

HOUSE BILL 548

Introduced by Brooke, et al.

2/01	Introduced
2/01	Referred to Human Services & Aging
2/02	First Reading
2/02	Fiscal Note Requested
2/07	Fiscal Note Received
2/08	Fiscal Note Printed
2/15	Hearing
2/16	Committee Report--Bill Passed
2/23	2nd Reading Passed
2/23	Taken from Engrossing and Referred to Appropriations
3/07	Hearing
3/11	Tabled in Committee

1 HOUSE BILL NO. 548  
 2 INTRODUCED BY Sen. Bede, Russell, Kellogg,  
 3 Van Valkenburg, Dickson

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRIME  
 5 VICTIMS COMPENSATION ACT OF MONTANA TO PROVIDE BENEFITS FOR  
 6 CERTAIN RELATIVES OF INJURED VICTIMS; AMENDING SECTIONS  
 7 3-10-601, 53-9-103, 53-9-104, AND 53-9-128, MCA; AND  
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 3-10-601, MCA, is amended to read:

12 "3-10-601. Collection and disposition of fines,  
 13 penalties, forfeitures, and fees. (1) Each justice of the  
 14 peace shall collect the fees prescribed by law for justices'  
 15 courts and shall pay them into the county treasury of the  
 16 county wherein he holds office, on or before the 10th day of  
 17 each month, to be credited to the general fund of the  
 18 county.

19 (2) All fines, penalties, and forfeitures that this  
 20 code requires to be imposed, collected, or paid in a  
 21 justice's court must, for each calendar month, be paid by  
 22 the justice's court on or before the 5th day of the  
 23 following month to the treasurer of the county in which the  
 24 justice's court is situated.

25 (3) The county treasurer shall, in the manner provided

1 in 15-1-504, distribute money received under subsection (2)  
 2 as follows:

- 3 (a) 50% to the state treasurer; and
- 4 (b) 50% to the county general fund.
- 5 (4) The state treasurer shall distribute money received  
 6 under subsection (3) as follows:
- 7 (a) ~~23%~~ 18% to the state general fund;
- 8 (b) 10% to the fish and game account in the state  
 9 special revenue fund;
- 10 (c) 12.5% to the state highway account in the state  
 11 special revenue fund;
- 12 (d) 36% to the traffic education account in the state  
 13 special revenue fund;
- 14 (e) 0.6% to the department of livestock account in the  
 15 state special revenue fund;
- 16 (f) ~~16-9%~~ 21.9% to the crime victims compensation  
 17 account in the state special revenue fund; and
- 18 (g) 1% to the department of family services special  
 19 revenue account for the battered spouses and domestic  
 20 violence grant program."

21 **Section 2.** Section 53-9-103, MCA, is amended to read:

22 "53-9-103. Definitions. As used in this part, the  
 23 following definitions apply:

24 (1) "Claimant" means any of the following claiming  
 25 compensation under this part:



1 (a) a victim;  
 2 (b) a dependent of a deceased victim; or  
 3 (c) an authorized person acting on behalf of any of  
 4 them.

5 (2) "Collateral source" means a source of benefits,  
 6 other than welfare benefits, or advantages for economic loss  
 7 otherwise compensable under this part which the claimant has  
 8 received or which is readily available to him from:

9 (a) the offender;  
 10 (b) the government of the United States or any agency  
 11 thereof, a state or any of its political subdivisions, or an  
 12 instrumentality of two or more states, unless the law  
 13 providing for the benefits or advantages makes them excess  
 14 or secondary to benefits under this part;

15 (c) social security, medicare, and medicaid;  
 16 (d) workers' compensation;  
 17 (e) wage continuation programs of any employer;  
 18 (f) proceeds of a contract of insurance payable to the  
 19 claimant for loss which was sustained because of the  
 20 criminally injurious conduct; or  
 21 (g) a contract, including an insurance contract,  
 22 providing hospital and other health care services or  
 23 benefits for disability. Any such contract in this state may  
 24 not provide that benefits under this part shall be a  
 25 substitute for benefits under the contract or that the

1 contract is a secondary source of benefits and benefits  
 2 under this part are a primary source.

3 (3) "Criminally injurious conduct" means conduct that:  
 4 (a) occurs or is attempted in this state;  
 5 (b) results in bodily injury or death; and  
 6 (c) is punishable by fine, imprisonment, or death or  
 7 would be so punishable but for the fact that the person  
 8 engaging in the conduct lacked capacity to commit the crime  
 9 under the laws of this state. Criminally injurious conduct  
 10 does not include conduct arising out of the ownership,  
 11 maintenance, or use of a motor vehicle unless the bodily  
 12 injury or death occurred during the commission of an offense  
 13 defined in Title 45 that requires the mental state of  
 14 purposely as an element of the offense.

