

By: Senator(s) Frazier

To: Judiciary

SENATE BILL NO. 2562

1 AN ACT TO AMEND SECTIONS 99-41-5 AND 99-41-23, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE AWARD LIMITS FOR VICTIMS OF CRIME
3 UNDER THE CRIME VICTIMS COMPENSATION ACT; AND FOR RELATED
4 PURPOSES.

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

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

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

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

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

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

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

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

28 (i) A victim;



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

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

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

42 (i) The offender;

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

46 (iii) Social Security, Medicare and Medicaid;

47 (iv) Workers' compensation;

48 (v) Wage continuation programs of any employer;

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

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

54 (viii) Any temporary nonoccupational disability
55 insurance;

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



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

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

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

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

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

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

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

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



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

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

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

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

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

112 (3) In the event of the victim's death, compensation for
113 work loss of claimant may not exceed Six Hundred Dollars (\$600.00)
114 per week not to exceed one (1) week; provided, however, if there
115 is more than one (1) claimant per victim, the amount of
116 compensation awarded shall be prorated among the claimants and the
117 total amount of the award may not exceed Six Hundred Dollars
118 (\$600.00).

119 (4) Compensation payable to a victim and to all other
120 claimants sustaining economic loss because of injury to or death
121 of that victim may not exceed Fifteen Thousand Dollars
122 (\$15,000.00) in the aggregate.

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



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

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

132 (b) That the present value of all future economic loss,
133 other than allowable expense, does not exceed One Thousand Dollars
134 (\$1,000.00).

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

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

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

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

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

157 (9) Subsections (7) and (8) of this section prevail over
158 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
159 Commercial Code to the extent, if any, that Sections 75-9-406 and
160 75-9-408 may otherwise be applicable.



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

