment was impaired.

9.30(3) *Provocation and incitement.* In assessing provocation or incitement pursuant to Iowa Code section 912.7(2) "a," the division may consider law enforcement documentation that indicates:

a. Retaliatory action. The crime was committed as retaliation for a prior physical assault or injury committed by the victim against the perpetrator, and the victim could have reasonably foreseen the likelihood of retaliation.

b. Mutual combat. The crime will be considered to be an incident of mutual combat if the victim:

(1) Initiated a physical altercation;

(2) Made a credible threat of bodily harm against the person, took action to indicate the intent to carry out the threat and a physical altercation immediately followed; or

(3) Accepted a verbal challenge to engage in a physical altercation, took action to indicate acceptance of the challenge and a physical altercation immediately followed. Incitement and provocation are not present in an incident of mutual combat when a significant escalation of the fight, such as the introduction of a deadly weapon, is made by a person other than the victim, or where a third party becomes involved resulting in more serious injury than the victim could have reasonably expected.

c. Gang action. The crime was a direct result of gang activity including gang initiation, or was inflicted as retaliation for prior gang activity in which the victim participated in a criminal street gang as defined in Iowa Code section 723A.1.

61—9.31(912) Eligibility.

9.31(1) *Determination of eligibility.* A denial of eligibility shall be based on written documentation that an application does not satisfy the requirements of Iowa Code chapter 912. An applicant shall be deemed eligible for compensation if the division has not obtained written documentation supporting a denial within six months of the date of the application. Notwithstanding the foregoing, the division may extend the determination of eligibility beyond six months if a court date or grand jury hearing is pending and is reasonably expected to result in information necessary to render an eligibility decision.

9.31(2) *Reopening applications.* Pursuant to Iowa Code section 912.3(2) the department may reopen and reinvestigate an application if the department determines that the decision was incorrect or incomplete.

9.31(3) *Maximum compensation available.* Compensation shall be reduced or disqualified to the extent that the maximum compensation allowable through Iowa Code chapter 912 and these rules has been awarded.

61—9.32(912) Emergency award of compensation. Emergency awards of compensation shall be awarded as follows:

9.32(1) *Emergency award decision.* A decision denying an emergency award shall not be appealable.

9.32(2) *Offset.* Any emergency award shall be deducted from the final compensation made to the claimant.

61—9.33(912) Appeal of compensation decisions. An applicant shall be informed in writing of the basis for the denial of eligibility or the amount of an award. An applicant may appeal a compensation decision as follows:

1. Appeal to director. An applicant aggrieved by a denial decision or the amount of compensation awarded by the program may appeal to the director.

2. Appeal to board. An applicant may appeal the director's decision to the board.

3. Appeal to district court. An applicant who disagrees with the decision of the board has the right to appeal to the district court within 30 days of receipt of the board's decision.

9.33(1) Director appeal period. An applicant shall submit a written request for reconsideration with the director within 30 days of the date the notice of the crime victim compensation program decision is mailed or otherwise issued by the division. Any request for reconsideration postmarked within the prescribed time period shall be considered timely filed by the division. Barring any unusual circumstances, within 30 days of the receipt of the request for reconsideration, the director shall issue a decision.

9.33(2) Board appeal period. An applicant may file a request for consideration of the director's decision with the board. This written request for consideration shall be submitted for consideration by the board within 30 days of the date the notice of the director's decision is mailed or otherwise issued by the director. Any request for review postmarked within the prescribed time period shall be considered timely filed by the division. Barring any unusual circumstances, within 60 days of the receipt of the request, the board, or a committee designated by the chair of not less than five members of the board, shall issue a decision.

These rules are intended to implement Iowa Code chapter 912.

61—9.34 to 9.49 Reserved.

DIVISION III
VICTIM SERVICES GRANT PROGRAM

61—9.50(13) Administration of the victim services grant program. The victim services grant program of the Iowa department of justice shall administer the victim services grants as provided in Iowa Code chapters 13 and 236. All questions, comments, requests for information, or applications for grant funds shall be directed to the victim services grant program. Requests should be addressed to: Crime Victim Assistance Division, Iowa Department of Justice, Old Historical Building, Des Moines, Iowa 50319, telephone (515)281-5044.

61—9.51(13) Definitions. As used in this chapter:

“*Applicant*” means a victim service program providing direct services to crime victims or technical assistance to crime victim service providers that makes a request for funds from the victim services grant program.

“*Application*” means a request which complies with federal and state requirements for funds from the following:

1. The Federal Victims of Crime Act pursuant to Pub. L. No. 98-473, Title 2, Chapter 14, 42 U.S.C. Section 10601 as amended by the Federal Children's Justice and Assistance Act, Pub. L. No. 99-401, 100 Stat. 903 (1986).
2. The domestic abuse funding provided for in Iowa Code chapter 236.
3. The Family Violence Prevention and Services Act pursuant to the Federal Child Abuse Amendments of 1984 Pub. L. No. 98-457, 42 U.S.C. Section 10401.
4. Other grants or funds available by law for crime victim assistance.

“*Board*” means the crime victim assistance board.

“*Department*” means the Iowa department of justice.

“*Director*” means director of the crime victim assistance division of the department of justice.

“*Division*” means the crime victim assistance division of the Iowa department of justice.

“*Grant*” means a victim services grant award.

“*Grantee*” means the Iowa department of justice when it administers a grant from a federal or state agency.

“*Grant review committee*” means a department of justice committee designated to review grant applications.

“*Program*” means the victim services grant program in the Iowa department of justice.

“*RFP*” means request for proposals.

“*Subgrantee*” means any applicant receiving grant funds from this program.

“*Victim*” means a crime victim as defined in Iowa Code section 912.1(5).

61—9.52(13) Program description. Any eligible public agency or nonprofit organization or a combination thereof may apply for and receive a grant through the program. The program shall operate as a competitive grants program and be administered by the department. Contractual agreements specifying the terms of the grant award shall be executed between the department and approved applicants.

61—9.53(13) Availability of grants. In any year in which federal or state funds are available, the department shall administer grants to eligible applicants. The amount of the funds awarded shall be contingent upon the funds available. The director shall announce the opening of an application period through public notice. Applications must be submitted by the designated due date.

61—9.54(13) Application requirements. Applicants shall submit applications to: Crime Victim Assistance Division, Iowa Department of Justice, Old Historical Building, Des Moines, Iowa 50319. Applications shall be in the form prescribed by the department and shall be available upon request to all interested parties.

9.54(1) In order to be included in the review process and considered for funding, an application shall be received in the offices of the division by 4:30 p.m. on the due date. Applications may be delivered to the division during regular business hours anytime prior to the deadline. An extension of the filing deadline may be requested of the director or grant administrator prior to the deadline and may be granted for good cause. The determination of a good cause extension by the division shall be final.

9.54(2) An applicant shall have on file with the department current copies of the applicant’s table of organization and articles of incorporation.

9.54(3) An applicant shall have on file with the department evidence of any insurance coverage the applicant carries for liability or property.

61—9.55(13) Contents of application. Each application shall contain the following information:

9.55(1) A brief narrative describing the agency or unit of local government requesting funding.

9.55(2) A description of services for which funding is being requested which includes, but is not limited to, the following:

- a. The geographical area to be served.
- b. The target population to be served.
- c. Victim eligibility requirements.
- d. Description of substantial financial support from other sources.
- e. Intended use of volunteers, if any.
- f. Stated goals and objectives of the program.
- g. A description of the proposed victim service or technical assistance including a time schedule for implementation.
- h. The amount of grant funds requested.
- i. The amount of cash or in-kind resources or combination thereof which is committed as required by the program.
- j. A description of how the proposed victim service or technical assistance will provide or improve direct services to victims of crime.
- k. Proof of coordination with appropriate agencies at the local level.
- l. A total program budget for all services provided by the applicant.
- m. A proposed budget for the requested grant funds.
- n. A list of other anticipated sources of income, including written commitments, if possible, and plans for continued funding of the grant funded activities.
- o. Other information identified in the RFP.
- p. Signed certified assurances as required by statute or regulation.

