

Notice of Rulemaking Hearing

NOTICE is hereby given that the Nebraska Commission on Law Enforcement and Criminal Justice will hold a rule-making hearing pursuant to Neb. Rev. Stat § 84-907 on the 15th day of January 2021 at 9:30 a.m. to be held in the 1526 K Street Building, Conference Room 4D, Lincoln, Nebraska.

The purpose of the hearing is to take testimony and evidence about adoption of Title 80, Chapter 2, entitled Crime Victim's Reparations Committee -- Application. This chapter has been drafted pursuant to Neb. Rev. Stat. §81-1813. This action is proposed to eliminate the requirement for the claimant to submit an application that bears the claimant's notarized signature. This change would thereby simplify the process for electronic submission of a claim. Other edits were made pursuant to Executive Order 17-04, to reduce unneeded sections and redundancies with existing statute.

Draft or working copies of the proposed rule is available at the offices of the Secretary of State, Regulations Division, Room 343, State Capitol, Lincoln, NE 68509. The description of the fiscal impact may be inspected and obtained at the Nebraska, 301 Centennial Mall South, P.O. Box 94946, Lincoln, Nebraska 68509.

All interested persons may attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments prior to hearing, which will be made part of the hearing record at the time of hearing if received by the Nebraska Commission on Law Enforcement and Criminal Justice on or before January 5, 2021. If auxiliary aids or reasonable accommodations are needed to participate in the hearing, please call the Crime Commission, (402) 471-2194, by no later than January 5, 2021.



Signature of Dr. Don Arp, Jr.
Executive Director
Nebraska Crime Commission

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Crime Commission	
Title: 80	Prepared by: Laurie Holman
Chapter: 2	Date prepared: December 7, 2020
Subject: Crime Victim's Reparation Committee	Telephone: 402-499-7586

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	(X)	()	()
Decreased Costs	(X)	()	()
Increased Revenue	(X)	()	()
Decreased Revenue	(X)	()	()
Indeterminable	()	()	()

Provide an Estimated Cost **& a Description of Impact:**

State Agency: There is no cost estimated for this change.

Political

Subdivision: No estimated cost.

Regulated

Public: No estimated cost.

If indeterminable, explain why:

Revised: August 2016

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE

CHAPTER 2 - APPLICATION

001 Purpose – To further define individual components of the Crime Victim’s Reparations claim form and information necessary to complete the claim file.

002 Eligible Applicant – To be eligible for compensation, the claimant ~~shall~~ **must** have incurred actual financial losses as defined in Chapter 3 which are not covered by other sources for expenses directly related to the crime. The claimant ~~shall~~ **will** not be eligible for compensation if he/she was convicted of a federal crime or is delinquent in paying a court ordered fine, penalty, or restitution. The following are eligible to file an application:

002.01 – Any victim of a criminal act or one authorized by law to act on a victim’s behalf;

002.02 – Any person responsible for the maintenance and support of the victim who has suffered pecuniary loss while providing maintenance and support to the victim or has incurred the victim’s expenses as a result of the victim’s injury or death;

002.03 – Each dependent of a deceased victim who has suffered a pecuniary loss (see Chapter 3, subsection 002.03 of Title 80);

002.04 – An eligible individual who incurred eligible expenses which are a direct result of the victim’s injury or death.

003 Form – The application **form, developed by the Committee**, ~~for compensation shall be typed or legibly printed by hand. If sufficient space is not provided on the supplied form, the applicant may use additional sheets of paper. The application shall be signed by the applicant and verified before a Notary Public. The application shall~~ **must be fully completed and** mailed with sufficient postage, submitted electronically, or delivered to the Crime Victim’s Reparations program.

The application for compensation shall contain the following:

~~003.01 – Victim Information – The full name, address, Social Security number, telephone number, date of birth, age at the time of incident, sex, occupation, place of employment, marital status, and spouse’s name, if any, of the victim are required.~~

~~003.02 – Claimant Information – If the claimant is not the victim, the claimant’s name, address, Social Security number, telephone number, date of birth, sex, marital status and relationship to the victim, are required. If the victim is deceased, the place and date of the death are required.~~

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003.03 ~~Minor and/or Dependent of Victim Information~~ – If the claim is being made for loss of support on behalf of a minor and/or dependent, the minor and/or dependent's name, address, Social Security number, telephone number, date of birth, sex, marital status, and relationship to the victim are required. The name, address, and telephone number of the person having legal custody, and any benefits being received for the minor and/or dependent are also required.

003.04 ~~Claimant's Attorney Information~~ – If the claimant has retained an attorney to represent him or her in the claim for compensation, the attorney's name, address, telephone number and either the attorney's Social Security number or tax identification number are required.

003.05 ~~Emergency Award~~ – If an emergency award is claimed, the claimant must indicate the amount of the emergency request and explain what undue hardship will result if the emergency request is not received.

