

See Judiciary 3/21 Amend (3302), Ho Pass 4/3 (p 1030)

MAR 7 1991

Place On Calendar

HOUSE FILE 430
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 214)

Passed House, Date 3/19/91 (p 724) Passed Senate, Date 4/25/91 (p 1502)

Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0

Approved May 17, 1991

*Repassed or amended by Senate
5/1/91 (p. 1746)
Ayes 75, Nays 0*

A BILL FOR

²⁵²⁷₃₃₀₂ 1 An Act relating to the crime victim assistance programs.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 430

5302 1 Section 1. Section 910A.6, Code 1991, is amended by adding
2 the following new subsection:

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

5 Sec. 2. NEW SECTION. 910A.9A NOTIFICATION BY DEPARTMENT
6 OF HUMAN SERVICES.

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

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

16 2. The juvenile's escape from custody.

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

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

21 Sec. 3. Section 910A.10, Code 1991, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 3. If the board of parole makes a
24 recommendation to the governor for a reprieve, pardon, or
25 commutation of sentence of an offender, as provided in section
26 248A.3, the board shall forward with the recommendation
27 information identifying a registered victim for the purposes
28 of notification by the governor as required in section
29 910A.10A.

30 Sec. 4. NEW SECTION. 910A.10A NOTIFICATION BY THE
31 GOVERNOR.

32 1. If an offender applies to the governor for a reprieve,
33 pardon, or commutation of sentence as provided in section
34 248A.2, the governor shall request information identifying a
35 registered victim for the purposes of notification.

1 2. The governor shall notify a registered victim regarding
2 an application for a reprieve, pardon, or commutation of
3 sentence, as follows:

4 a. Not less than sixty days prior to responding to an
5 application for a reprieve, pardon, or commutation of sentence
6 submitted to the governor by an offender, the governor shall
7 notify a registered victim of the application, and shall
8 inform the victim that the victim may submit an opinion
9 concerning the application in writing prior to the issuance of
10 a decision on the application by the governor.

11 b. Not less than sixty days prior to responding to a
12 recommendation by the board of parole for a reprieve, pardon,
13 or commutation of sentence, the governor shall notify a
14 registered victim of the recommendation, and shall inform the
15 victim that the victim may submit an opinion concerning the
16 recommendation in writing prior to the issuance of a decision
17 on the recommendation by the governor.

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

23 Sec. 5. Section 910A.19, Code 1991, is amended to read as
24 follows:

25 910A.19 CITIZEN INTERVENTION.

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

34 Sec. 6. Section 912.1, Code 1991, is amended by striking
35 the section and inserting in lieu thereof the following:

1 912.1 DEFINITIONS.

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

4 1. "Compensation" means moneys awarded by the department
5 as authorized by this chapter.

6 2. "Crime" means conduct that occurs or is attempted in
7 this state, poses a substantial threat of personal injury or
8 death, and is punishable as a felony or misdemeanor, or would
9 be so punishable but for the fact that the person engaging in
10 the conduct lacked the capacity to commit the crime under the
11 laws of this state. "Crime" does not include conduct arising
12 out of the ownership, maintenance, or use of a motor vehicle,
13 motorcycle, motorized bicycle, train, boat, or aircraft except
14 for violations of section 106.14, 321.261, 321.277, 321J.2, or
15 707.6A, or when the intention is to cause personal injury or
16 death. A plea or verdict of guilty of a charge under section
17 321J.2 or a license revocation under section 321J.9 or 321J.12
18 shall be considered by the department as evidence of a
19 violation of section 321J.2 for the purposes of this chapter.

20 3. "Department" means the department of justice.

21 4. "Dependent" means a person wholly or partially
22 dependent upon a victim for care or support and includes a
23 child of the victim born after the victim's death.

24 5. "Victim" means a person who suffers personal injury or
25 death as a result of any of the following:

26 a. A crime.

27 b. The good faith effort of a person attempting to prevent
28 a crime.

29 c. The good faith effort of a person to apprehend a person
30 suspected of committing a crime.

31 Sec. 7. Section 912.2A, subsection 1, paragraph e, Code
32 1991, is amended to read as follows:

33 e. A Two public member members who has have received
34 victim services.

