

House Bill 797

By: Representatives Willard of the 51<sup>st</sup>, Oliver of the 82<sup>nd</sup>, Lindsey of the 54<sup>th</sup>, and Abrams of the 89<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,  
2 so as to provide for extended time frames for victims of certain sexual offenses to request  
3 victim compensation; to clarify terminology used for persons seeking victim compensation;  
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
8 amended by revising Chapter 15, relating to victim compensation, as follows:

9 style="text-align:center">"CHAPTER 15

10 17-15-1.

11 The General Assembly recognizes that many innocent persons suffer personal physical  
12 injury, serious mental or emotional trauma, severe financial hardship, or death as a result  
13 of criminal acts or attempted criminal acts. The General Assembly finds and determines  
14 that there is a need for assistance for such victims of ~~crime~~ crimes and sexual offenses.  
15 Accordingly, it is the General Assembly's intent that under certain circumstances, aid, care,  
16 and assistance be provided by the state for such victims of ~~crime~~ crimes and sexual  
17 offenses.

18 17-15-2.

19 As used in this chapter, the term:

- 20 (1) 'Board' means the Criminal Justice Coordinating Council.  
21 (2) 'Claimant' means any person filing a claim pursuant to this chapter.  
22 (3) 'Crime' means:

23 (A) An act which constitutes hit and run ~~as defined in violation of~~ Code Section  
 24 40-6-270, homicide by vehicle as defined in Code Section 40-6-393, serious injury by  
 25 vehicle as defined in Code Section 40-6-394, ~~or any act which constitutes a violation~~  
 26 ~~of Code Section 16-5-46 or Chapter 6 or Part 2 of Article 3 of Chapter 12 of Title 16~~  
 27 involving labor servitude as defined in such Code section, a violation of Code Section  
 28 16-5-70 ~~that does not involve a sexual act, or a violent crime of violence as defined by~~  
 29 ~~state or federal law which results in physical injury, serious mental or emotional~~  
 30 ~~trauma, or death to the victim~~ 18 U.S.C. Section 16 and which is committed:

- 31 (i) In this state;  
 32 (ii) In a state which does not have a victims' compensation program, if the ~~victim~~  
 33 claimant is a resident of this state; or  
 34 (iii) In a state which has compensated the ~~victim claimant~~ in an amount less than the  
 35 ~~victim claimant~~ would be entitled to pursuant to this chapter, if the ~~victim claimant~~  
 36 is a resident of this state;

37 (B) An act which constitutes international terrorism as defined in 18 U.S.C. Section  
 38 2331 ~~which results in physical injury, serious mental or emotional trauma, or death to~~  
 39 ~~the victim, if the victim is against~~ a resident of this state ~~and is~~ when such resident was  
 40 outside the territorial boundaries of the United States when such act is was committed;  
 41 or

42 (C) An act of mass violence ~~which results in physical injury, serious mental or~~  
 43 ~~emotional trauma, or death to the victim, if the victim is involving~~ a resident of this  
 44 state ~~and is~~ when such resident was outside the territorial boundaries of the United  
 45 States when such act is was committed.

46 (4) 'Direct service provider' means a public or nonprofit entity which provides aid, care,  
 47 and assistance ~~to a victim~~.

48 (5) 'Director' means the director of the Criminal Justice Coordinating Council.

49 (6) 'Forensic medical examination' means an examination provided to a person pursuant  
 50 to subsection (c) of Code Section 16-6-1 or subsection (c) of Code Section 16-6-2 by  
 51 trained medical personnel in order to gather evidence. Such examination shall include,  
 52 but shall not be limited to:

- 53 (A) An examination for physical trauma;  
 54 (B) A determination as to the nature and extent of the physical trauma;  
 55 (C) A patient interview;  
 56 (D) Collection and evaluation of the evidence collected; and  
 57 (E) Any additional testing deemed necessary by the examiner in order to collect  
 58 evidence and provide treatment.

59 (7) 'Fund' means the Georgia Crime Victims Emergency Fund.

60 (8) 'Investigator' means an investigator of the board.

61 (9) 'Serious mental or emotional trauma' means a nonphysical injury which has been  
62 documented by a licensed mental health professional and which meets the specifications  
63 promulgated by the board's rules and regulations relating to this type of trauma.