61—9.56(13) Eligibility requirements. Funds must be used only to provide services to victims of crime or technical assistance to victim service providers. Program grants cannot be used to supplant other available or mandated funds. An applicant must meet the following requirements:

9.56(1) Be operated by a public agency or nonprofit organization, or combination thereof, that provides services to crime victims. Services provided to victims may include but are not limited to crisis intervention services, law enforcement and court advocacy, group and individual counseling, transportation, and information and referral services. An applicant providing services to victims of domestic abuse must also have the capacity to provide or arrange safe shelter for victims and their children. An applicant providing services to victims of sexual assault must have the capacity to provide support to victims at the time of an evidentiary sexual abuse examination.

9.56(2) An existing program must be able to document results of prior programming that demonstrates that the needs of victims have been met effectively and that the applicant has financial support from other sources.

9.56(3) Promote within the community a coordinated public and private effort to assist victims.

9.56(4) Be an equal opportunity employer and provide services on an equal opportunity basis.

9.56(5) Comply with applicable federal and state statutes or rules, any requirements specified in the grant between the department and any outside funding source, and any requirements in the RFP or any other contractual document.

9.56(6) Assist victims in seeking state compensation benefits.

9.56(7) Have a grievance procedure established for victims, employees and volunteers.

9.56(8) Ensure that all employees and volunteers that provide direct services to victims are trained as victim counselors as defined in Iowa Code section 236A.1.

9.56(9) Provide services within the geographic service area without regard to a victim's ability to pay.

61—9.57(13) Selection process. The department shall conduct a preliminary review of each application to ensure that the applicant is eligible, the application is complete, and the proposed victim service or technical assistance is consistent with the division's mission of providing assistance to crime victims and crime victim programs.

9.57(1) A grant review committee shall be established by the department for the purpose of reviewing grant applications. The committee shall submit recommendations for grant awards to the director and board.

9.57(2) The board shall determine final subgrantees and grant awards to the extent that funds are available and to the extent to which applications meet the RFP criteria. The board may reject any or all applications.

61—9.58(13) Notification of applicants. Applicants shall be notified within 60 days after the application due date whether their application has been denied or the board is interested in negotiating a contract regarding their proposal.

61—9.59(13) Request for reconsideration.

9.59(1) Applicants may file a request for reconsideration of the denial or amount of an award with the board. The request for reconsideration must be submitted within ten working days of the date the notice of decision is mailed or otherwise issued by the director to the subgrantee. The request must state adequate grounds for reconsideration. The board or a committee designated by the board chair shall review the request and evidence submitted in a timely manner. A decision of the board or designated committee shall constitute final agency action.

9.59(2) At the time a request for reconsideration is received by the director, notice that a request for reconsideration has been filed shall be sent to all approved applicants whose funds may be affected by the request.

9.59(3) Funds shall not be disbursed pending a request for reconsideration to the extent that the funds are affected by the outcome of the request. All applicants who would be adversely affected shall be notified if a request for reconsideration is approved and grant awards shall be reduced as necessary.

61—9.60(13) Contract agreement.

9.60(1) A contract shall be negotiated by the department and the applicant.

9.60(2) The department or the board may require modification of the proposed program, submission of further information or documents, or other contingency on the part of the applicant prior to entering into contract. The required modification, information, document, or contingency shall be specified in the notification of grant award.

9.60(3) The applicant or the department may request a modification of the program budget to reflect the amount, expenses and activities allowed by the grant award. Both parties must agree to any modification of the subgrantee program budget.

