MISSISSIPPI LEGISLATURE                                          REGULAR SESSION 2002

By: Representatives Stevens, Watson, Whittington               To: Judiciary B; Appropriations

HOUSE BILL NO. 761

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

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

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

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

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

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

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

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

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

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

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

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

(i) The offender;

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

(iii) Social Security, Medicare and Medicaid;

(iv) Workers' compensation;

(v) Wage continuation programs of any employer;

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

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

(viii) Any temporary nonoccupational disability insurance;

(d) "Criminally injurious conduct" means an act occurring or attempted within the geographical boundaries of this state, or to a resident of Mississippi while that resident is within any other state of the United States or any foreign country, which state or foreign country does not provide compensation for those injuries caused by an act for which
compensation would be available had the act occurred in Mississippi, and which act results in personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed. The term shall also apply to federal offenses committed within the state and delinquent acts as defined in Section 43-21-105 which meet this definition;

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

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

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

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

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

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

(k) "Work loss" means loss of income from work the victim or claimant would have performed if the victim had not been injured, but reduced by any income from substitute work actually performed by the victim or claimant or by income the victim or
claimant would have earned in available appropriate substitute work that he or she was capable of performing, but unreasonably failed to undertake; and

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

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

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

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

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

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

(5) A determination that compensation shall be awarded may provide for payment to a claimant in a lump sum or in installments. All medical bills may be paid directly to affected health care providers. At the request of the claimant, the director may convert future economic loss, other than allowable...
expense, to a lump sum, but only upon a finding of either of the following:

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

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

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

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

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

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

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

(9) Subsections (7) and (8) of this section prevail over Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform Commercial Code to the extent, if any, that Sections 75-9-406 and 75-9-408 may otherwise be applicable.
SECTION 3. This act shall take effect and be in force from and after July 1, 2002.