35 Sec. 8. Section 912.4, Code 1991, is amended to read as

1 follows:

2 912.4 APPLICATION FOR REPARATION COMPENSATION.

3 1. To claim a ~~reparation~~ compensation under the crime
4 victim ~~reparation~~ compensation program, a person shall apply
5 in writing on a form prescribed by the department and file the
6 application with the department within ~~one-hundred-eighty-days~~
7 two years after the date of the crime, ~~or-of the discovery of~~
8 the crime, ~~or within-one-hundred-twenty-days-after the date of~~
9 death of the victim. ~~The-department-may-extend-the-time-limit~~
10 ~~for-the-filing-of-an-application-to-up-to-one-year-after-the~~
11 ~~date-of-the-crime,-the-discovery-of-the-crime,-or-the-death-of~~
12 ~~the-victim-upon-a-finding-of-good-cause.--Back-of-awareness-of~~
13 ~~the-crime-victim-reparation-program-by-a-prospective-applicant~~
14 ~~alone-shall-not-constitute-good-cause-~~

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

21 3. Notwithstanding subsection 2, a victim under the age of
22 eighteen or dependent adult as defined in section 235B.1 who
23 has been sexually abused or subjected to any other unlawful
24 sexual conduct under chapter 709 or 726 or who has been the
25 subject of a forcible felony is not required to report the
26 crime to the local police department or county sheriff
27 department to be eligible for reparation compensation if the
28 crime was allegedly committed upon a child by a person
29 responsible for the care of a child, as defined in section
30 232.68, subsection 7, or upon a dependent adult by a caretaker
31 as defined in section 235B.1, and was reported to an employee
32 of the department of human services and the employee verifies
33 the report to the department.

34 4. When immediate or short-term medical services or mental
35 health services are provided to a victim under section

1 910A.16, the department of human services shall file the claim
2 for reparation compensation as provided in subsection 3 for
3 the victim.

4 5. When immediate or short-term medical services to a
5 victim are provided pursuant to section 910A.16 by a
6 professional licensed or certified by the state to provide
7 such services, the professional shall file the claim for
8 reparation compensation, unless the department of human
9 services is required to file the claim under this section.

10 The requirement to report the crime to the local police
11 department or county sheriff department under subsection 2
12 does not apply to this subsection.

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

16 Sec. 9. Section 912.6, Code 1991, is amended to read as
17 follows:

18 912.6 COMPUTATION OF REPARATION COMPENSATION.

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

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

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

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

35 4. Reasonable funeral and burial expenses not to exceed

1 two thousand five hundred dollars.

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

6 6. In the event of a victim's death, reasonable charges
7 incurred for counseling the victim's spouse, children,
8 parents, siblings, or persons cohabiting with or related by
9 blood or affinity to the victim if the counseling services are
10 provided by a psychologist licensed under chapter 154B, a
11 victim counselor as defined in section 236A.1, subsection 1,
12 or an individual holding at least a master's degree in social
13 work or counseling and guidance, and reasonable charges
14 incurred by such persons for medical care counseling provided
15 by a psychiatrist licensed under chapter 147 or 150A. The
16 allowable charges under this subsection shall not exceed five
17 hundred dollars per person or a total of two thousand dollars
18 per victim death.

19 Sec. 10. Section 912.7, Code 1991, is amended to read as
20 follows:

21 912.7 REDUCTIONS AND DISQUALIFICATIONS.

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

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

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

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

32 c. From public funds.

33 d. As an emergency award under section 912.11.

34 2. ~~A-reparation~~ Compensation shall not be made when the
35 bodily injury or death for which a benefit is sought was

1 caused by any of the following:

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

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

5 Sec. 11. Section 912.11, Code 1991, is amended to read as
6 follows:

7 912.11 EMERGENCY PAYMENT REPARATION COMPENSATION.

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

13 Sec. 12. Sections 13.31, 809.17, 910.1, 910A.6, 911.1,
14 912.2, 912.3, 912.5, 912.8, 912.9, 912.10, and 912.12, Code
15 1991, are amended by striking the words "reparation",
16 "reparations", and "a reparation", and inserting in lieu
17 thereof the word "compensation".