9.60(4) In the event of a state, federal, or other audit, the subgrantee shall be responsible for the audit and liable for payment of any funds required to conduct the audit, to compensate for any grant disallowance, or to repay any funds received or spent contrary to the contract, these rules, or applicable law.

9.60(5) Funds shall be spent to meet the program goals as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa.

9.60(6) The subgrantee shall sign the certified assurances for the grant program at the time of application and at any time requested by the division.

9.60(7) Nothing in these rules shall be construed as limiting the remedies available to the state or the program for improper use of grant funds or other breach of the subgrantee's duties under the contract and applicable law.

61—9.61(13) Performance reports. Performance reports shall be submitted to the department from all subgrantees. Failure to submit reports by the due date shall result in suspension of financial payments to the subgrantee by the grantee until such time as the report is received. Delinquent or inadequate reports from prior grants may detrimentally influence the award of grants for the following year.

61—9.62(13) Termination. Contracts may be terminated for the following reasons:

1. Termination by subgrantee. The contract may be terminated by the subgrantee at any time during the contract period by providing notice to the department.

2. Termination by department. The department may terminate a contract upon a ten-day notice when the subgrantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The department may terminate a contract when there is a reduction of funds by executive order or otherwise.

3. Termination for cause. If the subgrantee fails to fulfill its obligations under the agreement properly or on time, or otherwise violates any provision of the agreement, the board may terminate the agreement by written notice to the subgrantee. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished products and services provided by the subgrantee shall, at the option of the department, become the state's property. The department shall pay the subgrantee fair and equitable compensation for the satisfactory performance prior to receipt of notice of termination minus any funds owing to the department, e.g., damages for breach, improperly spent funds.

61—9.63(13) Financial statement supplied. Within 45 days of the termination, the grantee shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

61—9.64(13) Indemnification. The subgrantee shall defend, indemnify, and hold harmless the state of Iowa, its officers, agents and employees and any of the state’s federal funding sources for:

1. Subgrantee’s performance or nonperformance of a contract entered into or violation of these rules.
2. Subgrantee’s activities with subcontractors and all other third parties, or any other act or omission by a subgrantee, its agents, officers, and employees.

61—9.65(13) Records. Subgrantees shall keep statistical records of services provided and any other records as required by the department. The department shall have immediate access to records pertaining to the contract during working hours. No notice need be provided the subgrantee prior to inspection of the records.

61—9.66 to 9.79 Reserved.

These rules are intended to implement Iowa Code chapter 912.

DIVISION IV
SEXUAL ABUSE EXAMINATION PAYMENT
[Prior to 8/8/90, see Public Health Department 641—Chapter 8]

61—9.80(709) Administration of sexual abuse examination payment. The crime victim assistance program of the department of justice shall administer the sexual abuse examination program as provided in Iowa Code section 709.10. That section states in part:

“The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be borne by the department of justice.”

Requests for payment should be addressed to: Sexual Abuse Examination Payments, Crime Victim Assistance Program, Old Historical Building, Des Moines, Iowa 50319, telephone (515)281-5044 or 1-800-373-5044.

61—9.81(709) Definitions.

“*Administration*” means administrator of the crime victim assistance program established in the department of justice.

“*Board*” means crime victim assistance board.

“*Department*” means the Iowa department of justice.

“*Eligible claimant*” means a medical provider that provides a sexual abuse examination to a sexual assault victim. The following are eligible to file a claim with the crime victim assistance program in the event that they have made payment to a medical provider for the costs of a sexual abuse examination:

1. A victim of sexual abuse.
2. A person responsible for the maintenance of a sexual abuse victim.
3. A dependent of a victim who has died as a result of injuries sustained in a sexual assault.
4. The guardian of a sexual abuse victim.

“*Reasonable charges*” means those ordinarily charged by the provider of the service to the general public for services of a similar nature.

“*Sexual abuse*” means sexual abuse as defined in Iowa Code sections 709.1 and 726.2.

“*Sexual abuse examination*” means a medical examination provided to a woman, man, or child to collect evidence of sexual abuse as defined in Iowa Code sections 709.1 and 726.2 and provide treatment for the prevention of venereal disease pursuant to Iowa Code chapter 709. When applicable, the provider of a sexual abuse examination shall file a child abuse report with the Iowa department of human services as required by Iowa Code section 232.70.

61—9.82(709) Application for sexual abuse examination payment.

9.82(1) Consideration for payment. The department will consider payment upon receipt of a claim for reimbursement from a medical provider indicating that the claim is for the collection of evidence by sexual abuse examination. In the case that a victim, guardian of a victim, person responsible for the victim, or dependent of a victim who died of injuries sustained in a sexual assault has paid part or all of the charges incurred, a copy of the provider bill and documentation of personal payment of the bill must be submitted for reimbursement. An application for sexual abuse examination payment must include the federal identification number or social security number of the claimant.

9.82(2) Application filing. To apply for payment under the sexual abuse examination program, the form or bill submitted must identify the sexual assault victim by name, birth date, and patient number, indicate that the claim is for a sexual abuse examination, and itemize all services rendered and the fee for each service.

61—9.83(709) Computation of sexual abuse examination payments.

9.83(1) Payment for examination. The department shall make payment for sexual abuse examinations, as appropriate, for the following services:

- a. Physician's fee for collection of:
 1. History,
 2. Physical,
 3. Collection of specimens,
 4. Two return visits to test for venereal disease,
 5. Treatment for the prevention of venereal disease.
- b. Emergency department.
 1. Emergency room, clinic room or office room fee,
 2. Pelvic tray.
- c. Laboratory.
 1. Wet mount for sperm,
 2. Fixed smear for sperm (pap),
 3. Swabs for:
 - Acid phosphatase,
 - ABH antigen.
 4. Blood typing,
 5. Serology for syphilis, and Hepatitis B,
 6. Cultures for gonorrhea, chlamydia, trichomonas, and other sexually transmitted disease (STD),
 7. Pregnancy testing,
 8. Urinalysis,
 9. Other laboratory tests that are required for the purpose of evidentiary examination.

9.83(2) Provider payment. The department will pay up to \$200 for the emergency room, or \$125 for a clinic or office room, and \$100 for physician fees. Any charges in excess of these amounts will require additional documentation from the provider. The crime victim assistance program will pay only those charges determined by the department to be reasonable and fair.

The department will not make payment for the cost of commercial or government prepared sexual abuse kits. The Iowa department of public safety division of criminal investigation makes sexual abuse examination kits available to medical providers at no cost.

61—9.84(709) Victim responsibility for payment. A victim of sexual abuse is not responsible for the payment of the costs of a sexual abuse examination determined to be eligible for payment by the department. A medical provider shall not submit any remaining balance after sexual abuse examination program payment to the sexual abuse victim.

61—9.85(709) Sexual abuse examination—right to restitution. In all criminal cases under Iowa Code chapter 709 and sections 726.2 and 710.2 in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, restitution may be ordered from the offender to the crime victim assistance program for the cost paid by the department for a sexual abuse examination rendered to the victim of that crime pursuant to Iowa Code section 910.2.

61—9.86(709) Erroneous or fraudulent payment—penalty. If a payment or overpayment of a reparation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipients, the recipient is liable for repayment of the reparation. However, if the department does not notify the recipient of the erroneous payment or overpayment within one year of the date of payment, the recipient is not responsible for repayment to the department.

If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment to the department.

61—9.87(709) Right to appeal. An eligible claimant who disagrees with the department's decision concerning payment or amount of payment has the right to request reconsideration of that decision by the crime victim assistance board. The request for reconsideration must be received by the department within 60 days after the decision of the department is mailed.

Rules 9.80(709) to 9.87(709) are intended to implement Iowa Code section 709.10.

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◊Two ARCs

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