

CHAPTER 181**CRIME VICTIMS***H.F. 430*

AN ACT relating to the crime victim assistance programs and victims' rights and the jurisdiction of the court to enter restraining orders under the victim and witness protection Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 611.23 CIVIL ACTIONS INVOLVING ALLEGATIONS OF SEXUAL ABUSE OR DOMESTIC ABUSE.**

In a civil case in which a plaintiff is seeking relief or damages for alleged sexual abuse as defined in section 709.1 or domestic abuse as defined in section 236.2, the plaintiff may seek, and the court may grant, an order requiring the defendant to receive professional counseling, in addition to any other appropriate relief or damages.

Sec. 2. Section 910.1, subsection 2, Code 1991, is amended to read as follows:

2. "Pecuniary damages" means all damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

Sec. 3. Section 910A.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The date on which the offender is released on bail or appeal, pursuant to section 811.5.

Sec. 4. **NEW SECTION. 910A.9A NOTIFICATION BY DEPARTMENT OF HUMAN SERVICES.**

The department of human services shall notify a victim registered with the department, regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, of the following:

1. The date on which the juvenile is expected to be temporarily released from the custody of the department of human services, and whether the juvenile is expected to return to the community where the registered victim resides.

2. The juvenile's escape from custody.

3. The recommendation by the department to consider the juvenile for release or placement.

4. The date on which the juvenile is expected to be released from a facility pursuant to a plan of placement.

Sec. 5. Section 910A.10, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the board of parole makes a recommendation to the governor for a reprieve, pardon, or commutation of sentence of an offender, as provided in section 248A.3, the board shall forward with the recommendation information identifying a registered victim for the purposes of notification by the governor as required in section 910A.10A.

Sec. 6. **NEW SECTION. 910A.10A NOTIFICATION BY THE GOVERNOR.**

1. Prior to the governor granting a reprieve, pardon, or commutation to an offender convicted of a violent crime, the governor shall notify a registered victim that the victim's offender has applied for a reprieve, pardon, or commutation. The governor shall notify a registered victim regarding the application not less than forty-five days prior to issuing a decision on the application. The governor shall inform the victim that the victim may submit a written opinion concerning the application.

2. The county attorney may notify an offender being considered for a reprieve, pardon, or commutation of sentence of a victim's registration with the county attorney and the substance of any opinion submitted by the victim concerning the reprieve, pardon, or commutation of sentence.

Sec. 7. Section 910A.11, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

Sec. 8. Section 910A.11, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 3. Violation of a restraining or protective order issued under this section constitutes contempt of court, and may be punished by contempt proceedings.

NEW SUBSECTION. 4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

Sec. 9. Section 910A.19, Code 1991, is amended to read as follows:
910A.19 CITIZEN INTERVENTION.

Any person who, in good faith and without ~~compensation~~ remuneration, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed is not liable for any civil damages for acts or omissions resulting from the aid or assistance and is eligible to file a claim for reimbursement as a victim pursuant to section 912.1.

Sec. 10. Section 912.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

912.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Compensation" means moneys awarded by the department as authorized by this chapter.
2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 106.14, 321.261, 321.277, 321J.2, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this chapter.
3. "Department" means the department of justice.
4. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.
5. "Victim" means a person who suffers personal injury or death as a result of any of the following:

- a. A crime.
- b. The good faith effort of a person attempting to prevent a crime.
- c. The good faith effort of a person to apprehend a person suspected of committing a crime.

Sec. 11. Section 912.2A, subsection 1, paragraph e, Code 1991, is amended to read as follows:
e. A Two public member members who has have received victim services.

Sec. 12. Section 912.4, Code 1991, is amended to read as follows:
912.4 APPLICATION FOR REPARATION COMPENSATION.

1. To claim a reparation compensation under the crime victim reparation compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within ~~one hundred eighty days~~ two years after the date of the

crime, or of the discovery of the crime, or within one hundred twenty days after the date of death of the victim. The department may extend the time limit for the filing of an application to up to one year after the date of the crime, the discovery of the crime, or the death of the victim upon a finding of good cause. Lack of awareness of the crime victim reparation program by a prospective applicant alone shall not constitute good cause.

2. A person is not eligible for reparation compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made.

3. Notwithstanding subsection 2, a victim under the age of eighteen or dependent adult as defined in section 235B.1 who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 7, or upon a dependent adult by a caretaker as defined in section 235B.1, and was reported to an employee of the department of human services and the employee verifies the report to the department.

4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A.16, the department of human services shall file the claim for reparation compensation as provided in subsection 3 for the victim.

5. When immediate or short-term medical services to a victim are provided pursuant to section 910A.16 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation compensation, unless the department of human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

6. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

Sec. 13. Section 912.6, Code 1991, is amended to read as follows:

912.6 COMPUTATION OF REPARATION COMPENSATION.

The department shall ~~make reparation award compensation~~, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed one thousand five hundred dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 236A.1.

2. Loss of income from work the victim would have performed and for which the victim would have received ~~compensation remuneration~~ if the victim had not been injured not to exceed two thousand dollars.

3. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed two thousand five hundred dollars.

5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 236A.1, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under

chapter 147 or 150A. The allowable charges under this subsection shall not exceed five hundred dollars per person or a total of two thousand dollars per victim death.

Sec. 14. Section 912.7, Code 1991, is amended to read as follows:

912.7 REDUCTIONS AND DISQUALIFICATIONS.

~~Reparations are~~ Compensation is subject to reduction and disqualification as follows:

1. ~~A reparation~~ Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

d. As an emergency award under section 912.11.

2. ~~A reparation~~ Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

a. Consent, provocation, or incitement by the victim.

b. The victim assisting, attempting, or committing a criminal act.

Sec. 15. Section 912.11, Code 1991, is amended to read as follows:

912.11 EMERGENCY PAYMENT ~~REPARATION~~ COMPENSATION.

If the department determines that ~~reparation~~ compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order ~~an emergency reparation~~ compensation to be ~~made paid~~ to the person, not to exceed five hundred dollars.

Sec. 16. Sections 13.31, 809.17, 910.1, 910A.6, 911.1, 912.2, 912.3, 912.5, 912.8, 912.9, 912.10, and 912.12, Code 1991, are amended by striking the words "reparation", "reparations", and "a reparation", and inserting in lieu thereof the word "compensation".

Approved May 17, 1991

CHAPTER 182

EMERGENCY ASSISTANCE BY VOLUNTEERS

H.F. 596

AN ACT relating to the liability of certain persons rendering emergency care or assistance in good faith.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 613.17, Code 1991, is amended to read as follows:

613.17 EMERGENCY ASSISTANCE IN AN ACCIDENT.

Any A person, who in good faith renders emergency care or assistance without compensation shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness. For purposes of this section, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the