64 (10) 'Sexual offense' means aggravated assault with the intent to rape, as defined in Code  
65 Section 16-5-21; a violation of Code Section 16-5-46 involving sexual servitude as  
66 defined in such Code section; any act which constitutes a violation of Chapter 6 of Title  
67 16; any act which constitutes a violation of Part 2 of Article 3 of Chapter 12 of Title 16;  
68 or a violation of Code Section 16-5-70 that involves a sexual act and which is committed:

69 (A) In this state;

70 (B) In a state which does not have a victims' compensation program, if the claimant is  
71 a resident of this state; or

72 (C) In a state which has compensated the claimant in an amount less than the victim  
73 claimant would be entitled to pursuant to this chapter, if the claimant is a resident of  
74 this state.

75 ~~'Victim' means a person who:~~

76 ~~(A) Is injured physically, who dies, or who suffers financial hardship as a result of~~  
77 ~~being injured physically as a direct result of a crime;~~

78 ~~(B) Suffers a serious mental or emotional trauma as a result of being threatened with~~  
79 ~~a crime which could result in physical injury or death;~~

80 ~~(C) Suffers a serious mental or emotional trauma as a result of being present during the~~  
81 ~~commission of a crime; or~~

82 ~~(D) Suffers a serious mental or emotional trauma as a result of being trafficked for~~  
83 ~~labor or sexual servitude as defined in Code Section 16-5-46.~~

84 17-15-3.

85 ~~(a) The five-member Georgia Crime Victims Compensation Board in existence on June~~  
86 ~~30, 1992, is abolished.~~

87 ~~(b)~~ There is created the Georgia Crime Victims Compensation Board. The Criminal  
88 Justice Coordinating Council created under Chapter 6A of Title 35 shall serve as the  
89 Georgia Crime Victims Compensation Board.

90 ~~(c)~~(b) The Governor shall appoint the director of the Criminal Justice Coordinating  
91 Council to carry out the provisions of this chapter.

92 17-15-4.

93 (a) The board shall have the following powers and duties:

- 94 (1) To promulgate suitable rules and regulations to carry out the provisions and purposes  
 95 of this chapter;
- 96 (2) To request from the Attorney General, the Department of Public Safety, the Georgia  
 97 Bureau of Investigation, district attorneys, solicitors-general, judges, county and  
 98 municipal law enforcement agencies, and any other agency or department such assistance  
 99 and data as will enable the board to determine the needs state wide for victim  
 100 compensation and whether, and the extent to which, a claimant qualifies for an award.  
 101 Any person, agency, or department listed in this paragraph is authorized to provide the  
 102 board with the information requested upon receipt of a request from the board. Any  
 103 provision of law providing for confidentiality of records ~~does~~ shall not apply to a request  
 104 of the board pursuant to this Code section; provided, however, that the board shall  
 105 preserve the confidentiality of any such records received;
- 106 (3) To hear and determine all appeals of denied claims for awards filed with the board  
 107 pursuant to this chapter and to reinvestigate or reopen cases as the board deems  
 108 necessary, including circumstances when it appears a claim may be time barred;
- 109 (4) To apply for funds from, and to submit all necessary forms to, any federal agency  
 110 participating in a cooperative program to compensate victims of ~~crime~~ crimes or sexual  
 111 offenses and to receive and administer federal funds for the purposes of this chapter;
- 112 (5) To render awards to ~~victims of crimes~~ claimants or to those other persons entitled to  
 113 receive awards in the manner authorized by this chapter. Victim compensation payments  
 114 may be made directly to direct service providers who are not the recipients of local, state,  
 115 federal, or private grant funds awarded for purposes of providing direct services to ~~crime~~  
 116 victims of crimes or sexual offenses. A ~~victim~~ or claimant may be paid directly in the  
 117 case of lost wages, loss of support, and instances where the ~~victim~~ or claimant has paid  
 118 the direct service provider and is filing for reimbursement. In all cases where the ~~victim~~  
 119 claimant has incurred out-of-pocket expenses, such as lost wages or loss of support, or  
 120 in cases where the ~~victim~~ or claimant has paid the direct service provider directly and is  
 121 filing for reimbursement, the ~~victim~~ or claimant shall be paid first before any third party;
- 122 (6) To carry out programs designed to inform the public of the purposes of this chapter;  
 123 and
- 124 (7) To render each year to the Governor and to the General Assembly a written report  
 125 of its activities pursuant to this chapter.
- 126 (b) The board shall assist applicants with their claims for compensation through  
 127 educational programs and administrative assistance.

128 17-15-5.

129 (a) A claim may be filed by a person eligible to receive an award, as provided in Code  
 130 Section 17-15-7, or, if such person is a minor, by his or her parent or guardian. In any case  
 131 in which the person entitled to make a claim is mentally incompetent, the claim may be  
 132 filed on his or her behalf by his or her guardian ~~or such other~~. In any case in which the  
 133 person entitled to make a claim is deceased, the claim may be filed on his or her behalf by  
 134 an individual authorized to administer his or her estate.

135 (b)(1) A claim ~~must~~ shall be filed by ~~the~~ a claimant not later than one year after the  
 136 occurrence of the crime upon which such claim is based or not later than one year after  
 137 the death of the victim; provided, however, that, upon good cause shown, the board may  
 138 extend ~~that~~ the time for filing a claim for a period not exceeding three years after such  
 139 occurrence.

140 (2) A claim shall be filed by a claimant not later than three years after the reporting of  
 141 a sexual offense upon which such claim is based; provided, however, that if such claimant  
 142 was a minor at the time of the commission of the sexual offense, he or she shall have until  
 143 his or her twenty-eighth birthday to file such claim; and provided, further, that upon good  
 144 cause shown, the board may extend the time for filing. As used in this paragraph, the  
 145 term 'good cause shown' shall include consideration of the claimant's physical capacity,  
 146 age, mental competence, and whether or not the claimant's injury was reasonably  
 147 discoverable.

148 (3) Claims shall be filed in the office of the board in person or by mail.

149 (c) The claim shall be verified and shall contain the following:

- 150 (1) A description of the date, nature, and circumstances of the crime or sexual offense;
- 151 (2) A complete financial statement, including, but not limited to, the cost of medical care  
 152 or burial expense, the loss of wages or support the ~~victim~~ claimant has incurred or will  
 153 incur, any other emergency expenses incurred by the ~~victim~~ claimant, and the extent to  
 154 which the ~~victim~~ claimant has been or may be indemnified for these expenses from any  
 155 source;
- 156 (3) When appropriate, a statement indicating the extent of ~~any~~ a claimant's disability  
 157 resulting from the injury or serious mental or emotional trauma incurred;
- 158 (4) An authorization permitting the board to verify the contents of the application; and
- 159 (5) Such other information as the board may require.

160 17-15-6.

161 (a) A claim, once accepted for filing and completed, shall be assigned to an investigator.  
 162 The investigator shall examine the papers filed in support of the claim and cause an  
 163 investigation to be conducted into the validity of the claim. The investigation shall include,

164 but shall not be limited to, an examination of law enforcement, court, and official records  
 165 and reports concerning the crime or sexual offense and an examination of medical,  
 166 psychiatric, counseling, financial, and hospital reports relating to the injury, serious mental  
 167 or emotional trauma, or loss upon which the claim is based. All claims arising from the  
 168 death of an individual as a direct result of a crime ~~must~~ shall be considered together by a  
 169 single investigator.

170 (b) Claims ~~must~~ shall be investigated and determined regardless of whether ~~the alleged~~  
 171 ~~criminal~~ a perpetrator has been apprehended, prosecuted, or convicted of any crime or  
 172 sexual offense based upon the same incident or whether the alleged ~~criminal~~ perpetrator  
 173 has been acquitted or found not guilty of the crime or sexual offense in question.

174 (c) The investigator conducting the investigation shall file with the director a written report  
 175 setting forth a recommendation and the investigator's reason therefor. The director shall  
 176 render a decision and furnish the ~~victim or~~ claimant with a copy of the report if so  
 177 requested. In cases where an investigative report is provided, information deemed  
 178 confidential in nature shall be excluded.

179 (d) The claimant may, within 30 days after receipt of the report of the decision of the  
 180 director, make an application in writing to the director for review of the decision.

181 (e) Upon receipt of an application for review pursuant to subsection (d) of this Code  
 182 section, the director shall forward all relevant documents and information to the board.  
 183 The board shall review the records and shall affirm or modify the decision of the director.  
 184 If considered necessary by the board or if requested by the claimant, the board shall order  
 185 a hearing prior to rendering a decision. At the hearing, any relevant evidence not legally  
 186 privileged ~~is~~ shall be admissible. The board shall render a decision within 90 days after  
 187 completion of the investigation. If the director receives no application for review pursuant  
 188 to subsection (d) of this Code section, the director's decision ~~becomes~~ shall become final.

189 (f) The board, for purposes of this chapter, may subpoena witnesses, administer or cause  
 190 to be administered oaths, and examine such parts of the books and records of the parties  
 191 to proceedings as relate to questions in dispute.

192 (g) The director shall, within ten days after receipt of the board's final decision, make a  
 193 report to the claimant, including a copy of the final decision and the reasons why the  
 194 decision was made.

195 17-15-7.

196 (a) Except as otherwise provided in this Code section, the following persons ~~are~~ shall be  
 197 eligible for awards pursuant to this chapter:

198 (1) A victim person who:

- 199 (A) Is injured physically, who dies, or who suffers financial hardship as a result of  
 200 being injured physically as a direct result of a crime or sexual offense;
- 201 (B) Suffers a serious mental or emotional trauma as a result of being threatened with  
 202 a crime or sexual offense which could result in physical injury or death;
- 203 (C) Suffers a serious mental or emotional trauma as a result of being present during the  
 204 commission of a crime or sexual offense;
- 205 (D) Suffers a serious mental or emotional trauma as a result of being trafficked for  
 206 labor servitude or sexual servitude as defined in Code Section 16-5-46; or
- 207 (E) Is a dependent spouse or child of a person who is injured physically, who dies, or  
 208 who suffers financial hardship as a result of being injured physically as a direct result  
 209 of a crime or sexual offense;
- 210 (2) ~~A dependent spouse or child of a victim;~~
- 211 ~~(2.1)~~ For purposes of an award under subsection (k) of Code Section 17-15-8, any  
 212 member of the immediate family of a victim of homicide by vehicle caused by a violation  
 213 of Code Section 40-6-391;
- 214 (3) Any person who goes to the aid of another and suffers physical injury, serious mental  
 215 or emotional trauma, or death as a direct result of acting, not recklessly, to prevent the  
 216 commission of a crime or sexual offense, to apprehend lawfully a person reasonably  
 217 suspected of having committed a crime or sexual offense, or to aid the victim of a crime  
 218 or sexual offense or any person who is injured, traumatized, or killed while aiding or  
 219 attempting to aid a law enforcement officer in the prevention of a crime or sexual offense  
 220 or apprehension of a criminal at the officer's request;
- 221 (4) Any person who is a victim of family violence as defined by Code Section 19-13-1  
 222 and anyone who is a victim as a result of a violation of Code Section 40-6-391; or
- 223 (5) Any person who is not a direct service provider and who assumes the cost of an  
 224 eligible expense of a ~~victim~~ claimant regardless of such person's relationship to the ~~victim~~  
 225 claimant or whether such person is a dependent of the ~~victim~~ claimant.
- 226 (b)(1) Claimants ~~Victims~~ may be legal residents or nonresidents of this state. A  
 227 surviving spouse, parent, or child who is legally dependent for his or her principal support  
 228 upon a deceased victim is shall be entitled to file a claim under this chapter if the  
 229 deceased victim would have been so entitled, regardless of the residence or nationality  
 230 of the surviving spouse, parent, or child.
- 231 (2) Victims of crimes or sexual offenses occurring within this state who are subject to  
 232 federal jurisdiction shall be compensated on the same basis as resident victims of ~~crime~~  
 233 crimes or sexual offenses.

234 (c) No award of any kind shall be made under this chapter to a victim claimant injured  
 235 while confined in any federal, state, county, or municipal jail, prison, or other correctional  
 236 facility.

237 (d) No award of any kind shall be made under this chapter to a victim of a crime or sexual  
 238 offense which occurred prior to July 1, 1989.

239 (e) A person who is criminally responsible for the crime or sexual offense upon which a  
 240 claim is based or is an accomplice of such person shall not be eligible to receive an award  
 241 with respect to such claim; provided, however, that such ineligibility shall not apply if the  
 242 claimant is a victim as defined in subparagraph (a)(1)(D) of ~~paragraph (10) of Code Section~~  
 243 ~~17-15-2~~ this Code section.

244 (f) There shall be no denial of compensation to a victim claimant based on that victim's  
 245 claimant's familial relationship with the person who is criminally responsible for the crime  
 246 or sexual offense.

247 (g) No award of any kind shall be made under this chapter to a victim of a crime or sexual  
 248 offense for loss of property.

249 (h) A ~~victim or~~ claimant who has been convicted of a felony involving criminally injurious  
 250 conduct and who is currently serving a sentence therefor shall not be considered eligible  
 251 to receive an award under this chapter. For purposes of this subsection, 'criminally  
 252 injurious conduct' means ~~an act~~ a crime or sexual offense which occurs or is attempted in  
 253 this state that results in physical injury, serious mental or emotional trauma, or death to a  
 254 victim, which act is punishable by fine, imprisonment, or death. Such term shall not  
 255 include acts arising out of the operation of motor vehicles, boats, or aircraft unless the acts  
 256 were committed with the intent to inflict injury, trauma, or death or unless the acts  
 257 committed were in violation of Code Section 40-6-391. For the purposes of this  
 258 subsection, a person shall be deemed to have committed criminally injurious conduct  
 259 notwithstanding that by reason of age, insanity, drunkenness, or other reason, he or she was  
 260 legally incapable of committing a crime or sexual offense.

261 17-15-8.

262 (a) No award may be made unless the board or director finds that:

263 (1) A crime or sexual offense was committed;

264 (2) The crime or sexual offense directly resulted in the victim's claimant's physical  
 265 injury, serious mental or emotional trauma, or financial hardship as a result of the victim's  
 266 claimant's physical injury, serious mental or emotional trauma, or the victim's death;

267 (3) Police records, records of an investigating agency, or records created pursuant to a  
 268 mandatory reporting requirement show that the crime was promptly reported to the proper  
 269 authorities. In no case may an award be made where the police records, records of an

270 investigating agency, or records created pursuant to a mandatory reporting requirement  
 271 show that such report was made more than 72 hours after the occurrence of such crime  
 272 unless the board, for good cause shown, finds the delay to have been justified and  
 273 provided, further, that good cause shall be presumed if the claimant is a victim ~~as defined~~  
 274 in of a sexual offense or is eligible for awards pursuant to this chapter corresponding to  
 275 subparagraph (a)(1)(D) of paragraph (10) of Code Section 17-15-2 17-15-7; and

276 (4) The applicant has pursued restitution rights against any person who committed the  
 277 crime or sexual offense unless the board or director determines that such action would not  
 278 be feasible.

279 (a.1) The board, upon finding that any claimant or award recipient has not fully cooperated  
 280 with all law enforcement agencies, may deny, reduce, or withdraw any award.

281 (b) Any award made pursuant to this chapter ~~may~~ shall be in an amount not exceeding  
 282 actual expenses, including indebtedness reasonably incurred for medical expenses, loss of  
 283 wages, funeral expenses, mental health counseling, or support for dependents of a deceased  
 284 victim necessary as a direct result of the injury or hardship upon which the claim is based.

285 (c)(1) Notwithstanding any other provisions of this chapter, no award made under the  
 286 provisions of this chapter shall exceed \$1,000.00 in the aggregate; provided, however,  
 287 that with respect to any claim filed with the board as a result of a crime or sexual offense  
 288 occurring on or after July 1, 1994, no award made under the provisions of this chapter  
 289 payable to a ~~victim and to all other claimants~~ claimant sustaining economic loss because  
 290 of injury to or death of such ~~victim~~ claimant shall exceed \$5,000.00 in the aggregate;  
 291 provided, further, that with respect to any claim filed with the board as a result of a crime  
 292 or sexual offense occurring on or after July 1, 1995, no award made under the provisions  
 293 of this chapter payable to a ~~victim and to all other claimants~~ claimant sustaining  
 294 economic loss because of injury to or death of such ~~victim~~ claimant shall exceed  
 295 \$10,000.00 in the aggregate; provided, further, that with respect to any claim filed with  
 296 the board as a result of a crime or sexual offense occurring on or after July 1, 2002, no  
 297 award made under the provisions of this chapter payable to a ~~victim and to all other~~  
 298 ~~claimants~~ claimant sustaining economic loss because of injury to or death of such ~~victim~~  
 299 claimant shall exceed \$25,000.00 in the aggregate; provided, further, that with respect to  
 300 any claim filed with the board for serious mental or emotional trauma, no award shall be  
 301 made for a crime or sexual offense occurring before July 1, 2009.