15 (4) "Dependent" means a natural person who is  
 16 recognized under the law of this state to be wholly or  
 17 partially dependent upon the victim for care or support and  
 18 includes a child of the victim conceived before the victim's  
 19 death but born after the victim's death, including a child  
 20 that is conceived as a result of the criminally injurious  
 21 conduct.

22 (5) "Division" means the division of crime control of  
 23 the department of justice.

24 (6) "Secondary victim" means any of the following:

25 (a) the spouse, parent, child, brother, or sister of a

1 victim who receives mental health treatment required because  
2 of the criminally injurious conduct committed against the  
3 victim; or

4 (b) an authorized person acting on behalf of an  
5 individual specified in subsection (6)(a).

6 ~~(6)(7)~~ "Victim" means a person who suffers bodily  
7 injury or death as a result of:

8 (a) criminally injurious conduct;

9 (b) his good faith effort to prevent criminally  
10 injurious conduct; or

11 (c) his good faith effort to apprehend a person  
12 reasonably suspected of engaging in criminally injurious  
13 conduct."

14 **Section 3.** Section 53-9-104, MCA, is amended to read:

15 "53-9-104. Powers and duties of division. (1) The  
16 division shall:

17 (a) adopt rules to implement this part;

18 (b) prescribe forms for applications for compensation;

19 (c) determine all matters relating to claims for  
20 compensation; and

21 (d) require any person contracting directly or  
22 indirectly with an individual formally charged with or  
23 convicted of a qualifying crime for any rendition,  
24 interview, statement, book, photograph, movie, television  
25 production, play, or article relating to such crime to

1 deposit any proceeds paid or owed to the individual under  
2 the terms of the contract into an escrow fund for the  
3 benefit of any victims of the qualifying crime and any  
4 dependents of a deceased victim, if the individual is  
5 convicted of the crime, to be held for such period of time  
6 as the division may determine is reasonably necessary to  
7 perfect the claims of the victims or dependents. Deposited  
8 proceeds may also be used to pay the costs and attorney fees  
9 of court-appointed counsel for the charged person. Each  
10 victim and dependent of a deceased victim is entitled to his  
11 actual and unreimbursed damages of all kinds or \$5,000,  
12 whichever is greater. Proceeds remaining after payments to  
13 victims, dependents of deceased victims, and the county as  
14 reimbursement for any public defender or any attorney  
15 appointed for the charged person must be deposited in the  
16 account established in 53-9-109.

17 (2) The division may:

18 (a) request and obtain from prosecuting attorneys and  
19 law enforcement officers investigations and data to enable  
20 the division to determine whether and the extent to which a  
21 claimant qualifies for compensation. A statute providing  
22 confidentiality for a claimant's juvenile court records does  
23 not apply to proceedings under this part.

24 (b) request and obtain from a health care provider  
25 medical reports that are relevant to the physical condition

1 of a claimant or from an insurance carrier, agent, or claims  
 2 adjuster insurance payment information that is relevant to  
 3 expenses claimed by a claimant, provided that the division  
 4 has made reasonable efforts to obtain from the claimant a  
 5 release of the records or information. No civil or criminal  
 6 liability arises from the release of information requested  
 7 under this subsection (b).

8 (c) subpoena witnesses and other prospective evidence,  
 9 administer oaths or affirmations, conduct hearings, and  
 10 receive relevant, nonprivileged evidence;

11 (d) take notice of judicially cognizable facts and  
 12 general, technical, and scientific facts within its  
 13 specialized knowledge; and

14 (e) require that law enforcement agencies and officials  
 15 take reasonable care that victims be informed about the  
 16 existence of this part and the procedure for applying for  
 17 compensation under this part; and

18 (f) develop a program to make the general public more  
 19 aware of the existence of the victim compensation program  
 20 and of the procedure for applying for compensation under the  
 21 program."

22 **Section 4.** Section 53-9-128, MCA, is amended to read:

23 "53-9-128. Compensation benefits. (1) A claimant is  
 24 entitled to weekly compensation benefits when the claimant  
 25 has a total actual loss of wages due to injury as a result

1 of criminally injurious conduct. During the time the  
 2 claimant seeks such weekly benefits, the claimant, as a  
 3 result of such injury, must have no reasonable prospect of  
 4 being regularly employed in the normal labor market. The  
 5 weekly benefit amount is 66 2/3% of the wages received at  
 6 the time of the criminally injurious conduct, subject to a  
 7 maximum of one-half the state's average weekly wage as  
 8 determined in 39-51-2201. Weekly compensation payments shall  
 9 be made at the end of each 2-week period. No weekly  
 10 compensation payments may be paid for the first week after  
 11 the criminally injurious conduct occurred, but if total  
 12 actual loss of wages continues for 1 week, weekly  
 13 compensation payments shall be paid from the date the wage  
 14 loss began. Weekly compensation payments shall continue  
 15 until the claimant has a reasonable prospect of being  
 16 regularly employed in the normal labor market.