18 EXPLANATION

19 This bill pertains to the crime victim assistance programs.
20 The bill requires the county attorney to notify registered
21 victims of the date on which an offender is released on bail
22 or appeal. The bill requires the department of human services
23 to notify registered victims of release and other events
24 pertaining to juveniles who are adjudicated delinquent and
25 placed at the state training school at Eldora or Toledo.

26 The bill further requires the board of parole to forward
27 information to the governor upon recommending a reprieve,
28 pardon, or commutation of sentence, concerning registered
29 victims. The bill also requires the governor to notify
30 victims when considering an offender's application or the
31 board of parole's recommendation for a reprieve, pardon, or
of sentence.

It changes the name of the program in chapter 912
"crime victim reparation program" to the "crime
compensation program", and makes a number of technical

1 changes to implement the name change. The bill also expands
2 the victims eligible to receive compensation to include
3 victims of persons operating a vessel while intoxicated or
4 under the influence of drugs (section 106.14), hit and run
5 drivers (section 321.261), reckless drivers (section 321.277),
6 and persons committing vehicular homicide (section 707.6A).

7 The bill also adds another victim representative to the
8 crime victim assistance board. The bill extends the deadline
9 for filing an application for compensation from 180 days after
10 the crime or its discovery or 120 days after the death of the
11 victim, to two years in all cases. The bill provides that
12 victims of dependent adult abuse may fulfill the reporting
13 requirements for compensation by reporting the abuse to the
14 department of human services. Current law requires a report
15 to a law enforcement agency. The bill further requires
16 victims to cooperate with reasonable requests from law
17 enforcement agencies.

18 This bill may include a state mandate as defined in section
19 25B.3.

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HOUSE FILE 430
FISCAL NOTE

A fiscal note for House File 430 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 430 imposes new victim notification requirements on county attorneys, the Department of Human Services, and the Governor's Office. The Parole Board is required to submit to the Governor's Office information which pertains to registered victims. Victims are required to be notified by the Governor within 60 days of responding to an application from an inmate or to a recommendation from the Parole Board for reprieves, pardons, and commutations. House File 430 adds a new member to the Crime Victim Assistance Board and extends the filing time limit for claims from 6 months to 2 years. The legislation expands the eligibility for claims to include victims of persons operating a vessel while intoxicated or under the influence of drugs, hit and run drivers, reckless drivers, and persons committing vehicular homicide.

Assumptions

1. It is not possible to estimate the impact at the local level for notifying victims of the offender's release on bail or appeal.
2. The Department of Human Services has indicated there is no fiscal impact for complying with this legislation's notification requirements.
3. The number of victims notified by the Parole Board has increased 31% from FY 1989 to FY 1990.
4. The Parole Board will need 1 additional staff member to meet the notifications deadline.
5. The average cost per claim is \$1,300.
6. The number of claims denied for failing to meet the 6 month filing deadline is estimated to be 31.
7. Expansion of the eligibility for filing a claim is estimated to increase the number of claims by 117.
8. The new Crime Victim Assistance Board member will receive expenses.

Fiscal Impact

The new staff member for the Parole Board will cost \$29,723 (salary = \$27,468 and support = \$2,255). This cost would be funded from the General Fund.

Expenditures for the Victim Compensation Fund would increase by \$187,500 as follows:

1. \$39,000 for extending the filing claim deadline from 6 months to 2 years.
2. \$148,000 for expanding the eligibility for claims.
3. \$500 for expenses for the new Crime Victim Assistance Board member.

The Victim Compensation Fund has a total of \$2.7 million budgeted for FY 1992. This figure is comprised of the following revenue streams: \$1.2 million from

2 , FISCAL NOTE, HOUSE FILE 430

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the Operating While Intoxicated (OWI) \$100 civil penalty; \$0.5 million from federal funds, \$0.05 million from restitution, and \$0.8 million from the criminal surcharge penalty. The fund is used to reimburse expenses of crime victims and for medical examinations in crimes of sexual abuse and of treatments for prevention of venereal disease.

Sources: Department of Justice
Department of Human Services
Department of Management
Parole Board
Iowa State Association of Counties

(LSB 1254hv, BAL)

FILED MARCH 13, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 430

S-3527

1 Amend House File 430, as passed by the House, as
2 follows:

3 1. Page 2, by inserting after line 22, the
4 following:

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

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

19 Sec. ____ . Section 910A.11, Code 1991, is amended
20 by adding the following new subsections:

21 NEW SUBSECTION. 3. Violation of a restraining or
22 protective order issued under this section constitutes
23 contempt of court, and may be punished by contempt
24 proceedings.

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

31 2. Title page, line 1, by inserting after the
32 word "programs" the following: "and the jurisdiction
33 of the court to enter restraining orders under the
34 victim and witness protection Act".

35 3. By renumbering as necessary.

By RALPH ROSENBERG
AL STURGEON

S-3527 FILED APRIL 22, 1991

Adopted 4/25/91 (p. 1502)

HOUSE FILE 430

S-3546

1 Amend the amendment, S-3302, to House File 430, as
2 passed by the House, as follows:

3 1. Page 1, by striking lines 15 through 21.

4 2. By renumbering as necessary.

By RALPH ROSENBERG

S-3546 FILED APRIL 23, 1991

Adopted 4/25/91 (p. 1501)

S-3302

1 Amend House File 430, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the fol-
4 lowing:

5 "Section 1. NEW SECTION. 611.23 CIVIL ACTIONS
6 INVOLVING ALLEGATIONS OF SEXUAL ABUSE OR DOMESTIC
7 ABUSE.

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

15 Sec. 2. Section 901.5, Code 1991, is amended by
16 adding the following new subsection:

17 NEW SUBSECTION. 9. Upon the pronouncement of
18 judgment and sentence, the court shall direct the
19 clerk to notify the victim or the victim's closest
20 relatives of the action of the court under this
21 section.

22 Sec. 3. Section 910.1, subsection 2, Code 1991, is
23 amended to read as follows:

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

35 2. By striking page 1, line 32, through page 2,
36 line 18, and inserting the following:

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

47 2. The county attorney may notify an offender
48 being".

49 3. Page 3, by striking lines 16 and 17 and
50 inserting the following: "death. A license

Page 2

1 revocation under section 321J.9 or 321J.12".

2 4. Title page, line 1, by inserting after the
3 word "programs" the following: "and victims' rights".

4 5. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

SENATE AMENDMENT TO HOUSE FILE 430

H-3976

1 Amend House File 430, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the fol-
4 lowing:

5 "Section 1. NEW SECTION. 611.23 CIVIL ACTIONS
6 INVOLVING ALLEGATIONS OF SEXUAL ABUSE OR DOMESTIC
7 ABUSE.

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

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

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

28 2. By striking page 1, line 32, through page 2,
29 line 18, and inserting the following:

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

40 2. The county attorney may notify an offender
41 being".

42 3. Page 2, by inserting after line 22, the
43 following:

44 "Sec. ____ . Section 910A.11, subsection 1,
45 unnumbered paragraph 2, Code 1991, is amended to read
46 as follows:

47 A temporary restraining order may be issued under
48 this subsection without written or oral notice to the
49 adverse party or the party's attorney in a civil
50 action under this section or in a criminal case if the

H-3976

Page 2

1 court finds, upon written certification of facts, that
2 the notice should not be required and that there is a
3 reasonable probability that the party will prevail on
4 the merits. The temporary restraining order shall set
5 forth the reasons for the issuance of the order, be
6 specific in terms, and describe in reasonable detail
7 the act or acts being restrained.

8 Sec. ____ . Section 910A.11, Code 1991, is amended
9 by adding the following new subsections:

10 NEW SUBSECTION. 3. Violation of a restraining or
11 protective order issued under this section constitutes
12 contempt of court, and may be punished by contempt
13 proceedings.

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

20 `4. Page 3, by striking lines 16 and 17 and
21 inserting the following: "death. A license
22 revocation under section 321J.9 or 321J.12".