302 (2) No award under this chapter for the following losses shall exceed the maximum  
 303 amount authorized:

| <u>Category</u>                                 | <u>Maximum Award</u> |
|-------------------------------------------------|----------------------|
| Lost wages . . . . .                            | \$10,000.00          |
| Funeral expenses . . . . .                      | 3,000.00             |
| Financial hardship or loss of support . . . . . | 10,000.00            |
| Medical . . . . .                               | 15,000.00            |
| Counseling . . . . .                            | 3,000.00             |
| Crime scene sanitization . . . . .              | 1,500.00             |

(d) In determining the amount of an award, the director and board shall determine whether because of his or her conduct the ~~victim of such crime~~ claimant contributed to the infliction of his or her injury, serious mental or emotional trauma, or financial hardship, and the director and board may reduce the amount of the award or reject the claim altogether in accordance with such determination.

(e) The director and board may reject an application for an award when the claimant has failed to cooperate in the verification of the information contained in the application.

(f) Any award made pursuant to this chapter may be reduced by or set off by the amount of any payments received or to be received as a result of the injury, serious mental or emotional trauma:

(1) From or on behalf of the person who committed the crime or sexual offense; and

(2) From any other private or public source, including an award of workers' compensation pursuant to the laws of this state,

provided that private sources shall not include contributions received from family members or persons or private organizations making charitable donations to a ~~victim~~ claimant.

(g) No award made pursuant to this chapter ~~is~~ shall be subject to garnishment, execution, or attachment other than for expenses resulting from the injury or serious mental or emotional trauma which is the basis for the claim.

(h) An award made pursuant to this chapter shall not constitute a payment which is treated as ordinary income under either the provisions of Chapter 7 of Title 48 or, to the extent lawful, under the United States Internal Revenue Code.

(I) Notwithstanding any other provisions of this chapter to the contrary, no awards from state funds shall be paid to a victim of a crime or sexual offense which occurred prior to July 1, 1989.

(j) In any case where a crime results in death, the spouse, children, parents, or siblings of such deceased victim may be considered eligible for an award for the cost of psychological counseling which is deemed necessary as a direct result of said criminal incident. The maximum award for said counseling expenses shall not exceed \$3,000.00 for each claimant identified in this subsection.

340 (k)(1) In addition to any other award authorized by this Code section, in any case where  
 341 a deceased was a victim of homicide by vehicle caused by a violation of Code Section  
 342 40-6-391 on any road which is part of the state highway system, upon request of the next  
 343 of kin of the deceased, an award of compensation in the form of a memorial sign erected  
 344 by the Department of Transportation as provided by this subsection shall be paid to an  
 345 eligible claimant.

346 (2) The provisions of paragraph (4) of subsection (a) of this Code section shall not apply  
 347 for purposes of eligibility for awards made under this subsection, and the value of any  
 348 award paid to a claimant under this subsection shall not apply toward or be subject to any  
 349 limitation on award amounts paid to any claimant under other provisions of this Code  
 350 section.

351 (3) The Department of Transportation, upon receiving payment for the cost of materials  
 352 and labor from the board, shall upon request of the next of kin of the deceased erect a  
 353 sign memorializing the deceased on the right of way of such public highway at the  
 354 location of the accident or as near thereto as safely and reasonably possible and shall  
 355 maintain such sign for a period of five years from the date the sign is erected unless its  
 356 earlier removal is requested in writing by the next of kin. Such sign shall be 24 inches  
 357 wide by 36 inches high and depict a map of the State of Georgia, with a dark blue  
 358 background and a black outline of the state boundaries. A border of white stars shall be  
 359 placed on the inside of the state boundaries, and the sign shall contain the words 'In  
 360 Memory of (name), DUI Victim (date of accident).'

361 (4) In the event of multiple such claims arising out of a single motor vehicle accident,  
 362 the names of all deceased victims for whom such claims are made and for whom a  
 363 request has been made by the next of kin of the deceased may be placed on one such sign  
 364 or, if necessary, on one such sign and a plaque beneath of the same color as the sign. In  
 365 the event of multiple claims relating to the same deceased victim, no more than one such  
 366 sign shall be paid for and erected for such victim.

