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SENATE BILL NO. 1200

Offered January 8, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 9.1-104, 9.1-116.1, 19.2-368.5, and 19.2-368.10 of the Code of Virginia, relating to victims of crime; compensation; awards from Criminal Injuries Compensation Fund.

Patron—Deeds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-104, 9.1-116.1, 19.2-368.5, and 19.2-368.10 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-104. Establishment of victim and witness assistance programs; purpose; guidelines.

A. The Department shall adopt guidelines, the purpose of which shall be to make funds available to local governments for establishing, operating, and maintaining victim and witness assistance programs which provide services to the victims of crime and witnesses in the criminal justice system. In no case shall such guidelines or a local government receiving a grant of funds require the reporting of crimes or disclosure of sensitive personal information to law-enforcement agencies in order for victims to become eligible for or receive programs, services, support, or compensation.

B. The Department shall establish a grant procedure to govern funds awarded for this purpose.

§ 9.1-116.1. Virginia Sexual and Domestic Violence Victim Fund; purpose; guidelines.

A. There is created the Virginia Sexual and Domestic Violence Victim Fund as a special nonreverting fund to be administered by the Department of Criminal Justice Services to support the prosecution of domestic violence cases and victim services.

B. The Department shall adopt guidelines, the purpose of which shall be to make funds available to (i) local attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further dedicate existing resources to prosecute felonies and misdemeanors involving domestic violence, sexual violence, sexual abuse, stalking, and family abuse; (ii) law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in protecting and providing necessary services to victims of and children affected by domestic violence, sexual abuse, stalking, and family abuse; and (iii) sexual assault service providers and hospitals for the purpose of funding the cost of salaries and equipment for sexual assault forensic examiners, sexual assault nurse examiners, and pediatric sexual assault nurse examiners, with priority for funding such costs given to such forensic examiners and nurse examiners serving rural or underserved areas of the Commonwealth. In no case shall guidelines adopted pursuant to this subsection require the reporting of crimes or disclosure of sensitive personal information to law-enforcement agencies in order for victims to become eligible for or receive programs, services, support, or compensation.

C. A portion of the sum collected pursuant to § 16.1-69.48:1 as specified in that section shall be deposited into the state treasury to the credit of this Fund in addition to any other moneys appropriated, allocated or received specifically for such purpose. The Fund shall be distributed according to grant procedures adopted pursuant to this section and shall be established on the books of the Comptroller. Any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

D. The Department shall establish a grant procedure to govern funds awarded for this purpose.

§ 19.2-368.5. Filing of claims; deferral of proceedings; restitution.

A. A claim may be filed by a person eligible to receive an award, as provided in § 19.2-368.4, or if such person is a minor, by his parent or guardian. In any case in which the person entitled to make a claim is incapacitated, the claim may be filed on his behalf by his guardian, conservator, or such other individual authorized to administer his estate.

B. A claim shall be filed by the claimant not later than ~~one year~~ three years after the occurrence of the crime upon which such claim is based, or not later than ~~one year~~ three years after the death of the victim. However, (i) in cases involving claims made on behalf of a minor or a person who is incapacitated, the provisions of subsection A of § 8.01-229 shall apply to toll the ~~one-year~~ three-year period; (ii) in cases involving claims made by a victim against profits of crime held in escrow pursuant to Chapter 21.2 (§ 19.2-368.19 et seq.) of this title, the claim shall be filed within five years of the date of the special order of escrow; and (iii) in cases involving claims of sexual abuse of a minor, the claim shall be filed within 10 years after the minor's eighteenth birthday, except for in cases involving claims of sexual abuse of a minor where the conduct constitutes a felony, the passage of time shall not be a barrier to when the victim can file a claim. For good cause shown, the Commission may extend the time for filing for a crime committed on or after July

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1, 2001.

59 In the case of a crime committed on or after July 1, 1977, and before July 1, 2001, for which a claim was  
 60 not filed in a timely manner, the Commission may, for good cause shown, extend the time for filing if the  
 61 attorney for the Commonwealth sends written notification to the Commission that the crime is being  
 62 investigated as a result of newly discovered evidence. For any claim filed pursuant to this paragraph, the  
 63 Commission shall only consider expenses and loss of earnings that the claimant accrues after the date of  
 64 newly discovered evidence as stipulated in the written notification by the attorney for the Commonwealth.

65 C. Claims shall be filed in the office of the Commission in person, by mail, or by electronic means in  
 66 accordance with standards approved by the Commission. The Commission shall accept for filing all claims  
 67 submitted by persons eligible under subsection A of this section and alleging the jurisdictional requirements  
 68 set forth in this chapter and meeting the requirements as to form in the rules and regulations of the  
 69 Commission.

70 D. Upon filing of a claim pursuant to this chapter, the Commission shall promptly notify the attorney for  
 71 the Commonwealth of the jurisdiction wherein the crime is alleged to have occurred, *except when such claim*  
 72 *is filed without the crime being reported to law enforcement.* If, within 10 days after such notification, the  
 73 attorney for the Commonwealth so notified advises the Commission that a criminal prosecution is pending  
 74 upon the same alleged crime, the Commission shall defer all proceedings under this chapter until such time as  
 75 such criminal prosecution has been concluded in the circuit court unless notification is received from the  
 76 attorney for the Commonwealth that no objection is made to a continuation of the investigation and  
 77 determination of the claim. When such criminal prosecution has been concluded in the circuit court the  
 78 attorney for the Commonwealth shall promptly so notify the Commission. Nothing in this section shall be  
 79 construed to mean that the Commission is to defer proceedings upon the filing of an appeal, nor shall this  
 80 section be construed to limit the authority of the Commission to grant emergency awards as hereinafter  
 81 provided. Upon awarding a claim pursuant to this chapter, the Commission shall promptly notify the attorney  
 82 for the Commonwealth of the jurisdiction wherein the crime is alleged to have occurred. If a criminal  
 83 prosecution occurs regarding the same alleged crime, the attorney for the Commonwealth shall request the  
 84 court to order restitution. However, neither the lack of a restitution order, nor the failure of the attorney for  
 85 the Commonwealth to request such an order, *nor the lack of cooperation with or a report to law enforcement*  
 86 *by the victim* shall preclude the Fund from exercising its subrogation rights pursuant to § 19.2-368.15. Any  
 87 such restitution shall be paid over to the Comptroller for deposit into the Criminal Injuries Compensation  
 88 Fund to the extent of the amount of the award paid from the Fund.

89 **§ 19.2-368.10. When awards to be made; reporting crime to law enforcement.**

90 No award shall be made unless the Commission finds that:

91 1. A crime was committed;  
 92 2. Such crime directly resulted in an individual becoming a victim as defined in § 19.2-368.2, on whose  
 93 behalf a claim is filed; and

94 3. ~~Police~~ *Either (i) any criminal justice agency, as defined in § 9.1-101, records show that such crime was*  
 95 *promptly reported to the proper law-enforcement authorities within a reasonable time considering the totality*  
 96 *of the circumstances, including the victim's physical, emotional, and mental condition and family situation, or*  
 97 *(ii) evidence is provided to show that such crime occurred. Such evidence may include (a) a written statement*  
 98 *supplied by a provider of victim services that provided services to the victim of the crime, or other persons*  
 99 *eligible for awards as identified in § 19.2-368.4, or (b) a temporary or permanent protective order, issued*  
 100 *pursuant to Chapter 9.1 (§ 19.2-152.7:1 et seq.) or Article 4 (§ 16.1-246 et seq.) of Chapter 11 of Title 16.1,*  
 101 *for the victim or other persons eligible for awards as identified in § 19.2-368.4 from the person responsible*  
 102 *for the qualifying crime. In no case may an award be made where the police records show that such report*  
 103 *was made more than 120 hours after the occurrence of such crime, unless the Commission, for good cause*  
 104 *shown, finds the delay to have been justified. The provisions of this subdivision shall not apply to claims of*  
 105 *sexual abuse.*

106 ~~The Commission, upon finding that any claimant or award recipient has not fully cooperated with all~~  
 107 ~~law enforcement agencies, unless the law enforcement agency certifies that the claimant or award recipient~~  
 108 ~~was willing but unable to cooperate due to a good faith belief that such cooperation would have endangered~~  
 109 ~~such claimant or award recipient and such claimant or award recipient was not provided with any victim or~~  
 110 ~~witness protection services when such protection services were requested by a law enforcement agency, may~~  
 111 ~~deny, reduce, or withdraw any award, as the case may be.~~