

HOUSE BILL No. 2305

By Representatives Holscher, Clayton, Concannon, Ellis, Gartner, Karleskint, Kessinger, Kuether, Parker, Pittman, Probst, S. Ruiz, Stogsdill, Warfield, Weigel, Woodard and Xu

2-13

1 AN ACT concerning the crime victims compensation board; amending
2 K.S.A. 74-7305 and repealing the existing section.
3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 74-7305 is hereby amended to read as follows: 74-
6 7305. (a) An application for compensation shall be made in the manner
7 and form prescribed by the board. *The board shall make available on its*
8 *official website a method for submitting an online application to the*
9 *board.*

10 (b) Compensation may not be awarded unless an application has been
11 filed with the board within two years of the reporting of the incident to law
12 enforcement officials, *seeking medical attention for the incident or filing a*
13 *petition with a court for a protection order related to the incident,*
14 *whichever is earlier;* if the victim was less than 16 years of age and the
15 injury or death is the result of any of the following crimes: (1) Indecent
16 liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or
17 K.S.A. 2018 Supp. 21-5506(a), and amendments thereto; (2) aggravated
18 indecent liberties with a child as defined in K.S.A. 21-3504, prior to its
19 repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto; (3)
20 aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its
21 repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto; (4)
22 enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5)
23 indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its
24 repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto; (6)
25 aggravated indecent solicitation of a child as defined in K.S.A. 21-3511,
26 prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments
27 thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516,
28 prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments
29 thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its
30 repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto; (9)
31 human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or
32 K.S.A. 2018 Supp. 21-5426(a), and amendments thereto; (10) aggravated
33 human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or
34 K.S.A. 2018 Supp. 21-5426(b), and amendments thereto; or (11)

1 commercial sexual exploitation of a child as defined in K.S.A. 2018 Supp.
2 21-6422, and amendments thereto. Compensation for mental health
3 counseling may be awarded if a claim is filed within two years of: (1)
4 Testimony, to a claimant who is, or will be, required to testify in a sexually
5 violent predator commitment, pursuant to article 29a of chapter 59 of the
6 Kansas Statutes Annotated, and amendments thereto, of an offender who
7 victimized the claimant or the victim on whose behalf the claim is made;
8 or (2) notification, to a claimant who is notified that DNA testing of a
9 sexual assault kit or other evidence has revealed a DNA profile of a
10 suspected offender who victimized the claimant or the victim on whose
11 behalf the claim is made, or is notified of the identification of a suspected
12 offender who victimized the claimant or the victim on whose behalf the
13 claim is made, whichever occurs later. For all other incidents of criminally
14 injurious conduct, compensation may not be awarded unless the claim has
15 been filed with the board within two years after the injury or death upon
16 which the claim is based. Compensation may not be awarded to a claimant
17 who was the offender or an accomplice of the offender and may not be
18 awarded to another person if the award would unjustly benefit the offender
19 or accomplice.

20 (c) Compensation otherwise payable to a claimant shall be reduced or
21 denied, to the extent, if any that the:

22 (1) Economic loss upon which the claimant's claim is based is
23 recouped from other persons, including collateral sources;

24 (2) board deems reasonable because of the contributory misconduct
25 of the claimant or of a victim through whom the claimant claims; or

26 (3) board deems reasonable, because the victim was likely engaging
27 in, or attempting to engage in, unlawful activity at the time of the crime
28 upon which the claim for compensation is based. This subsection shall not
29 be construed to reduce or deny compensation to a victim of domestic
30 abuse or sexual assault.

31 (d) Compensation may be awarded only if the board finds that unless
32 the claimant is awarded compensation the claimant will suffer financial
33 stress as the result of economic loss otherwise reparable. A claimant
34 suffers financial stress only if the claimant cannot maintain the claimant's
35 customary level of health, safety and education for self and dependents
36 without undue financial hardship. In making its determination of financial
37 stress, the board shall consider all relevant factors, including:

38 (1) The number of *the* claimant's dependents;

39 (2) the usual living expenses of the claimant and the claimant's
40 family;

41 (3) the special needs of the claimant and the claimant's dependents;

42 (4) the claimant's income and potential earning capacity; and

43 (5) the claimant's resources.

1 (e) Compensation may not be awarded unless: (1) The criminally
2 injurious conduct resulting in injury or death was reported to a law
3 enforcement officer ~~within 72 hours~~ after its occurrence; (2) *the claimant*
4 *sought medical attention for the incident*; (3) *the claimant filed a petition*
5 *with a court for a protection order related to the incident*; or (4) the board
6 finds there was good cause for the failure to report ~~within that time~~, *seek*
7 *medical attention or file a petition*.

8 (f) ~~The board, upon finding that the claimant or victim has not fully~~
9 ~~cooperated with appropriate law enforcement agencies, may deny,~~
10 ~~withdraw or reduce an award of compensation.~~

11 (g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or
12 K.S.A. 2018 Supp. 21-5604, and amendments thereto, or cases of sex
13 offenses established in article 35 of chapter 21, of the Kansas Statutes
14 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
15 Statutes Annotated, and amendments thereto, K.S.A. 2018 Supp. 21-6419
16 through 21-6422, and amendments thereto, or human trafficking or
17 aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447,
18 prior to their repeal, or K.S.A. 2018 Supp. 21-5426, and amendments
19 thereto, compensation may not be awarded if the economic loss is less than
20 \$100.

21 (h)(g) Compensation for work loss, replacement services loss,
22 dependent's economic loss and dependent's replacement service loss may
23 not exceed \$400 per week or actual loss, whichever is less.

24 (h)(h) Compensation payable to a victim and to all other claimants
25 sustaining economic loss because of injury to or death of that victim may
26 not exceed \$25,000 in the aggregate.

27 (i)(i) Nothing in subsections (c)(2), (c)(3); *and (e) and (f)* shall be
28 construed to reduce or deny compensation to a victim of human trafficking
29 or aggravated human trafficking, as defined in K.S.A. 2018 Supp. 21-
30 5426, and amendments thereto, or commercial sexual exploitation of a
31 child, as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto,
32 who was 18 years of age or younger at the time the crime was committed
33 and is otherwise qualified for compensation.

34 Sec. 2. K.S.A. 74-7305 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.