17 (2) The claimant is entitled to be reimbursed for  
 18 reasonable services by a physician or surgeon, reasonable  
 19 hospital services and medicines, and such other treatment as  
 20 may be approved by the division for the injuries suffered  
 21 due to criminally injurious conduct.

22 (3) (a) The dependents of a victim who is killed as a  
 23 result of criminally injurious conduct are entitled to  
 24 receive, in a gross single amount payable to all dependents,  
 25 weekly benefits amounting to 66 2/3% of the wages received

1 at the time of the criminally injurious conduct causing the  
2 death, subject to a maximum of one-half the state's average  
3 weekly wage as determined in 39-51-2201. Weekly compensation  
4 payments shall be made at the end of each 2-week period.

5 (b) Benefits under subsection (3)(a) of this section  
6 shall be paid to the spouse for the benefit of the spouse  
7 and other dependents unless the division determines that  
8 other payment arrangements should be made. If a spouse dies  
9 or remarries, benefits under subsection (3)(a) shall cease  
10 to be paid to the spouse but shall continue to be paid to  
11 the other dependents so long as their dependent status  
12 continues.

13 (4) Reasonable funeral and burial expenses of the  
14 victim, not exceeding \$2,000, shall be paid if all other  
15 collateral sources have properly paid such expenses but have  
16 not covered all such expenses.

17 (5) Compensation payable to a victim and all of the  
18 victim's dependents in cases of the victim's death because  
19 of injuries suffered due to an act of criminally injurious  
20 conduct may not exceed \$25,000 in the aggregate.

21 (6) Compensation benefits are not payable for pain and  
22 suffering, inconvenience, physical impairment, or nonbodily  
23 damage.

24 (7) (a) A person who has suffered injury as a result of  
25 criminally injurious conduct and as a result of such injury

1 has no reasonable prospect of being regularly employed in  
2 the normal labor market, who was employable but was not  
3 employed at the time of such injury, may in the discretion  
4 of the division be awarded weekly compensation benefits in  
5 an amount determined by the division not to exceed \$100 per  
6 week. Weekly compensation payments shall continue until the  
7 claimant has a reasonable prospect of being regularly  
8 employed in the normal labor market or for a shorter period  
9 as determined by the division. The claimant shall be awarded  
10 benefits as provided in subsection (2) of this section.

11 (b) The dependents of a victim who is killed as a  
12 result of criminally injurious conduct and who was  
13 employable but not employed at the time of death may in the  
14 discretion of the division be awarded, in a gross single  
15 amount payable to all dependents, a sum not to exceed \$100  
16 per week which shall be payable in the manner and for the  
17 period provided by subsection (3)(b) of this section or for  
18 such shorter period as determined by the division. The  
19 claimant shall be awarded benefits as provided in subsection  
20 (4) of this section.

21 (8) Amounts payable as weekly compensation may not be  
22 commuted to a lump sum and may not be paid less frequently  
23 than every 2 weeks.

24 (9) (a) Subject to the limitations in subsection ~~(9)(c)~~  
25 (9)(b), ~~the--spouse--parent--child--brother--or--sister--of--a~~

LC 0003/01

1 ~~victim-who-is-killed-as-a--result--of--criminally--injurious~~  
2 ~~conduct~~ a secondary victim is entitled to reimbursement for  
3 mental health treatment ~~received-as-a-result-of-the-victim's~~  
4 ~~death.~~

5 ~~{b}--Subject-to-the-limitations--in--subsection--(9)(c),~~  
6 ~~the-parent, brother, or sister of a minor who is a victim of~~  
7 ~~a--sexual--crime-for-which-a-person-has-been-charged-and-who~~  
8 ~~is-not-entitled-to-receive-services-under-Title-41,--chapter~~  
9 ~~37--is-entitled-to-reimbursement-for-mental-health-treatment~~  
10 ~~received-as-a-result-of-the-crime.~~

11 ~~{c}(b)~~ Total payments made under subsections subsection  
12 ~~(9)(a) and (9)(b)~~ may not exceed \$500 for each person or  
13 \$1,500 for a family."

14 NEW SECTION. Section 5. Effective date. [This act] is  
15 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0548, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


The proposed legislation would revise the Crime Victims Compensation Act of Montana to provide benefits for certain relatives of injured victims.

ASSUMPTIONS:

1. Claims for victims compensation from primary victims will increase by about 10% due to increased public awareness and public awareness programs. The average payment per primary claim will remain stable. Average claims awarded per year are 272 and the FY90 average payment per award was \$1,247. Total annual primary claim benefits will increase by about \$33,700.
2. Claims from secondary victims will increase 50%. The average payment per secondary claim will remain stable. Average claims awarded per year are 22 and the FY90 average payment per award was \$200. Total annual secondary claim benefits will increase by about \$2,200.
3. Fine revenue from justice of the peace courts will remain stable. Total revenue to the state from these fines will be approximately \$2,618,000 for each year of the 1993 biennium.
4. Expenses will be incurred during FY92 for posters on the basis of \$1 per poster in connection with the public awareness program.
5. Expenses for a toll-free number are estimated for twelve months based upon 9 hours of use per month.
6. Current law is represented by the Crime Victims Compensation Unit of the Crime Control Division as reflected in the executive budget recommendation.

FISCAL IMPACT:

See next page.

 2-7-91  
ROD SUNDSTED, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 2/8/91  
VIVIAN M. BROOKE, PRIMARY SPONSOR DATE

Fiscal Note for HB0548, as introduced

**HB 548**



Crime Control Division-Crime Victims Compensation Unit

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	2.00	2.00	0.00	2.00	2.00	0.00
Personal Services	48,636	48,636	0	48,680	48,680	0
Operating Costs	10,029	14,873	4,844	9,985	13,569	3,584
Benefits and Claims	<u>375,000</u>	<u>410,864</u>	<u>35,864</u>	<u>375,000</u>	<u>410,864</u>	<u>35,864</u>
Total	433,665	474,373	40,708	433,665	473,113	39,448
<u>Funding:</u>						
Crime Victims Benefits (02)	433,665	474,373	40,708	433,665	473,113	39,448
<u>Revenues:</u>						
General Fund (01)	602,244	471,322	(130,922)	602,244	471,322	(130,922)
Crime Victims Benefits (02)	<u>442,518</u>	<u>573,440</u>	<u>130,922</u>	<u>442,518</u>	<u>573,440</u>	<u>130,922</u>
Total	1,044,762	1,044,762	0	1,044,762	1,044,762	0
General Fund Impact			(130,922)			(130,922)
Crime Victim Benefits Impact			90,214			91,474

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Primary and secondary claims may increase as a result of the availability of treatment for family members and increased public awareness efforts.

**HB 548**

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 House BILL NO. 548
2 INTRODUCED BY Conrad, Beckner, Russell, Collins
3 VanValkenburg, Doolittle

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRIME
5 VICTIMS COMPENSATION ACT OF MONTANA TO PROVIDE BENEFITS FOR
6 CERTAIN RELATIVES OF INJURED VICTIMS; AMENDING SECTIONS
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14 peace shall collect the fees prescribed by law for justices'
15 courts and shall pay them into the county treasury of the
16 county wherein he holds office, on or before the 10th day of
17 each month, to be credited to the general fund of the
18 county.

19 (2) All fines, penalties, and forfeitures that this
20 code requires to be imposed, collected, or paid in a
21 justice's court must, for each calendar month, be paid by
22 the justice's court on or before the 5th day of the
23 following month to the treasurer of the county in which the
24 justice's court is situated.

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1 in 15-1-504, distribute money received under subsection (2)
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15 state special revenue fund;
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17 account in the state special revenue fund; and
18 (g) 1% to the department of family services special
19 revenue account for the battered spouses and domestic
20 violence grant program."

21 Section 2. Section 53-9-103, MCA, is amended to read:

22 "53-9-103. Definitions. As used in this part, the
23 following definitions apply:

24 (1) "Claimant" means any of the following claiming
25 compensation under this part:



SECOND READING
HB 548

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 3 (c) an authorized person acting on behalf of any of  
 4 them.  
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 6 other than welfare benefits, or advantages for economic loss  
 7 otherwise compensable under this part which the claimant has  
 8 received or which is readily available to him from:  
 9 (a) the offender;  
 10 (b) the government of the United States or any agency  
 11 thereof, a state or any of its political subdivisions, or an  
 12 instrumentality of two or more states, unless the law  
 13 providing for the benefits or advantages makes them excess  
 14 or secondary to benefits under this part;  
 15 (c) social security, medicare, and medicaid;  
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 19 claimant for loss which was sustained because of the  
 20 criminally injurious conduct; or  
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 22 providing hospital and other health care services or  
 23 benefits for disability. Any such contract in this state may  
 24 not provide that benefits under this part shall be a  
 25 substitute for benefits under the contract or that the

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 4 (a) occurs or is attempted in this state;  
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 7 would be so punishable but for the fact that the person  
 8 engaging in the conduct lacked capacity to commit the crime  
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 17 partially dependent upon the victim for care or support and  
 18 includes a child of the victim conceived before the victim's  
 19 death but born after the victim's death, including a child  
 20 that is conceived as a result of the criminally injurious  
 21 conduct.  
 22 (5) "Division" means the division of crime control of  
 23 the department of justice.  
 24 (6) "Secondary victim" means any of the following:  
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1 victim who receives mental health treatment required because  
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 3 victim; or

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 5 individual specified in subsection (6)(a).

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 7 injury or death as a result of:

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 11 actual and unreimbursed damages of all kinds or \$5,000,  
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 23 not apply to proceedings under this part.

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8 (c) subpoena witnesses and other prospective evidence,  
 9 administer oaths or affirmations, conduct hearings, and  
 10 receive relevant, nonprivileged evidence;

11 (d) take notice of judicially cognizable facts and  
 12 general, technical, and scientific facts within its  
 13 specialized knowledge; and

14 (e) require that law enforcement agencies and officials  
 15 take reasonable care that victims be informed about the  
 16 existence of this part and the procedure for applying for  
 17 compensation under this part; and

18 (f) develop a program to make the general public more  
 19 aware of the existence of the victim compensation program  
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 2 claimant seeks such weekly benefits, the claimant, as a  
 3 result of such injury, must have no reasonable prospect of  
 4 being regularly employed in the normal labor market. The  
 5 weekly benefit amount is 66 2/3% of the wages received at  
 6 the time of the criminally injurious conduct, subject to a  
 7 maximum of one-half the state's average weekly wage as  
 8 determined in 39-51-2201. Weekly compensation payments shall  
 9 be made at the end of each 2-week period. No weekly  
 10 compensation payments may be paid for the first week after  
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 12 actual loss of wages continues for 1 week, weekly  
 13 compensation payments shall be paid from the date the wage  
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 19 hospital services and medicines, and such other treatment as  
 20 may be approved by the division for the injuries suffered  
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22 (3) (a) The dependents of a victim who is killed as a  
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2 death, subject to a maximum of one-half the state's average  
3 weekly wage as determined in 39-51-2201. Weekly compensation  
4 payments shall be made at the end of each 2-week period.

5 (b) Benefits under subsection (3)(a) of this section  
6 shall be paid to the spouse for the benefit of the spouse  
7 and other dependents unless the division determines that  
8 other payment arrangements should be made. If a spouse dies  
9 or remarries, benefits under subsection (3)(a) shall cease  
10 to be paid to the spouse but shall continue to be paid to  
11 the other dependents so long as their dependent status  
12 continues.

13 (4) Reasonable funeral and burial expenses of the  
14 victim, not exceeding \$2,000, shall be paid if all other  
15 collateral sources have properly paid such expenses but have  
16 not covered all such expenses.

17 (5) Compensation payable to a victim and all of the  
18 victim's dependents in cases of the victim's death because  
19 of injuries suffered due to an act of criminally injurious  
20 conduct may not exceed \$25,000 in the aggregate.

21 (6) Compensation benefits are not payable for pain and  
22 suffering, inconvenience, physical impairment, or nonbodily  
23 damage.

24 (7) (a) A person who has suffered injury as a result of  
25 criminally injurious conduct and as a result of such injury

1 has no reasonable prospect of being regularly employed in  
2 the normal labor market, who was employable but was not  
3 employed at the time of such injury, may in the discretion  
4 of the division be awarded weekly compensation benefits in  
5 an amount determined by the division not to exceed \$100 per  
6 week. Weekly compensation payments shall continue until the  
7 claimant has a reasonable prospect of being regularly  
8 employed in the normal labor market or for a shorter period  
9 as determined by the division. The claimant shall be awarded  
10 benefits as provided in subsection (2) of this section.

11 (b) The dependents of a victim who is killed as a  
12 result of criminally injurious conduct and who was  
13 employable but not employed at the time of death may in the  
14 discretion of the division be awarded, in a gross single  
15 amount payable to all dependents, a sum not to exceed \$100  
16 per week which shall be payable in the manner and for the  
17 period provided by subsection (3)(b) of this section or for  
18 such shorter period as determined by the division. The  
19 claimant shall be awarded benefits as provided in subsection  
20 (4) of this section.

21 (8) Amounts payable as weekly compensation may not be  
22 commuted to a lump sum and may not be paid less frequently  
23 than every 2 weeks.

24 (9) (a) Subject to the limitations in subsection (9)(e)  
25 (9)(b), the--spouse, parent, child, brother, or sister of a

LC 0003/01

1 ~~victim who is killed as a result of criminally injurious~~  
2 ~~conduct a secondary victim~~ is entitled to reimbursement for  
3 mental health treatment ~~received as a result of the victim's~~  
4 ~~death.~~

5 ~~(b) Subject to the limitations in subsection (9)(c),~~  
6 ~~the parent, brother, or sister of a minor who is a victim of~~  
7 ~~a sexual crime for which a person has been charged and who~~  
8 ~~is not entitled to receive services under Title 41, chapter~~  
9 ~~37, is entitled to reimbursement for mental health treatment~~  
10 ~~received as a result of the crime.~~

11 ~~(c)(b) Total payments made under subsections subsection~~  
12 ~~(9)(a) and (9)(b) may not exceed \$500 for each person or~~  
13 ~~\$1,500 for a family."~~

14 NEW SECTION. Section 5. Effective date. [This act] is  
15 effective on passage and approval.

-End-

1 *House* BILL NO. *548*  
 2 INTRODUCED BY *Senators Beckwith, Russell, Hillman*  
 3 *VanValkenburg, Dickerson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRIME  
 5 VICTIMS COMPENSATION ACT OF MONTANA TO PROVIDE BENEFITS FOR  
 6 CERTAIN RELATIVES OF INJURED VICTIMS; AMENDING SECTIONS  
 7 3-10-601, 53-9-103, 53-9-104, AND 53-9-128, MCA; AND  
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 3-10-601, MCA, is amended to read:

12 "3-10-601. Collection and disposition of fines,  
 13 penalties, forfeitures, and fees. (1) Each justice of the  
 14 peace shall collect the fees prescribed by law for justices'  
 15 courts and shall pay them into the county treasury of the  
 16 county wherein he holds office, on or before the 10th day of  
 17 each month, to be credited to the general fund of the  
 18 county.

19 (2) All fines, penalties, and forfeitures that this  
 20 code requires to be imposed, collected, or paid in a  
 21 justice's court must, for each calendar month, be paid by  
 22 the justice's court on or before the 5th day of the  
 23 following month to the treasurer of the county in which the  
 24 justice's court is situated.

25 (3) The county treasurer shall, in the manner provided

1 in 15-1-504, distribute money received under subsection (2)  
 2 as follows:

- 3 (a) 50% to the state treasurer; and
- 4 (b) 50% to the county general fund.

5 (4) The state treasurer shall distribute money received  
 6 under subsection (3) as follows:

- 7 (a) ~~23%~~ 18% to the state general fund;
- 8 (b) 10% to the fish and game account in the state  
 9 special revenue fund;
- 10 (c) 12.5% to the state highway account in the state  
 11 special revenue fund;
- 12 (d) 36% to the traffic education account in the state  
 13 special revenue fund;
- 14 (e) 0.6% to the department of livestock account in the  
 15 state special revenue fund;
- 16 (f) ~~16.9%~~ 21.9% to the crime victims compensation  
 17 account in the state special revenue fund; and
- 18 (g) 1% to the department of family services special  
 19 revenue account for the battered spouses and domestic  
 20 violence grant program."

21 **Section 2.** Section 53-9-103, MCA, is amended to read:

22 "53-9-103. Definitions. As used in this part, the  
 23 following definitions apply:

- 24 (1) "Claimant" means any of the following claiming  
 25 compensation under this part:



THIRD READING  
 HB 548



1 (a) a victim;  
 2 (b) a dependent of a deceased victim; or  
 3 (c) an authorized person acting on behalf of any of  
 4 them.

5 (2) "Collateral source" means a source of benefits,  
 6 other than welfare benefits, or advantages for economic loss  
 7 otherwise compensable under this part which the claimant has  
 8 received or which is readily available to him from:

9 (a) the offender;  
 10 (b) the government of the United States or any agency  
 11 thereof, a state or any of its political subdivisions, or an  
 12 instrumentality of two or more states, unless the law  
 13 providing for the benefits or advantages makes them excess  
 14 or secondary to benefits under this part;  
 15 (c) social security, medicare, and medicaid;  
 16 (d) workers' compensation;  
 17 (e) wage continuation programs of any employer;  
 18 (f) proceeds of a contract of insurance payable to the  
 19 claimant for loss which was sustained because of the  
 20 criminally injurious conduct; or  
 21 (g) a contract, including an insurance contract,  
 22 providing hospital and other health care services or  
 23 benefits for disability. Any such contract in this state may  
 24 not provide that benefits under this part shall be a  
 25 substitute for benefits under the contract or that the

1 contract is a secondary source of benefits and benefits  
 2 under this part are a primary source.

3 (3) "Criminally injurious conduct" means conduct that:  
 4 (a) occurs or is attempted in this state;  
 5 (b) results in bodily injury or death; and  
 6 (c) is punishable by fine, imprisonment, or death or  
 7 would be so punishable but for the fact that the person  
 8 engaging in the conduct lacked capacity to commit the crime  
 9 under the laws of this state. Criminally injurious conduct  
 10 does not include conduct arising out of the ownership,  
 11 maintenance, or use of a motor vehicle unless the bodily  
 12 injury or death occurred during the commission of an offense  
 13 defined in Title 45 that requires the mental state of  
 14 purposely as an element of the offense.

15 (4) "Dependent" means a natural person who is  
 16 recognized under the law of this state to be wholly or  
 17 partially dependent upon the victim for care or support and  
 18 includes a child of the victim conceived before the victim's  
 19 death but born after the victim's death, including a child  
 20 that is conceived as a result of the criminally injurious  
 21 conduct.

22 (5) "Division" means the division of crime control of  
 23 the department of justice.

24 (6) "Secondary victim" means any of the following:  
 25 (a) the spouse, parent, child, brother, or sister of a

1 victim who receives mental health treatment required because  
 2 of the criminally injurious conduct committed against the  
 3 victim; or

4 (b) an authorized person acting on behalf of an  
 5 individual specified in subsection (6)(a).

6 ~~(6)(7)~~ "Victim" means a person who suffers bodily  
 7 injury or death as a result of:

8 (a) criminally injurious conduct;

9 (b) his good faith effort to prevent criminally  
 10 injurious conduct; or

11 (c) his good faith effort to apprehend a person  
 12 reasonably suspected of engaging in criminally injurious  
 13 conduct."

14 **Section 3.** Section 53-9-104, MCA, is amended to read:

15 "53-9-104. Powers and duties of division. (1) The  
 16 division shall:

17 (a) adopt rules to implement this part;

18 (b) prescribe forms for applications for compensation;

19 (c) determine all matters relating to claims for  
 20 compensation; and

21 (d) require any person contracting directly or  
 22 indirectly with an individual formally charged with or  
 23 convicted of a qualifying crime for any rendition,  
 24 interview, statement, book, photograph, movie, television  
 25 production, play, or article relating to such crime to

1 deposit any proceeds paid or owed to the individual under  
 2 the terms of the contract into an escrow fund for the  
 3 benefit of any victims of the qualifying crime and any  
 4 dependents of a deceased victim, if the individual is  
 5 convicted of the crime, to be held for such period of time  
 6 as the division may determine is reasonably necessary to  
 7 perfect the claims of the victims or dependents. Deposited  
 8 proceeds may also be used to pay the costs and attorney fees  
 9 of court-appointed counsel for the charged person. Each  
 10 victim and dependent of a deceased victim is entitled to his  
 11 actual and unreimbursed damages of all kinds or \$5,000,  
 12 whichever is greater. Proceeds remaining after payments to  
 13 victims, dependents of deceased victims, and the county as  
 14 reimbursement for any public defender or any attorney  
 15 appointed for the charged person must be deposited in the  
 16 account established in 53-9-109.

17 (2) The division may:

18 (a) request and obtain from prosecuting attorneys and  
 19 law enforcement officers investigations and data to enable  
 20 the division to determine whether and the extent to which a  
 21 claimant qualifies for compensation. A statute providing  
 22 confidentiality for a claimant's juvenile court records does  
 23 not apply to proceedings under this part.

24 (b) request and obtain from a health care provider  
 25 medical reports that are relevant to the physical condition

1 of a claimant or from an insurance carrier, agent, or claims  
 2 adjuster insurance payment information that is relevant to  
 3 expenses claimed by a claimant, provided that the division  
 4 has made reasonable efforts to obtain from the claimant a  
 5 release of the records or information. No civil or criminal  
 6 liability arises from the release of information requested  
 7 under this subsection (b).

8 (c) subpoena witnesses and other prospective evidence,  
 9 administer oaths or affirmations, conduct hearings, and  
 10 receive relevant, nonprivileged evidence;

11 (d) take notice of judicially cognizable facts and  
 12 general, technical, and scientific facts within its  
 13 specialized knowledge; and

14 (e) require that law enforcement agencies and officials  
 15 take reasonable care that victims be informed about the  
 16 existence of this part and the procedure for applying for  
 17 compensation under this part; and

18 (f) develop a program to make the general public more  
 19 aware of the existence of the victim compensation program  
 20 and of the procedure for applying for compensation under the  
 21 program."

22 **Section 4.** Section 53-9-128, MCA, is amended to read:

23 **"53-9-128. Compensation benefits.** (1) A claimant is  
 24 entitled to weekly compensation benefits when the claimant  
 25 has a total actual loss of wages due to injury as a result

1 of criminally injurious conduct. During the time the  
 2 claimant seeks such weekly benefits, the claimant, as a  
 3 result of such injury, must have no reasonable prospect of  
 4 being regularly employed in the normal labor market. The  
 5 weekly benefit amount is  $66 \frac{2}{3}\%$  of the wages received at  
 6 the time of the criminally injurious conduct, subject to a  
 7 maximum of one-half the state's average weekly wage as  
 8 determined in 39-51-2201. Weekly compensation payments shall  
 9 be made at the end of each 2-week period. No weekly  
 10 compensation payments may be paid for the first week after  
 11 the criminally injurious conduct occurred, but if total  
 12 actual loss of wages continues for 1 week, weekly  
 13 compensation payments shall be paid from the date the wage  
 14 loss began. Weekly compensation payments shall continue  
 15 until the claimant has a reasonable prospect of being  
 16 regularly employed in the normal labor market.

17 (2) The claimant is entitled to be reimbursed for  
 18 reasonable services by a physician or surgeon, reasonable  
 19 hospital services and medicines, and such other treatment as  
 20 may be approved by the division for the injuries suffered  
 21 due to criminally injurious conduct.

22 (3) (a) The dependents of a victim who is killed as a  
 23 result of criminally injurious conduct are entitled to  
 24 receive, in a gross single amount payable to all dependents,  
 25 weekly benefits amounting to  $66 \frac{2}{3}\%$  of the wages received

1 at the time of the criminally injurious conduct causing the  
2 death, subject to a maximum of one-half the state's average  
3 weekly wage as determined in 39-51-2201. Weekly compensation  
4 payments shall be made at the end of each 2-week period.

5 (b) Benefits under subsection (3)(a) of this section  
6 shall be paid to the spouse for the benefit of the spouse  
7 and other dependents unless the division determines that  
8 other payment arrangements should be made. If a spouse dies  
9 or remarries, benefits under subsection (3)(a) shall cease  
10 to be paid to the spouse but shall continue to be paid to  
11 the other dependents so long as their dependent status  
12 continues.

13 (4) Reasonable funeral and burial expenses of the  
14 victim, not exceeding \$2,000, shall be paid if all other  
15 collateral sources have properly paid such expenses but have  
16 not covered all such expenses.

17 (5) Compensation payable to a victim and all of the  
18 victim's dependents in cases of the victim's death because  
19 of injuries suffered due to an act of criminally injurious  
20 conduct may not exceed \$25,000 in the aggregate.

21 (6) Compensation benefits are not payable for pain and  
22 suffering, inconvenience, physical impairment, or nonbodily  
23 damage.

24 (7) (a) A person who has suffered injury as a result of  
25 criminally injurious conduct and as a result of such injury

1 has no reasonable prospect of being regularly employed in  
2 the normal labor market, who was employable but was not  
3 employed at the time of such injury, may in the discretion  
4 of the division be awarded weekly compensation benefits in  
5 an amount determined by the division not to exceed \$100 per  
6 week. Weekly compensation payments shall continue until the  
7 claimant has a reasonable prospect of being regularly  
8 employed in the normal labor market or for a shorter period  
9 as determined by the division. The claimant shall be awarded  
10 benefits as provided in subsection (2) of this section.

11 (b) The dependents of a victim who is killed as a  
12 result of criminally injurious conduct and who was  
13 employable but not employed at the time of death may in the  
14 discretion of the division be awarded, in a gross single  
15 amount payable to all dependents, a sum not to exceed \$100  
16 per week which shall be payable in the manner and for the  
17 period provided by subsection (3)(b) of this section or for  
18 such shorter period as determined by the division. The  
19 claimant shall be awarded benefits as provided in subsection  
20 (4) of this section.

21 (8) Amounts payable as weekly compensation may not be  
22 commuted to a lump sum and may not be paid less frequently  
23 than every 2 weeks.

24 (9) (a) Subject to the limitations in subsection (9)(c)  
25 (9)(b), the ~~spouse, parent, child, brother, or sister of a~~

LC 0003/01

1 ~~victim who is killed as a result of criminally injurious~~  
2 ~~conduct~~ a secondary victim is entitled to reimbursement for  
3 mental health treatment ~~received as a result of the victim's~~  
4 ~~death.~~

5 ~~(b) Subject to the limitations in subsection (9)(c),~~  
6 ~~the parent, brother, or sister of a minor who is a victim of~~  
7 ~~a sexual crime for which a person has been charged and who~~  
8 ~~is not entitled to receive services under Title 41, chapter~~  
9 ~~3, is entitled to reimbursement for mental health treatment~~  
10 ~~received as a result of the crime.~~

11 ~~(c)(b)~~ Total payments made under subsections subsection  
12 (9)(a) and (9)(b) may not exceed \$500 for each person or  
13 \$1,500 for a family."

14 NEW SECTION. Section 5. Effective date. [This act] is  
15 effective on passage and approval.

-End-