23 5. Title page, line 1, by inserting after the
24 word "programs" the following: "and victims' rights".

25 6. Title page, line 1, by inserting after the
26 word "programs" the following: "and the jurisdiction
27 of the court to enter restraining orders under the
28 victim and witness protection Act".

29 7. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-3976 FILED APRIL 30, 1991

House concurred 5/1/91 (p. 1946)

Rodger Halvorson of Clayton CHAIR
Harbor
Hibbard

HSB 214

Judiciary & Law Enforcement

SENATE/HOUSE FILE 430
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the crime victim assistance programs.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2 the following new subsection:

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

5 Sec. 2. NEW SECTION. 910A.9A NOTIFICATION BY DEPARTMENT
6 OF HUMAN SERVICES.

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

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

16 2. The juvenile's escape from custody.

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

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

21 Sec. 3. Section 910A.19, Code 1991, is amended to read as
22 follows:

23 910A.19 CITIZEN INTERVENTION.

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

32 Sec. 4. Section 912.1, Code 1991, is amended by striking
33 the section and inserting in lieu thereof the following:

34 912.1 DEFINITIONS.

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "Compensation" means moneys awarded by the department
3 as authorized by this chapter.

4 2. "Crime" means conduct that occurs or is attempted in
5 this state, poses a substantial threat of personal injury or
6 death, and is punishable as a felony or misdemeanor, or would
7 be so punishable but for the fact that the person engaging in
8 the conduct lacked the capacity to commit the crime under the
9 laws of this state. "Crime" does not include conduct arising
10 out of the ownership, maintenance, or use of a motor vehicle,
11 motorcycle, motorized bicycle, train, boat, or aircraft except
12 for violations of section 106.14, 321.261, 321.277, 321J.2, or
13 707.6A, or when the intention is to cause personal injury or
14 death. A plea or verdict of guilty of a charge under section
15 321J.2 or a license revocation under section 321J.9 or 321J.12
16 shall be considered by the department as evidence of a
17 violation of section 321J.2 for the purposes of this chapter.

18 3. "Department" means the department of justice.

19 4. "Dependent" means a person wholly or partially
20 dependent upon a victim for care or support and includes a
21 child of the victim born after the victim's death.

22 5. "Victim" means a person who suffers personal injury or
23 death as a result of any of the following:

24 a. A crime.

25 b. The good faith effort of a person attempting to prevent
26 a crime.

27 c. The good faith effort of a person to apprehend a person
28 suspected of committing a crime.

29 Sec. 5. Section 912.2A, subsection 1, paragraph e, Code
30 1991, is amended to read as follows:

31 e. A Two public member members who has have received
32 victim services.

33 Sec. 6. Section 912.4, Code 1991, is amended to read as
34 follows:

35 912.4 APPLICATION FOR REPARATION COMPENSATION.

1 1. To claim ~~a-reparation~~ reparation compensation under the crime
2 victim ~~reparation~~ reparation compensation program, a person shall apply
3 in writing on a form prescribed by the department and file the
4 application with the department within ~~one-hundred-eighty-days~~
5 two years after the date of the crime, ~~or-of~~ the discovery of
6 the crime, or ~~within-one-hundred-twenty-days-after~~ the date of
7 death of the victim. ~~The-department-may-extend-the-time-limit~~
8 ~~for-the-filing-of-an-application-to-up-to-one-year-after-the~~
9 ~~date-of-the-crime, the-discovery-of-the-crime, or-the-death-of~~
10 ~~the-victim-upon-a-finding-of-good-cause:--back-of-awareness-of~~
11 ~~the-crime-victim-reparation-program-by-a-prospective-applicant~~
12 ~~alone-shall-not-constitute-good-cause:~~

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

19 3. Notwithstanding subsection 2, a victim under the age of
20 eighteen or dependent adult as defined in section 235B.1 who
21 has been sexually abused or subjected to any other unlawful
22 sexual conduct under chapter 709 or 726 or who has been the
23 subject of a forcible felony is not required to report the
24 crime to the local police department or county sheriff
25 department to be eligible for reparation compensation if the
26 crime was allegedly committed upon a child by a person
27 responsible for the care of a child, as defined in section
28 232.68, subsection 7, or upon a dependent adult by a caretaker
29 as defined in section 235B.1, and was reported to an employee
30 of the department of human services and the employee verifies
31 the report to the department.

32 4. When immediate or short-term medical services or mental
33 health services are provided to a victim under section
34 910A.16, the department of human services shall file the claim
35 for reparation compensation as provided in subsection 3 for

1 the victim.

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

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

14 Sec. 7. Section 912.6, Code 1991, is amended to read as
15 follows:

16 912.6 COMPUTATION OF REPARATION COMPENSATION.

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

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

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

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

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

35 5. Loss of support for dependents resulting from death or

1 a period of disability of the victim of sixty days or more not
2 to exceed two thousand dollars per dependent or a total of six
3 thousand dollars.

4 6. In the event of a victim's death, reasonable charges
5 incurred for counseling the victim's spouse, children,
6 parents, siblings, or persons cohabiting with or related by
7 blood or affinity to the victim if the counseling services are
8 provided by a psychologist licensed under chapter 154B, a
9 victim counselor as defined in section 236A.1, subsection 1,
10 or an individual holding at least a master's degree in social
11 work or counseling and guidance, and reasonable charges
12 incurred by such persons for medical care counseling provided
13 by a psychiatrist licensed under chapter 147 or 150A. The
14 allowable charges under this subsection shall not exceed five
15 hundred dollars per person or a total of two thousand dollars
16 per victim death.

17 Sec. 8. Section 912.7, Code 1991, is amended to read as
18 follows:

19 912.7 REDUCTIONS AND DISQUALIFICATIONS.

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

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

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

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

30 c. From public funds.

31 d. As an emergency award under section 912.11.

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

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

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

3 Sec. 9. Section 912.11, Code 1991, is amended to read as
4 follows:

5 912.11 EMERGENCY PAYMENT REPARATION COMPENSATION.

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

11 Sec. 10. Sections 13.31, 809.17, 910.1, 910A.6, 911.1,
12 912.2, 912.3, 912.5, 912.8, 912.9, 912.10, and 912.12, Code
13 1991, are amended by striking the words "reparation",
14 "reparations", and "a reparation", and inserting in lieu
15 thereof the word "compensation".

16 EXPLANATION

17 This bill pertains to the crime victim assistance programs.
18 The bill requires the county attorney to notify registered
19 victims of the date on which an offender is released on bail
20 or appeal. The bill requires the department of human services
21 to notify registered victims of release and other events
22 pertaining to juveniles who are adjudicated delinquent and
23 placed at the state training school at Eldora or Toledo.

24 The bill changes the name of the program in chapter 912
25 from the "crime victim reparation program" to the "crime
26 victim compensation program", and makes a number of technical
27 changes to implement the name change. The bill also expands
28 the victims eligible to receive compensation to include
29 victims of persons operating a vessel while intoxicated or
30 under the influence of drugs (section 106.14), hit and run
31 drivers (section 321.261), reckless drivers (section 321.277),
32 and persons committing vehicular homicide (section 707.6A).

33 The bill also adds another victim representative to the
34 crime victim assistance board. The bill extends the deadline
35 for filing an application for compensation from 180 days after

1 the crime or its discovery or 120 days after the death of the
2 victim, to two years in all cases. The bill provides that
3 victims of dependent adult abuse may fulfill the reporting
4 requirements for compensation by reporting the abuse to the
5 department of human services. Current law requires a report
6 to a law enforcement agency. The bill further requires
7 victims to cooperate with reasonable requests from law
8 enforcement agencies.

9 This bill may include a state mandate as defined in section
10 25B.3.

11 BACKGROUND STATEMENT

12 AS SUBMITTED BY THE AGENCY

13 The crime victim assistance program was placed in the
14 department of justice on July 1, 1989. Enormous progress has
15 been made since that time in terms of providing service to
16 victims. This bill addresses service areas that need to be
17 enhanced in order to provide optimum assistance to victims.

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HOUSE FILE 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,--back-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~~ 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".

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 430, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 17, 1991

HF 430

TERRY E. BRANSTAD
Governor