

74-7312. State's subrogation rights; actions for damages; board's involvement; disposition of moneys recovered. (a) If compensation is awarded, the state shall be subrogated to all the claimant's rights to receive or recover benefits or advantages for economic loss for which, and only to the extent that, compensation is awarded, from a source which is or, if readily available to the victim or claimant would be, a collateral source.

(b) As a prerequisite to bringing an action to recover damages related to criminally injurious conduct upon which compensation is claimed or awarded, the claimant must give the board prior written notice of the proposed action. After receiving the notice, the board shall promptly: (1) Join in the action as a party plaintiff to recover compensation awarded; (2) require the claimant to bring the action in the claimant's individual name, as a trustee in behalf of the state, to recover compensation awarded; or (3) reserve its rights and do neither in the proposed action. If, as requested by the board, the action is brought by the claimant as trustee and the claimant recovers compensation awarded by the board, the claimant may deduct from the compensation recovered in behalf of the state the reasonable expenses, including attorney fees, allocable by the court for that recovery.

(c) If a judgment or verdict indicates separately economic loss and noneconomic detriment, payments on the judgment shall be allocated between them in proportion to the amounts indicated. In an action in a court of this state arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict, indicating separately the award for noneconomic detriment, punitive damages, if any, and the award for economic loss.

(d) Any moneys received or recovered by or on behalf of the state pursuant to the provisions of this section, less any deductions allowable hereunder, shall be deposited in the state treasury and credited to the crime victims compensation fund.

History: L. 1978, ch. 130, § 12; L. 1986, ch. 307, § 1; L. 1989, ch. 239, § 17; July 1.