

**House File 409 - Introduced**

HOUSE FILE 409

BY ANDERSON

**A BILL FOR**

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

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

1 Section 1. Section 715A.9A, subsection 1, paragraph a, Code  
2 2013, is amended to read as follows:

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

6 Sec. 2. Section 910.7, subsections 2 and 3, Code 2013, are  
7 amended to read as follows:

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

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

25 Sec. 3. Section 915.80, subsection 2, Code 2013, is amended  
26 to read as follows:

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

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

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

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

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

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

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

22 Sec. 4. Section 915.80, Code 2013, is amended by adding the  
23 following new subsection:

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

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

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

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

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

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

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

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

18 Sec. 5. Section 915.85, subsection 3, Code 2013, is amended  
19 to read as follows:

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

25 Sec. 6. Section 915.86, subsections 3, 4, 8, 9, 10, 13, 14,  
26 and 15, Code 2013, are amended to read as follows:

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

1 secondary victim.

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

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

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

32 10. In the event of a homicide, loss of reasonable income  
33 from work that, but for the death of the victim, would have  
34 been earned by ~~the victim's spouse; child, foster child,~~  
35 ~~stepchild, son-in-law, or daughter-in-law; parent, foster~~

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

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

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

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

28 Sec. 7. Section 915.87, Code 2013, is amended by adding the  
29 following new subsection:

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

33 Sec. 8. Section 915.94, Code 2013, is amended to read as  
34 follows:

35 **915.94 Victim compensation fund.**



1 telephone. The bill includes witnesses in the list of persons  
2 and entities who shall receive notice that a petition relating  
3 to a plan of restitution has been filed.

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

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

20 The bill eliminates the discretion in current law allowing  
21 the department of justice to apportion compensation to two or  
22 more dependents entitled to victim compensation in the event of  
23 the death of a victim.

24 The bill specifies that a loss of income due to missed work  
25 days for various categories of persons who may be awarded crime  
26 victim compensation shall be computed based upon the loss of  
27 reasonable income. The bill specifies that victim compensation  
28 may be awarded to a homicide victim survivor for counseling  
29 services. The bill includes an award of compensation for such  
30 income for missed work days that the victim, secondary victim,  
31 or a homicide victim survivor would have performed where the  
32 loss of income is due to attendance at medical or counseling  
33 services or funerals, in addition to current law which allows  
34 compensation in such cases for attendance at criminal justice  
35 proceedings. The bill also includes an award of compensation

1 for reasonable dependent care expenses incurred by a victim,  
2 secondary victim, or a homicide survivor due to attendance at  
3 funerals.

4 The bill provides that compensation shall not be made to a  
5 secondary victim or a homicide victim survivor if the victim  
6 is ineligible for compensation.

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