

By: Representatives Stevens, Watson,
Whittington

To: Judiciary B;
Appropriations

HOUSE BILL NO. 761

1 AN ACT TO AMEND SECTIONS 99-41-5 AND 99-41-23, MISSISSIPPI
2 CODE OF 1972, TO REVISE ALLOWABLE EXPENSES AND AWARDS FOR CRIME
3 VICTIMS' COMPENSATION; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 99-41-5, Mississippi Code of 1972, is
6 amended as follows:

7 99-41-5. As used in this chapter, unless the context
8 otherwise requires, the term:

9 (a) "Allowable expense" means reasonable charges
10 incurred for reasonably needed:

11 (i) Products, services and accommodations,
12 including, but not limited to, medical care, rehabilitation,
13 rehabilitative occupational training and other remedial treatment
14 and care, but not to exceed Ten Thousand Dollars (\$10,000.00);

15 (ii) Mental health counseling and care not to
16 exceed Three Thousand Five Hundred Dollars (\$3,500.00) for the
17 victim and victim's family member; provided, however, if there is
18 more than one (1) family member, the amount of compensation
19 awarded shall be prorated and not to exceed Three Thousand Five
20 Hundred Dollars (\$3,500.00); and

21 (iii) Expenses related to funeral, cremation or
22 burial, but not to exceed a total charge of Four Thousand Five
23 Hundred Dollars (\$4,500.00) and transportation costs to arrange or
24 attend services, but not to exceed Five Hundred Dollars (\$500.00);

25 (b) "Claimant" means any of the following persons
26 applying for compensation under this chapter:

27 (i) A victim;



28 (ii) A dependent of a victim who has died because
29 of criminally injurious conduct; or

30 (iii) A person authorized to act on behalf of any
31 of the persons enumerated in subparagraphs (i) and (ii) of this
32 paragraph; however, "claimant" shall not include any of the
33 following: provider or creditor of victim; assignee of provider
34 or creditor, including a collection agency; or another person or
35 entity other than those enumerated in this paragraph;

36 (c) "Collateral source" means a source of benefits or
37 advantages for economic loss for which the claimant would
38 otherwise be eligible to receive compensation under this chapter
39 which the claimant has received, or which is readily available to
40 the claimant, from any one or more of the following:

41 (i) The offender;

42 (ii) The government of the United States or any
43 agency thereof, a state or any of its political subdivisions or an
44 instrumentality of two (2) or more states;

45 (iii) Social Security, Medicare and Medicaid;

46 (iv) Workers' compensation;

47 (v) Wage continuation programs of any employer;

48 (vi) Proceeds of a contract of insurance payable
49 to the claimant for loss which the victim sustained because of the
50 criminally injurious conduct;

51 (vii) A contract providing prepaid hospital and
52 other health care services or benefits for disability; or

53 (viii) Any temporary nonoccupational disability
54 insurance;

55 (d) "Criminally injurious conduct" means an act
56 occurring or attempted within the geographical boundaries of this
57 state, or to a resident of Mississippi while that resident is
58 within any other state of the United States or any foreign
59 country, which state or foreign country does not provide
60 compensation for those injuries caused by an act for which



61 compensation would be available had the act occurred in
62 Mississippi, and which act results in personal injury or death to
63 a victim for which punishment by fine, imprisonment or death may
64 be imposed. The term shall also apply to federal offenses
65 committed within the state and delinquent acts as defined in
66 Section 43-21-105 which meet this definition;

67 (e) "Department" means the Department of Finance and
68 Administration;

69 (f) "Dependent" means a natural person wholly or
70 partially dependent upon the victim for care or support, and
71 includes a child of the victim born after the death of the victim
72 where the death occurred as a result of criminally injurious
73 conduct;

74 (g) "Economic loss of a dependent" means loss, after
75 death of the victim, of contributions or things of economic value
76 to the dependent, not including services which would have been
77 received from the victim if he or she had not suffered the fatal
78 injury, less expenses of the dependent avoided by reason of death
79 of the victim;

80 (h) "Economic loss" means monetary detriment consisting
81 only of allowable expense, work loss and, if injury causes death,
82 economic loss of a dependent, but shall not include noneconomic
83 loss or noneconomic detriment;

84 (i) "Family member" means the victim's spouse, parent,
85 grandparent, stepparent, child, stepchild, grandchild, brother,
86 sister, half brother, half sister or spouse's parent;

87 (j) "Noneconomic loss or detriment" means pain,
88 suffering, inconvenience, physical impairment and nonpecuniary
89 damage;

90 (k) "Work loss" means loss of income from work the
91 victim or claimant would have performed if the victim had not been
92 injured, but reduced by any income from substitute work actually
93 performed by the victim or claimant or by income the victim or



94 claimant would have earned in available appropriate substitute
95 work that he or she was capable of performing, but unreasonably
96 failed to undertake; and

97 (1) "Victim" means a person who suffers personal injury
98 or death as a result of criminally injurious conduct.

99 **SECTION 2.** Section 99-41-23, Mississippi Code of 1972, is
100 amended as follows:

101 99-41-23. (1) Compensation for work loss may not
102 exceed Six Hundred Dollars (\$600.00) per week, not to exceed
103 fifty-two (52) weeks; the total amount of the award may not exceed
104 the aggregate limitation of this section.

105 (2) Compensation for economic loss of a dependent may not
106 exceed Six Hundred Dollars (\$600.00) per week not to exceed
107 fifty-two (52) weeks; provided, however, if there is more than one
108 (1) dependent per victim the amount of compensation awarded shall
109 be prorated among the dependents and the total amount of the award
110 may not exceed the aggregate limitation of this section.

111 (3) In the event of the victim's death, compensation for
112 work loss of claimant may not exceed Six Hundred Dollars (\$600.00)
113 per week not to exceed one (1) week; provided, however, if there
114 is more than one (1) claimant per victim, the amount of
115 compensation awarded shall be prorated among the claimants and the
116 total amount of the award may not exceed Six Hundred Dollars
117 (\$600.00).

118 (4) Compensation payable to a victim and to all other
119 claimants sustaining economic loss because of injury to or death
120 of that victim may not exceed Fifteen Thousand Dollars
121 (\$15,000.00) in the aggregate.

122 (5) A determination that compensation shall be awarded may
123 provide for payment to a claimant in a lump sum or in
124 installments. All medical bills may be paid directly to affected
125 health care providers. At the request of the claimant, the
126 director may convert future economic loss, other than allowable



127 expense, to a lump sum, but only upon a finding of either of the
128 following:

129 (a) That the award in a lump sum will promote the
130 interests of the claimant; or

131 (b) That the present value of all future economic loss,
132 other than allowable expense, does not exceed One Thousand Dollars
133 (\$1,000.00).

134 (6) An award payable in installments for future economic
135 loss may be made only for a period as to which the future economic
136 loss can reasonably be determined. An award payable in
137 installments for future economic loss may be modified upon
138 findings that a material and substantial change of circumstances
139 has occurred.

140 (7) An award shall not be subject to execution, attachment,
141 garnishment or other process, except that an award shall not be
142 exempt from orders for the withholding of support for minor
143 children, and except that an award for allowable expense shall not
144 be exempt from a claim of a creditor to the extent that such
145 creditor has provided products, services or accommodations, the
146 costs of which are included in the award.

147 (8) An assignment by the claimant to any future award under
148 the provisions of this chapter is unenforceable, except:

149 (a) An assignment of any award for work loss to assure
150 payment of court-ordered alimony, maintenance or child support; or

151 (b) An assignment for any award for allowable expense
152 to the extent that the benefits are for the cost of products,
153 services or accommodations necessitated by the injury or death on
154 which the claim is based and which are provided or are to be
155 provided by the assignee.

156 (9) Subsections (7) and (8) of this section prevail over
157 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
158 Commercial Code to the extent, if any, that Sections 75-9-406 and
159 75-9-408 may otherwise be applicable.



160 **SECTION 3.** This act shall take effect and be in force from
161 and after July 1, 2002.