367 ~~17-15-9.~~

368 ~~Notwithstanding any other provision of this chapter to the contrary, where an award under~~  
 369 ~~this chapter has been authorized but there are not sufficient funds in the Georgia Crime~~  
 370 ~~Victims Emergency Fund to pay or continue paying the award, then the award or the~~  
 371 ~~remaining portion thereof must not be paid unless and until sufficient funds become~~  
 372 ~~available from the fund and at such time awards which have not been paid must begin to~~  
 373 ~~be paid in chronological order with the oldest award being paid first. In the event an award~~  
 374 ~~was to be paid in installments and some remaining installments have not been paid due to~~  
 375 ~~a lack of funds, then when funds due become available that award must be paid in full~~

376 ~~when its appropriate time for payment comes on the chronological list before any other~~  
 377 ~~postdated award must be paid. Any award under this chapter is specifically not a claim~~  
 378 ~~against the state if it cannot be paid due to a lack of funds in the Georgia Crime Victims~~  
 379 ~~Emergency Fund.~~

380 ~~17-15-10. 17-15-9.~~

381 (a) There is created a fund to be known as the Georgia Crime Victims Emergency Fund.  
 382 The custodian of the fund shall be the board. The director shall administer the fund and  
 383 may invest the resources of the fund in the same manner and fashion that an insurer  
 384 authorized to issue contracts of life insurance is authorized to invest its resources. The  
 385 board ~~is~~ shall be specifically authorized to contract with any person or organization, public  
 386 or private, to administer the fund, assume the powers of the director, and carry out the  
 387 duties of the board relating to the fund.

388 (b)(1) The fund shall consist of all moneys received pursuant to Article 7 of Chapter 21  
 389 of Title 15 from the assessment of additional penalties in cases involving a violation of  
 390 Code Section 40-6-391, ~~relating to driving under the influence of alcohol or drugs~~, or a  
 391 violation of an ordinance of a political subdivision of this state which has adopted by  
 392 reference Code Section 40-6-391 pursuant to Article 14 of Chapter 6 of Title 40.

393 (2) The funds placed in the fund shall also consist of all moneys appropriated by the  
 394 General Assembly, if any, for the purpose of compensating claimants under this chapter  
 395 and money recovered on behalf of the state pursuant to this chapter by subrogation or  
 396 other action, recovered by court order, received from the federal government, received  
 397 from additional court costs, received from specific tax proceeds allocated to the fund,  
 398 received from other assessments or fines, or received from any other public or private  
 399 source pursuant to this chapter.

400 (c) All funds appropriated to or otherwise paid into the fund shall be presumptively  
 401 concluded to have been committed to the purpose for which they have been appropriated  
 402 or paid and shall not lapse.

403 (d) The board ~~is~~ shall be authorized, subject to the limitations contained in this chapter, to  
 404 pay the appropriate compensation to the persons eligible for compensation under this  
 405 chapter from the proceeds of the ~~Georgia Crime Victims Emergency Fund~~ fund.

406 (e) After determining that an award should be paid and the method of payment, the board  
 407 or director, within five days, shall be authorized to draw a warrant or warrants upon the  
 408 ~~Georgia Crime Victims Emergency Fund~~ fund to pay the amount of the award from such  
 409 fund.

410 17-15-10.

411 Notwithstanding any other provision of this chapter to the contrary, where an award under  
 412 this chapter has been authorized but there are not sufficient funds in the fund to pay or  
 413 continue paying the award, then the award or the remaining portion thereof shall not be  
 414 paid unless and until sufficient funds become available from the fund, and at such time,  
 415 awards which have not been paid shall begin to be paid in chronological order with the  
 416 oldest award being paid first. In the event an award was to be paid in installments and  
 417 some remaining installments have not been paid due to a lack of funds, then when funds  
 418 due become available, that award shall be paid in full when its appropriate time for  
 419 payment comes on the chronological list before any other postdated award shall be paid.  
 420 Any award under this chapter is specifically not a claim against the state if it cannot be paid  
 421 due to a lack of funds in the fund.

422 17-15-11.

423 Any person who asserts a false claim under the provisions of this chapter shall be guilty of  
 424 a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor and  
 425 shall further forfeit any benefit received and shall reimburse and repay the state for  
 426 payments received or paid on his or her behalf pursuant to any of the provisions of this  
 427 chapter.

428 17-15-12.

429 (a) Acceptance of an award made pursuant to this chapter shall subrogate the state, to the  
 430 extent of such award, to any right or right of action occurring to the claimant ~~or the victim~~  
 431 to recover payments on account of losses resulting from the crime or sexual offense with  
 432 respect to which the award is made. The board may waive subrogation when the ~~victim~~  
 433 ~~or~~ claimant presents documentation and the board verifies that judgment, settlement, or  
 434 other sources have not fully reimbursed the ~~victim or~~ claimant for expenses compensable  
 435 under this chapter.

436 (b) Acceptance of an award made pursuant to this chapter based on damages from a  
 437 ~~criminal act~~ crime or sexual offense shall constitute an agreement on the part of the  
 438 recipient reasonably to pursue any and all civil remedies arising from any right of action  
 439 against the person or persons responsible for or committing the ~~act~~ crime or sexual offense.

440 17-15-13.

441 (a) Any award or payment of benefits ~~to, or on behalf of, a victim or eligible family~~  
 442 ~~member~~ under this chapter shall create a debt due and owing to the state by any person

443 found in a court of competent jurisdiction of this state to have committed ~~such criminal an~~  
 444 act resulting in compensation being paid pursuant to this chapter.

445 (b) A court, when placing on probation any person who owes a debt to the state as a  
 446 consequence of a ~~criminal act~~ crime or sexual offense, may set as a condition of probation  
 447 the payment of the debt or a portion of the debt to the state. The court may also set the  
 448 schedule or amounts of payments subject to modification based on change of  
 449 circumstances.

450 (c) The State Board of Pardons and Paroles shall also have the right to make payment of  
 451 the debt or a portion of the debt to the state a condition of parole.

452 (d) When a child is adjudicated for committing a delinquent act in a juvenile court  
 453 proceeding involving a crime or sexual offense upon which a claim under this chapter can  
 454 be made, the juvenile court in its discretion may order that the child pay the debt to the  
 455 state as an adult would have to pay had an adult committed the crime or sexual offense.  
 456 Any assessments so ordered may be made a condition of probation as provided in Code  
 457 Section 15-11-601.

458 (e) Payments authorized or required under this Code section shall be paid into the ~~Georgia~~  
 459 ~~Crime Victims Emergency Fund~~ fund. The board shall coordinate the development of  
 460 policies and procedures for the State Board of Pardons and Paroles and the Administrative  
 461 Office of the Courts to assure that ~~victim~~ restitution programs are administered in an  
 462 effective manner to increase payments into the fund.

463 (f) In every case where an individual is serving under active probation supervision and  
 464 paying a supervision fee, \$9.00 per month shall be added to any supervision fee collected  
 465 by any entity authorized to collect such fees and shall be paid into the ~~Georgia Crime~~  
 466 ~~Victims Emergency Fund~~ fund. This subsection shall apply to probationers supervised  
 467 under either Code Section 42-8-20 or 42-8-100. The probation supervising entity shall  
 468 collect and forward the \$9.00 fee to the ~~Georgia Crime Victims Compensation Board~~ board  
 469 by the end of each month.

470 17-15-14.

471 The board shall be authorized to designate and expend not more than 10 percent of the  
 472 moneys collected and paid into the fund pursuant to paragraph (1) of subsection (b) of  
 473 Code Section ~~17-15-10~~ 17-15-9 and Code Section 17-15-13 to provide funding to victim  
 474 service providers for the purpose of disseminating materials regarding the availability of  
 475 the compensation for victims of crime program provided in this chapter and public  
 476 information purposes regarding the ~~victim~~ compensation program provided in this chapter.

477 17-15-15.

478 When a forensic medical examination is conducted, the cost of such forensic medical  
479 examination shall be paid for by the fund in an amount not to exceed \$1,000.00. The fund  
480 shall be responsible for payment of such cost notwithstanding whether the person receiving  
481 such forensic medical examination has health insurance or any other source of health care  
482 coverage."

483

## **SECTION 2.**

484 All laws and parts of laws in conflict with this Act are repealed.