003.06 ~~.01~~ Incident Information – The claimant is required to provide the following, if known: a brief detailed description of the incident; the date, place, and time of the incident; the date the incident was reported to a law enforcement agency; the name of the individual who reported the incident; the name of the law enforcement agency to which the incident was reported; if the accused has been charged and/or convicted of the offense; the name or names and address(es) of any witness to the incident.

003.07 ~~.02~~ Amount of Claim – The claimant is required to enter the amount of the request by the type of services rendered as well as the total amount of the claim for compensation. Information relating to payment from other sources is required. If loss of wages is being claimed for the claimant and/or victim, the dates of work missed, the name of the victim's and/or claimant's employer, and the employer's telephone number and address are required.

003.08 ~~.03~~ Signatures – The claimant is required to sign a statement authorizing the release of information relating to the incident and to information relating to services rendered to the victim. Information and records received relating to the victim, the criminal incident and treatment shall remain confidential except for that information considered public under Nebraska or U.S. laws. The claimant is required to submit a signed, ~~notarized~~ statement attesting to the validity of the facts included in the claim for compensation.

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004 Enclosures – The following documents and information shall ~~shall~~ **must** accompany all applications:

004.01 Medical and/or Mental Health – Itemized billing statements for related medical and/or mental health services provided to the victim, which are directly related to the incident for which compensation is being requested, ~~shall be submitted with the claim for compensation.~~ **If requested by the program, A**ll medical and/or mental health reports relating to the incident for which compensation is being requested **must** ~~shall~~ be submitted to the Crime Victim's Reparations program upon request.

004.02 Wages – ~~The following information shall be submitted for the individual for whom the loss of wages is being claimed:~~ **A** signed statement from the employer identifying the dates of work missed due to the incident; the individual's hourly wage; the number of hours worked weekly by the individual; the total amount of the individual's deductions; and the frequency of payment **must be submitted when loss of wages is being claimed**. A copy of the doctor's release is required.

004.02A Loss of Earning Power – If the claim is for loss of earning power for the victim, the following information is required: earning information from the victim's employer and income tax returns for the previous two years; written relevant medical information from the medical providers regarding the diagnosis, prognosis, and degree of disability; the amount of time the victim will be unable to work; and any other information determined to be relevant by the Hearing Officer or Committee.

004.02B – Maintenance of the Victim – If the claimant is requesting funds for the maintenance of the victim, the claimant must submit a copy of the doctor's written statement requiring such services; the reason(s) the victim requires such services; and the dates such services are required.

004.03 – Funeral and Burial – If funeral expenses are claimed, ~~the applicant shall submit~~ a copy of the death certificate of the victim and all itemized statements relating to the funeral and burial expenses of the victim **must be included**. Food, alcohol, and flowers are not reimbursable expenses.

004.04 – Loss of Support – If the applicant is claiming compensation for pecuniary loss for dependent(s) of a deceased victim, the applicant ~~shall~~ **must** provide the Committee or Hearing Officer legal documentation that said applicant is the conservator of the estate of the deceased and has conservatorship for the dependent(s).

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005 Request for Information and Denial of Applications – The Committee or Hearing Officer may, at any time, request an applicant to furnish such required information as listed in this chapter or any additional information which they determine to be relevant. If such information is not furnished within 30 days of mailing the request, a second request will be sent by certified mail with return receipt requested to the address listed on the application. If the information is not submitted within 30 days of the second request, said application will be denied without prejudice to the applicant by the Hearing Officer or the Committee. It is the obligation of the claimant to notify the Committee of any change of address.

006 Law Enforcement Reports – Any request of a law enforcement agency pursuant to Neb.Rev.Stat. §81-1810 (3) ~~shall~~ **must** be made in writing and ~~shall~~ **must** specify the information desired, the name of the victim, the approximate date and time of the occurrence, and any other information which may assist in identifying the incident. All law enforcement agencies receiving a request ~~shall~~ **must** respond in writing within 20 working days.

007 Supplemental Claims – If additional expenses, as defined in Chapter 3, directly related to the crime are anticipated to be incurred by the applicant, the Committee or Hearing Officer may allow the claim to remain open for a period not to exceed two years from the date of the incident. A supplemental application may be considered by the Hearing Officer or Committee for unanticipated expenses directly related to the crime as defined in Chapter 3. The supplemental application must be received within two years of the date of the incident. The additional expenses are subject to availability of funds and the total award is not to exceed the limit as set forth in the Act. An application ~~shall~~ **will** be considered filed when it has been deposited in the United States Mail with sufficient postage.

008 Denied Without Prejudice Claims – A claim which ~~was~~ **is** denied without prejudice may be reconsidered by the Hearing Officer if the required information is received within 45 days from the date of the letter notifying the applicant of the denial. Extension of the 45-day requirement may be granted by the Hearing Officer and/or Committee if extenuating circumstances prevented the applicant from submitting the required information.

Revised from _____

Effective date: