

HOUSE BILL NO. 13
INTRODUCED BY QUILICI
BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE HOUSE

DECEMBER 30, 1988	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 2, 1989	FIRST READING.
JANUARY 19, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 20, 1989	PRINTING REPORT.
JANUARY 21, 1989	SECOND READING, DO PASS AS AMENDED.
JANUARY 23, 1989	ENGROSSING REPORT.
JANUARY 24, 1989	THIRD READING, PASSED. AYES, 97; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 25, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1989	PASS CONSIDERATION.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 13

INTRODUCED BY QUILICI

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE CRIME VICTIMS COMPENSATION ACT OF MONTANA TO CHANGE THE DEFINITION OF "CRIMINALLY INJURIOUS CONDUCT"; TO ALLOW THE DIVISION OF CRIME CONTROL TO OBTAIN CERTAIN MEDICAL REPORTS AND INSURANCE PAYMENT INFORMATION REGARDING A CLAIMANT; TO CLARIFY THAT FUNDING FOR THE PROGRAM MAY BE USED ONLY FOR THE PROGRAM; TO PROVIDE THAT A FISCAL BIENNIUM END BALANCE OVER \$200,000 MAY BE DEPOSITED IN THE GENERAL FUND; TO ALLOW PAYMENTS TO CERTAIN CLAIMANTS TO CONTINUE FOR MORE THAN 1 YEAR; AMENDING SECTIONS 50-16-530, 53-9-103, 53-9-104, 53-9-109, AND 53-9-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE FOR THE USE OF CERTAIN FUNDS."

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

Section 1. Section 50-16-530, MCA, is amended to read:

"50-16-530. Disclosure without patient's authorization -- other bases. A health care provider may disclose health care information about a patient without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has

instructed the health care provider not to make the disclosure;

(2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;

(3) to federal, state, or local law enforcement authorities to the extent required by law;

(4) to a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured on a public roadway or was injured by the possible criminal act of another; or
(5) in response to a request of the division of crime control for information under 53-9-104(2)(b); or

{5}(6) pursuant to compulsory process in accordance with 50-16-535 and 50-16-536."

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

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

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

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an authorized person acting on behalf of any of them.

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

(a) the offender;

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

(c) social security, medicare, and medicaid;

(d) workers' compensation;

(e) wage continuation programs of any employer;

(f) proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) a contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this part shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this part are a primary source.

(3) "Criminally injurious conduct" means conduct that:

(a) occurs or is attempted in this state;

(b) results in bodily injury or death; and

(c) is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle ~~as-described-in-Title 6~~ unless the bodily injury or death was purposely inflicted.

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

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

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

(a) criminally injurious conduct;

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

(c) his good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious

1 conduct."

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

3 "53-9-104. Powers and duties of division. (1) The
4 division shall:

5 (a) adopt rules to implement this part;

6 (b) prescribe forms for applications for compensation;

7 (c) determine all matters relating to claims for
8 compensation; and

9 (d) require any person contracting directly or
10 indirectly with an individual formally charged with or
11 convicted of a qualifying crime for any rendition,
12 interview, statement, book, photograph, movie, television
13 production, play, or article relating to such crime to
14 deposit any proceeds paid or owed to the individual under
15 the terms of the contract into an escrow fund for the
16 benefit of any victims of the qualifying crime and any
17 dependents of a deceased victim, if the individual is
18 convicted of the crime, to be held for such period of time
19 as the division may determine is reasonably necessary to
20 perfect the claims of the victims or dependents. Deposited
21 proceeds may also be used to pay the costs and attorney fees
22 of court-appointed counsel for the charged person. Each
23 victim and dependent of a deceased victim is entitled to his
24 actual and unreimbursed damages of all kinds or \$5,000,
25 whichever is greater. Proceeds remaining after payments to

1 victims, dependents of deceased victims, and the county as
2 reimbursement for any public defender or any attorney
3 appointed for the charged person must be deposited in the
4 account established in 53-9-109.

5 (2) The division may:

6 (a) request and obtain from prosecuting attorneys and
7 law enforcement officers investigations and data to enable
8 the division to determine whether and the extent to which a
9 claimant qualifies for compensation. A statute providing
10 confidentiality for a claimant's juvenile court records does
11 not apply to proceedings under this part.

12 (b) request and obtain from a health care provider
13 medical reports that are relevant to the physical condition
14 of a claimant or from an insurance carrier, agent, or claims
15 adjuster insurance payment information that is relevant to
16 expenses claimed by a claimant. No civil or criminal
17 liability arises from the release of information requested
18 under this subsection (b).

19 ~~(b)~~(c) subpoena witnesses and other prospective
20 evidence, administer oaths or affirmations, conduct
21 hearings, and receive relevant, nonprivileged evidence;

22 ~~(c)~~(d) take notice of judicially cognizable facts and
23 general, technical, and scientific facts within its
24 specialized knowledge; and

25 ~~(d)~~(e) require that law enforcement agencies and

officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part."

Section 4. Section 53-9-109, MCA, is amended to read:

"53-9-109. Crime victims compensation account. There is a crime victims compensation account in the state special revenue fund. There shall be paid into this account 18% of the fines assessed and bails forfeited, except those paid to a justice's court, on all offenses involving a violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61, that are a result of citations or tickets issued by the highway patrol. The money in the account is to be used solely for the purposes of this part, except that a cash balance in the account in excess of \$200,000 at the end of a fiscal biennium may be deposited in the general fund."

Section 5. Section 53-9-128, MCA, is amended to read:

"53-9-128. Compensation benefits. (1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks such weekly benefits, the claimant, as a result of such injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit amount is 66 2/3% of the wages received at the time of the criminally injurious conduct, subject to a

maximum of one-half the state's average weekly wage as determined in 39-51-2201. Weekly compensation payments shall be made at the end of each 2-week period. No weekly compensation payments may be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for 1 week, weekly compensation payments shall be paid from the date the wage loss began. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

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

(3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive, in a gross single amount payable to all dependents, weekly benefits amounting to 66 2/3% of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one-half the state's average weekly wage as determined in 39-51-2201. Weekly compensation payments shall be made at the end of each 2-week period.

(b) Benefits under subsection (3)(a) of this section shall be paid to the spouse for the benefit of the spouse

1 and other dependents unless the division determines that
2 other payment arrangements should be made. If a spouse dies
3 or remarries, benefits under subsection (3)(a) shall cease
4 to be paid to the spouse but shall continue to be paid to
5 the other dependents so long as their dependent status
6 continues.

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

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

15 (6) Compensation benefits are not payable for pain and
16 suffering, inconvenience, physical impairment, or nonbodily
17 damage.

18 (7) (a) A person who has suffered injury as a result
19 of criminally injurious conduct and as a result of such
20 injury has no reasonable prospect of being regularly
21 employed in the normal labor market, who was employable but
22 was not employed at the time of such injury, may in the
23 discretion of the division be awarded weekly compensation
24 benefits in an amount determined by the division not to
25 exceed \$100 per week. Weekly compensation payments shall

1 continue until the claimant has a reasonable prospect of
2 being regularly employed in the normal labor market or for a
3 shorter period as determined by the division. The claimant
4 shall be awarded benefits as provided in subsection (2) of
5 this section.

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

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

19 (9) (a) Subject to the limitations in subsection
20 (9)(c), the spouse, parent, child, brother, or sister of a
21 victim who is killed as a result of criminally injurious
22 conduct is entitled to reimbursement for mental health
23 treatment received as a result of the victim's death.

24 (b) Subject to the limitations in subsection (9)(c),
25 the parent, brother, or sister of a minor who is a victim of

1 a sexual crime for which a person has been charged and who
2 is not entitled to receive services under Title 41, chapter
3 3, is entitled to reimbursement for mental health treatment
4 received as a result of the crime.

5 (c) Total payments made under subsections (9)(a) and
6 (9)(b) may not exceed \$500 for each person or \$1,500 for a
7 family. ~~Payments must terminate 1 year after a claim is~~
8 ~~filed under 53-9-125.~~

9 **Section 6. Extension of authority.** Any existing
10 authority to make rules on the subject of the provisions of
11 [this act] is extended to the provisions of [this act].

12 **Section 7. Effective date -- retroactive**
13 **applicability.** (1) [This act] is effective on passage and
14 approval.

15 (2) [Section 4] applies retroactively, within the
16 meaning of 1-2-109, to compensation claims filed after
17 October 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB013, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the Crime Victims Compensation Act of Montana:

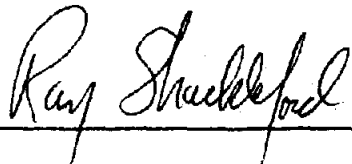
1. Change the definition of "criminally injurious conduct".
2. Allow the Crime Control Division to obtain certain medical reports and insurance payment information regarding a claimant.
3. Clarify the use of the funds.
4. Providing for a fiscal biennium ending fund balance.
5. Allow payments to certain claimants to continue for more than one year.

ASSUMPTIONS:

1. Sufficient funds will remain in the fund to pay current obligations.
2. Deleting the time limit will allow the maximum benefits for secondary claims to be paid over several fiscal years, to be supported with existing funding.

FISCAL IMPACT:Expenditures:Secondary Victim Claims:

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
Benefits & Claims Expenditures	\$300	\$500	\$200	\$300	\$700	\$400



DATE

1/4/89

RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning



DATE

JOE QUILICI, PRIMARY SPONSOR

Fiscal Note for HB013, as introduced**HB 13**

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 13

INTRODUCED BY QUILICI

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE CRIME VICTIMS COMPENSATION ACT OF MONTANA TO CHANGE THE DEFINITION OF "CRIMINALLY INJURIOUS CONDUCT"; TO ALLOW THE DIVISION OF CRIME CONTROL TO OBTAIN CERTAIN MEDICAL REPORTS AND INSURANCE PAYMENT INFORMATION REGARDING A CLAIMANT; TO CLARIFY THAT FUNDING FOR THE PROGRAM MAY BE USED ONLY FOR THE PROGRAM; TO PROVIDE THAT A NO FISCAL BIENNIUM END BALANCE OVER-~~\$200,000~~ MAY BE DEPOSITED IN THE GENERAL FUND; TO ALLOW PAYMENTS TO CERTAIN CLAIMANTS TO CONTINUE FOR MORE THAN 1 YEAR; AMENDING SECTIONS 50-16-530, 53-9-103, 53-9-104, 53-9-109, AND 53-9-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE FOR THE USE OF CERTAIN FUNDS."

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

Section 1. Section 50-16-530, MCA, is amended to read:

"50-16-530. Disclosure without patient's authorization -- other bases. A health care provider may disclose health care information about a patient without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has

instructed the health care provider not to make the disclosure;

(2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;

(3) to federal, state, or local law enforcement authorities to the extent required by law;

(4) to a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured on a public roadway or was injured by the possible criminal act of another; or
(5) in response to a request of the division of crime control for information under 53-9-104(2)(b); or

~~(5)(6)~~ pursuant to compulsory process in accordance with 50-16-535 and 50-16-536."

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

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

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

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an authorized person acting on behalf of any of them.

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

(a) the offender;

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

(c) social security, medicare, and medicaid;

(d) workers' compensation;

(e) wage continuation programs of any employer;

(f) proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) a contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this part shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this part are a primary source.

(3) "Criminally injurious conduct" means conduct that:

(a) occurs or is attempted in this state;

(b) results in bodily injury or death; and

(c) is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle ~~as-described-in-Title 61 unless the bodily injury or death was-purposely-inflicted~~ OCCURRED DURING THE COMMISSION OF AN OFFENSE DEFINED IN TITLE 45 THAT REQUIRES THE MENTAL STATE OF PURPOSELY, KNOWINGLY, OR EITHER OR BOTH, AS AN ELEMENT OF THE OFFENSE.

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

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

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

(a) criminally injurious conduct;

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

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

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

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

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

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

(d) require any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie, television production, play, or article relating to such crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, if the individual is convicted of the crime, to be held for such period of time as the division may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to pay the costs and attorney fees of court-appointed counsel for the charged person. Each victim and dependent of a deceased victim is entitled to his

actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the county as reimbursement for any public defender or any attorney appointed for the charged person must be deposited in the account established in 53-9-109.

(2) The division may:

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

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant, PROVIDED THAT THE DIVISION HAS MADE REASONABLE EFFORTS TO OBTAIN FROM THE CLAIMANT A RELEASE OF THE RECORDS OR INFORMATION. No civil or criminal liability arises from the release of information requested under this subsection (b).

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

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

(d)(e) require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part."

Section 4. Section 53-9-109, MCA, is amended to read:

"53-9-109. Crime victims compensation account. There is a crime victims compensation account in the state special revenue fund. There shall be paid into this account 18% of the fines assessed and bails forfeited, except those paid to a justice's court, on all offenses involving a violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61, that are a result of citations or tickets issued by the highway patrol. The money in the account is to be used solely for the purposes of this part, except that a AND NO cash balance in the account in excess of \$200,000 at the end of a fiscal biennium may be deposited in the general fund."

Section 5. Section 53-9-128, MCA, is amended to read:

"53-9-128. Compensation benefits. (1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the

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

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

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

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

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

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

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

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

23 (7) (a) A person who has suffered injury as a result
24 of criminally injurious conduct and as a result of such
25 injury has no reasonable prospect of being regularly

1 employed in the normal labor market, who was employable but
2 was not employed at the time of such injury, may in the
3 discretion of the division be awarded weekly compensation
4 benefits in an amount determined by the division not to
5 exceed \$100 per week. Weekly compensation payments shall
6 continue until the claimant has a reasonable prospect of
7 being regularly employed in the normal labor market or for a
8 shorter period as determined by the division. The claimant
9 shall be awarded benefits as provided in subsection (2) of
10 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
25 (9)(c), the spouse, parent, child, brother, or sister of a

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

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

10 (c) Total payments made under subsections (9)(a) and
11 (9)(b) may not exceed \$500 for each person or \$1,500 for a
12 family. ~~Payments must terminate 1 year after a claim is~~
13 ~~filed under 53-9-125.~~

14 NEW SECTION. Section 6. Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

18 NEW SECTION. Section 7. Effective date -- retroactive
19 applicability. (1) [This act] is effective on passage and
20 approval.

21 (2) [Section 4 5] applies retroactively, within the
22 meaning of 1-2-109, to compensation claims filed after
23 October 1, 1987.

-End-

HOUSE BILL NO. 13

INTRODUCED BY QUILICI

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE CRIME VICTIMS COMPENSATION ACT OF MONTANA TO CHANGE THE DEFINITION OF "CRIMINALLY INJURIOUS CONDUCT"; TO ALLOW THE DIVISION OF CRIME CONTROL TO OBTAIN CERTAIN MEDICAL REPORTS AND INSURANCE PAYMENT INFORMATION REGARDING A CLAIMANT; TO CLARIFY THAT FUNDING FOR THE PROGRAM MAY BE USED ONLY FOR THE PROGRAM; TO PROVIDE THAT A NO FISCAL BIENNIUM END BALANCE OVER-\$200,000 MAY BE DEPOSITED IN THE GENERAL FUND; TO ALLOW PAYMENTS TO CERTAIN CLAIMANTS TO CONTINUE FOR MORE THAN 1 YEAR; AMENDING SECTIONS 50-16-530, 53-9-103, 53-9-104, 53-9-109, AND 53-9-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE FOR THE USE OF CERTAIN FUNDS."

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

Section 1. Section 50-16-530, MCA, is amended to read:

"50-16-530. Disclosure without patient's authorization -- other bases. A health care provider may disclose health care information about a patient without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has

instructed the health care provider not to make the disclosure;

(2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;

(3) to federal, state, or local law enforcement authorities to the extent required by law;

(4) to a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured on a public roadway or was injured by the possible criminal act of another; or
(5) in response to a request of the division of crime control for information under 53-9-104(2)(b); or

(5)(6) pursuant to compulsory process in accordance with 50-16-535 and 50-16-536."

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

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

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

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an authorized person acting on behalf of any of them.

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

(a) the offender;

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

(c) social security, medicare, and medicaid;

(d) workers' compensation;

(e) wage continuation programs of any employer;

(f) proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) a contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this part shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this part are a primary source.

(3) "Criminally injurious conduct" means conduct that:

(a) occurs or is attempted in this state;

(b) results in bodily injury or death; and

(c) is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle ~~as described in Title 61 unless the bodily injury or death was purposefully inflicted~~ OCCURRED DURING THE COMMISSION OF AN OFFENSE DEFINED IN TITLE 45 THAT REQUIRES THE MENTAL STATE OF PURPOSELY, KNOWINGLY, OR EITHER OR BOTH, AS AN ELEMENT OF THE OFFENSE.

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

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

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

(a) criminally injurious conduct;

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

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

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

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

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

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

(d) require any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie, television production, play, or article relating to such crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, if the individual is convicted of the crime, to be held for such period of time as the division may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to pay the costs and attorney fees of court-appointed counsel for the charged person. Each victim and dependent of a deceased victim is entitled to his

actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the county as reimbursement for any public defender or any attorney appointed for the charged person must be deposited in the account established in 53-9-109.

(2) The division may:

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

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant, PROVIDED THAT THE DIVISION HAS MADE REASONABLE EFFORTS TO OBTAIN FROM THE CLAIMANT A RELEASE OF THE RECORDS OR INFORMATION. No civil or criminal liability arises from the release of information requested under this subsection (b).

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

1 ~~f~~e~~d~~ take notice of judicially cognizable facts and
2 general, technical, and scientific facts within its
3 specialized knowledge; and

4 ~~f~~d~~e~~ require that law enforcement agencies and
5 officials take reasonable care that victims be informed
6 about the existence of this part and the procedure for
7 applying for compensation under this part."

8 **Section 4.** Section 53-9-109, MCA, is amended to read:

9 "53-9-109. Crime victims compensation account. There
10 is a crime victims compensation account in the state special
11 revenue fund. There shall be paid into this account 18% of
12 the fines assessed and bails forfeited, except those paid to
13 a justice's court, on all offenses involving a violation of
14 chapter 3, part 1 of chapter 4, or chapters 5 through 10 of
15 Title 61, that are a result of citations or tickets issued
16 by the highway patrol. The money in the account is to be
17 used solely for the purposes of this part, except that a AND
18 NO cash balance in the account in excess of \$200,000 at the
19 end of a fiscal biennium may be deposited in the general
20 fund."

21 **Section 5.** Section 53-9-128, MCA, is amended to read:

22 "53-9-128. Compensation benefits. (1) A claimant is
23 entitled to weekly compensation benefits when the claimant
24 has a total actual loss of wages due to injury as a result
25 of criminally injurious conduct. During the time the

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

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

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

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

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

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

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

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

23 (7) (a) A person who has suffered injury as a result
24 of criminally injurious conduct and as a result of such
25 injury has no reasonable prospect of being regularly

1 employed in the normal labor market, who was employable but
2 was not employed at the time of such injury, may in the
3 discretion of the division be awarded weekly compensation
4 benefits in an amount determined by the division not to
5 exceed \$100 per week. Weekly compensation payments shall
6 continue until the claimant has a reasonable prospect of
7 being regularly employed in the normal labor market or for a
8 shorter period as determined by the division. The claimant
9 shall be awarded benefits as provided in subsection (2) of
10 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
25 (9)(c), the spouse, parent, child, brother, or sister of a

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

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

10 (c) Total payments made under subsections (9)(a) and
11 (9)(b) may not exceed \$500 for each person or \$1,500 for a
12 family. ~~Payments--must--terminate--1--year--after--a--claim--is~~
13 ~~filed-under-53-9-125."~~

14 NEW SECTION. **Section 6.** Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

18 NEW SECTION. **Section 7.** Effective date -- retroactive
19 applicability. (1) [This act] is effective on passage and
20 approval.

21 (2) [Section 4 5] applies retroactively, within the
22 meaning of 1-2-109, to compensation claims filed after
23 October 1, 1987.

-End-

1 HOUSE BILL NO. 13

2 INTRODUCED BY QUILICI

3 BY REQUEST OF THE BOARD OF CRIME CONTROL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 CRIME VICTIMS COMPENSATION ACT OF MONTANA TO CHANGE THE
7 DEFINITION OF "CRIMINALLY INJURIOUS CONDUCT"; TO ALLOW THE
8 DIVISION OF CRIME CONTROL TO OBTAIN CERTAIN MEDICAL REPORTS
9 AND INSURANCE PAYMENT INFORMATION REGARDING A CLAIMANT; TO
10 CLARIFY THAT FUNDING FOR THE PROGRAM MAY BE USED ONLY FOR
11 THE PROGRAM; TO PROVIDE THAT A NO FISCAL BIENNIUM END
12 BALANCE ~~OVER-\$200,000~~ MAY BE DEPOSITED IN THE GENERAL FUND;
13 TO ALLOW PAYMENTS TO CERTAIN CLAIMANTS TO CONTINUE FOR MORE
14 THAN 1 YEAR; AMENDING SECTIONS 50-16-530, 53-9-103,
15 53-9-104, 53-9-109, AND 53-9-128, MCA; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
17 DATE FOR THE USE OF CERTAIN FUNDS."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:20 **Section 1.** Section 50-16-530, MCA, is amended to read:

21 "50-16-530. Disclosure without patient's authorization
22 -- other bases. A health care provider may disclose health
23 care information about a patient without the patient's
24 authorization if the disclosure is:

25 (1) directory information, unless the patient has

1 instructed the health care provider not to make the
2 disclosure;

3 (2) to federal, state, or local public health
4 authorities, to the extent the health care provider is
5 required by law to report health care information or when
6 needed to protect the public health;

7 (3) to federal, state, or local law enforcement
8 authorities to the extent required by law;

9 (4) to a law enforcement officer about the general
10 physical condition of a patient being treated in a health
11 care facility if the patient was injured on a public roadway
12 or was injured by the possible criminal act of another; or
13 (5) in response to a request of the division of crime
14 control for information under 53-9-104(2)(b); or

15 †5†(6) pursuant to compulsory process in accordance
16 with 50-16-535 and 50-16-536."

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

18 "53-9-103. Definitions. As used in this part, the
19 following definitions apply:

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

22 (a) a victim;

23 (b) a dependent of a deceased victim; or

24 (c) an authorized person acting on behalf of any of
25 them.

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

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

- 1 (b) results in bodily injury or death; and
- 2 (c) is punishable by fine, imprisonment, or death or
3 would be so punishable but for the fact that the person
4 engaging in the conduct lacked capacity to commit the crime
5 under the laws of this state. Criminally injurious conduct
6 does not include conduct arising out of the ownership,
7 maintenance, or use of a motor vehicle ~~as described in Title~~
8 ~~61 unless the bodily injury or death was purposely inflicted~~
9 OCCURRED DURING THE COMMISSION OF AN OFFENSE DEFINED IN
10 TITLE 45 THAT REQUIRES THE MENTAL STATE OF PURPOSELY,
11 KNOWINGLY,--OR-EITHER-OR-BOTH, AS AN ELEMENT OF THE OFFENSE.
- 12 (4) "Dependent" means a natural person who is
13 recognized under the law of this state to be wholly or
14 partially dependent upon the victim for care or support and
15 includes a child of the victim conceived before the victim's
16 death but born after the victim's death, including a child
17 that is conceived as a result of the criminally injurious
18 conduct.
- 19 (5) "Division" means the division of crime control of
20 the department of justice.
- 21 (6) "Victim" means a person who suffers bodily injury
22 or death as a result of:
- 23 (a) criminally injurious conduct;
- 24 (b) his good faith effort to prevent criminally
25 injurious conduct; or

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

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

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

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

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

(d) require any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie, television production, play, or article relating to such crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, if the individual is convicted of the crime, to be held for such period of time as the division may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to pay the costs and attorney fees of court-appointed counsel for the charged person. Each victim and dependent of a deceased victim is entitled to his

actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the county as reimbursement for any public defender or any attorney appointed for the charged person must be deposited in the account established in 53-9-109.

(2) The division may:

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

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant, PROVIDED THAT THE DIVISION HAS MADE REASONABLE EFFORTS TO OBTAIN FROM THE CLAIMANT A RELEASE OF THE RECORDS OR INFORMATION. No civil or criminal liability arises from the release of information requested under this subsection (b).

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

1 ~~fc)~~(d) take notice of judicially cognizable facts and
2 general, technical, and scientific facts within its
3 specialized knowledge; and

4 ~~td)~~(e) require that law enforcement agencies and
5 officials take reasonable care that victims be informed
6 about the existence of this part and the procedure for
7 applying for compensation under this part."

8 **Section 4.** Section 53-9-109, MCA, is amended to read:

9 "53-9-109. **Crime victims compensation account.** There
10 is a crime victims compensation account in the state special
11 revenue fund. There shall be paid into this account 18% of
12 the fines assessed and bails forfeited, except those paid to
13 a justice's court, on all offenses involving a violation of
14 chapter 3, part 1 of chapter 4, or chapters 5 through 10 of
15 Title 61, that are a result of citations or tickets issued
16 by the highway patrol. The money in the account is to be
17 used solely for the purposes of this part, except that a AND
18 NO cash balance in the account in excess of \$200,000 at the
19 end of a fiscal biennium may be deposited in the general
20 fund."

21 **Section 5.** Section 53-9-128, MCA, is amended to read:

22 "53-9-128. **Compensation benefits.** (1) A claimant is
23 entitled to weekly compensation benefits when the claimant
24 has a total actual loss of wages due to injury as a result
25 of criminally injurious conduct. During the time the

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

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

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

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

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

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

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

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

23 (7) (a) A person who has suffered injury as a result
24 of criminally injurious conduct and as a result of such
25 injury has no reasonable prospect of being regularly

1 employed in the normal labor market, who was employable but
2 was not employed at the time of such injury, may in the
3 discretion of the division be awarded weekly compensation
4 benefits in an amount determined by the division not to
5 exceed \$100 per week. Weekly compensation payments shall
6 continue until the claimant has a reasonable prospect of
7 being regularly employed in the normal labor market or for a
8 shorter period as determined by the division. The claimant
9 shall be awarded benefits as provided in subsection (2) of
10 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
25 (9)(c), the spouse, parent, child, brother, or sister of a

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

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

10 (c) Total payments made under subsections (9)(a) and
11 (9)(b) may not exceed \$500 for each person or \$1,500 for a
12 family. ~~Payments--must--terminate--1--year--after--a--claim--is~~
13 ~~filed-under-53-9-125."~~

14 NEW SECTION. **Section 6. Extension of authority.** Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

18 NEW SECTION. **Section 7. Effective date -- retroactive**
19 **applicability.** (1) [This act] is effective on passage and
20 approval.

21 (2) [Section 4 5] applies retroactively, within the
22 meaning of 1-2-109, to compensation claims filed after
23 October 1, 1987.

-End-