

TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE
CHAPTER 3 - COMPENSATION

001 Purpose – To outline and define compensable expenses, limitations, reductions in award amount, payment parameters, and denial of award pertaining to the Crime Victim’s Reparations program.

002 Compensable Damages – The Committee or Hearing Officer may order the payment of compensation for the following, as defined:

002.01 – “Expenses actually and reasonably incurred” means medical, mental health counselor, hospital, pharmaceutical, and funeral and burial expenses for the victim as limited in Chapter 3, subsection 002 of Title 80.

002.02 – “Loss of earning power” refers only to cases wherein total or partial disability of the victim is involved as limited in Chapter 3, subsection 002 of Title 80.

002.03 – “Pecuniary loss” means loss of support to a surviving dependent or dependents or expenses related to the crime actually and reasonably incurred by the victim or claimant for which the victim’s dependents are legally responsible as limited in Chapter 3, subsection 003 of Title 80.

002.04 – “Any other loss” is restricted to residential crime scene cleanup and loss of wages by a surviving victim or claimant medically required to provide for the maintenance of the victim as limited in Chapter 3, subsection 002 of Title 80, or any other loss which the Committee or Hearing Officer determines to be reasonable. An actual loss of wages from gainful employment must occur to be eligible for loss of wages compensation as limited in Chapter 3, subsection 002 of Title 80.

003 Award of Compensation – Compensation, if allowed, will be awarded pursuant to the following limitations:

003.01 – Any award for medical, mental health counseling, hospital or pharmaceutical expenses actually and reasonably incurred will be limited to actual costs for necessary services rendered by a licensed medical, mental health, hospital, pharmaceutical facility, or individual as related to the incident which caused the injury or death of the victim. No private room rates are allowed. Compensation for mental health counseling will not be awarded in excess of \$2,000.00.

003.02 – Any awards for loss of earning power will be limited to cases where total or partial disability is proven and where proof of actual and reasonable rehabilitative services is presented.

003.03 – A pecuniary loss award to a surviving dependent will be considered as one application and in no event shall any award exceed the maximum stated in the Act and Title 80.

TITLE 80
CHAPTER 3

003.04 – Lost wages will be paid only to a victim, or to a claimant who is responsible for the maintenance of the victim, who is employed at the time of the incident. In addition, lost wages will only be paid for the period the victim or claimant is unable to work due to the victim's injuries as a direct result of the incident. Time unable to work due to the victim's injuries will be determined by a doctor's release as certified by a licensed medical provider. Lost wages will be computed pursuant to the provisions of Chapter 48, Article I, of the Nebraska Revised Statutes and any amendments thereto relating to total disability, subject to the limitations in this Act, including those in Nebraska Revised Statutes 81-1814, 81-1816, and 81-1823. No award will be allowed for use of accumulated sick leave, vacation leave, paid time off, unemployment, or disability payments during the disability period.

003.05 – Any claim containing a combination of two or more compensable damages listed herein will not be awarded in excess of the limitation contained in Neb.Rev.Stat. §81-1823.

003.06 – In the case of death of the victim, funeral and burial expenses incurred by an eligible applicant will not be awarded in excess of \$5,000.00. Expenses for food, alcohol, and flowers are not reimbursable.

003.07 – Compensation for mental health counseling will be considered on a case by case basis for minor children of victims of homicide, sexual assault, felony assault, domestic violence, or kidnapping. Claims for compensation for mental health counseling for the victim's minor children must be received by the Crime Victim's Reparations program within two years of the date of the incident.

003.08 – Reasonable expenses incurred for the cleaning of a residential crime scene will not exceed \$1,000.00.

003.09 – Attorney fees will be considered for legal services rendered in assisting the victim or claimant in filing a claim for compensation and will not exceed five percent of the total award.

TITLE 80
CHAPTER 3

003.10 – If sufficient funds are not available, the Committee or Hearing Officer may order a partial payment on a claim. If funds do not become available within two years, the Committee or Hearing Officer may defer payment on the remainder of the claim and close the file without prejudice. The Committee or Hearing Officer, in determining the amount of compensation payable on an eligible claim, may consider the following factors in determining the amount and date of payment:

003.10A – Rate and amount of compensation payable for injuries and death under other laws of this state and of the United States;

003.10B – The availability of funds appropriated for the purpose of the Act.

004 Reduction of Award – Any award will be reduced by the amounts of any payments received or to be received from any contract of insurance or any other source of compensation except life insurance proceeds or social security payments. Compensation awards will not be used to pay for any service if the service is covered under any federal program or federally financed state or local program. The Crime Victim’s Reparations program is the payor of last resort.

005 Payment of Compensation – All awards made pursuant to Chapter 3, subsection 003.01 of Title 80 will be to the provider who rendered services unless the Committee or Hearing Officer directs otherwise. All other awards, whether in lump sum or in installment, will be made to the order of the eligible applicant or the estate of a deceased victim.

006 Denial of Award – In addition to grounds for denial of an award contained in the Act, an award may be denied (1) when the eligible applicant has failed to cooperate with criminal justice agencies in the investigation and prosecution of the crime giving rise to the injuries of the victim; (2) when the eligible applicant has failed to cooperate with the Committee, Hearing Officer, or staff in its investigation of the claim filed for compensation; or (3) when the victim violated a criminal law of the state, which violation caused or contributed to his or her injuries or death. No compensation will be awarded if the claim is not submitted to the Committee within two years of the date of the incident or the incident is not reported to law enforcement within three days. The only exception to these reporting requirements is for a minor child who was a victim of a physical or sexual assault and who did not report such incident to an adult. At which time the minor child reports an incident or incidents to an adult, the reporting requirement becomes effective. No compensation will be awarded if the victim was a passenger in a motorized vehicle that knew or reasonably should have known that the driver was operating the vehicle while under the influence of alcohol or illegal drugs.

TITLE 80
CHAPTER 3

007 – Claims in Excess of Limitation (Nebraska Revised Statutes §81-1813 and 81-1823) – No award based upon a claim filed by any one applicant arising out of any single incident can exceed the maximum amount set forth in the Act, unless expenses for job retraining or similar employment related rehabilitative services for the victim are deemed necessary by a certified physician. In cases of job retraining or similar related rehabilitative services for the victim, the award may not exceed \$5,000.00 and shall be used only for such purposes.

008 – When an eligible claim exceeds the maximum amount allowable under the Act and an award of the maximum amount allowable under the Act is ordered by the Committee or Hearing Officer, the Committee or Hearing Officer will give priority to lost wages and out-of-pocket expenses and will reduce all other compensable damages on a pro-rata basis.

Revised from January 20, 1998

Effective date: