

(S. B. 744)
(Reconsidered)

(No. 3)

(Approved January 5, 2006)

AN ACT

To amend Sections 3, 5, 7, 8, 9, 10, and 11 of Act No. 183 of July 29, 1998, as amended, known as the “Crime Victims Compensation Act,” in order to conform said Act to the new Penal Code, Act No. 149 of June 18, 2004; to make flexible the requirements to obtain compensation in cases of emergencies when the physical damage to the victim is obvious; to increase the limits for payment of compensation; to empower the Director of the Victims Compensation Office to grant compensation over the established limit for catastrophic or extraordinary medical cases; to empower the Director to contract private companies for the collection of fines; to provide for compensation to victims of federal crimes in the same terms that compensation is provided to victims of state crimes; to eliminate some exclusions to compensation benefits and to add a new exclusion; and for other purposes.

STATEMENT OF MOTIVES

The Special Crime Victims Compensation Fund (“Fund”) was established to guarantee victims of crime the support and assistance necessary so that the criminal process does not become an additional traumatic experience. Among the assistance victims are entitled to, a financial compensation and professional services program was established.

Since its establishment in 1998, the Fund has received appropriations from the federal and state governments, as well as from collections from the special penalty authorized by said Act No. 183 of July 29, 1998, as amended, known as the “Crime Victims Compensation Act” (Act No. 183),

and from other sources. The amount collected has made it possible to render services to approximately four thousand one hundred sixty-one (4,161) clients in the past six (6) years.

It is the public policy of this Legislature to continue providing services and expanding the protections that our government offers to those innocent citizens who become victims of criminal conduct. Very frequently, the damage to the victim caused by the criminal conduct of the delinquent disproportionately exceeds the limits of the compensation payments established in the law in effect.

Although we cannot try to fully compensate the damages caused to crime victims through the Fund, we do consider that our government has the capacity to lighten the burden imposed on said victims to a greater degree than that currently allowed by law. Thus, we deem it appropriate to increase some of the limits on the compensation payments under Act No. 183, *supra*, for the victim as well as for their families.

Likewise, we believe that the diligence with which these compensation payments are made is fundamental to our interest to do social justice to crime victims. Therefore, this Legislature deems it prudent to make more flexible the requirements to be met by the victim in order to receive compensation in cases of emergency. Furthermore, through this Act, the Director of the Victims Compensation Office is empowered to grant compensation greater than the limit established for catastrophic or extraordinary cases. This amendment responds to situations in which a victim has suffered truly extreme damages, such as injuries which entail paraplegia.

Lastly, it is necessary to conform the Crime Victims Compensation Act to the new Penal Code so that the same is attuned to the present

legislative plan. Act No. 183, *supra*, is one of those laws affected by the approval of the new Penal Code of the Commonwealth of Puerto Rico, which, in turn, repeals the one in effect approved by Act No. 115 of July 22, 1974. It is imperative to adjust the penal code of laws so that when the new Penal Code is implemented, the same may be uniform.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- New subsections (a), (b), (f) and (g) are hereby added, and the present subsections (a), (b), (c), (d), (e) and (f) are hereby renamed as subsections (c), (d), (e), (h), (i) and (j), respectively, of Section 3 of Act No. 183 of July 29, 1998, as amended, to read as follows:

“Section 3.- Definitions.

(a) Cases of emergency – A situation or occasional combination of unusual circumstances that cause an unexpected or unforeseen need that requires the immediate delivery of assistance in order to achieve a speedy course of action or obtain the remedy requested. For example, any medication, medical equipment or materials indispensable to alleviate a health condition that puts the life of the participant of the Program in imminent danger, or any equipment or materials needed for rehabilitation or safety in the home that, if not obtained immediately, could endanger the lives of the persons who live in the structure. The emergency shall be of such a nature that the assistance required could not be processed following the normal procedures. The facts or circumstances that caused the emergency and justified forgoing the regular procedures set forth in this Section shall in all cases be stated. The report shall also include the pertinent document that certifies the need for the assistance requested and attesting evidence of the subsequent use of the assistance granted.

(b) Permanent physical injuries of a catastrophic nature – Injuries that result as consequence of a criminal act and that have caused a disability of a permanent nature that deprives the victim of the use of one or more of his/her primary basic functions, such as: mobility, communication, self-care, self-direction, tolerance to work in terms of independent living or employability; reason for which his/her functions have been seriously affected thus limiting his/her ability to function; and which entails extraordinary medical expenses.

(c) ...

(d) ...

(e) ...

(f) Elderly – A person who is sixty years of age or older.

(g) Disabled person – Any person who, as the consequence or the result of a congenital condition, disease, developmental deficiency, accident or who for any other reason is physically or mentally deprived permanently or indefinitely of one or more of his/her primary basic functions, such as: mobility, communication, self-care, self-direction, tolerance to work in terms of independent living or employability; and whose functions have been seriously affected thus limiting the ability to function of said person.

(h) ...

(i) ...

(j) ...

(1) ...

(2) Any person who is the victim of a crime or the attempt thereof under federal statutes, when the same is the equivalent of the crimes listed in Section 7 of this Act.

(3) ...

- (4) ...
- (5) ...
- (6) ...
- (7) ...
- ...”

Section 2. – Subsection (h) of Section 5 of Act No. 183 of July 29, 1998, as amended, is hereby amended to read as follows:

“Section 5.- Duties and Powers of the Director.-

The Director of the Office shall have the following duties and powers:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) Contract with companies and collectors or use the resources of the agency to collect outstanding fines.
- (i) ...
- (j) ...”

Section 3.- Section 7 of Act No. 183 of July 29, 1998, as amended, is hereby amended to read as follows:

“Section 7.- Eligible Persons

The Office may grant compensation for damages suffered from the commission of one or more of the following crimes or the attempt thereof:

- (a) murder
- (b) manslaughter

- (c) negligent homicide
- (d) sexual assault
- (e) kidnapping
- (f) aggravated kidnapping
- (g) child abduction
- (h) domestic violence
- (i) child abuse
- (j) aggravated assault in the third degree
- (k) lewd acts
- (l) aggravated robbery when physical injury is inflicted to the victim

The provisions of this Section shall also be applicable to the prosecution of minors for the commission of faults in which conditions equivalent to those listed in this Section are present. Likewise, the Office may also grant compensation for damages suffered from the commission, within the jurisdiction of the Commonwealth of Puerto Rico, of any federal crimes or the attempts thereof, which are the equivalent of the crimes listed in this Section.

Section 4.- Subsections (a) and (b) are hereby eliminated, and subsections (c) to (g) are hereby redesignated as (a) to (e), respectively, and a new subsection (f) is hereby added to Section 8 of Act No. 183 of July 29, 1998, as amended, to read as follows:

“Section 8 .- Exclusions

No compensation shall be granted to the victim when one or more of the following circumstances are present;

- (a) When the crime is committed while the victim is confined in a penal institution or has not served the total penalty imposed.

(b) When the victim was incurring criminal conduct at the time of the events.

(c) When the events that are the basis for the claim occurred prior to July 1, 1998.

(d) When the claimant has received compensation for the same crime from a crime victims compensation program.

(e) When the benefit to be granted to the victim turns out to be in favor, wholly or partially, of the person who directly committed the crime.

(f) When the victim attempts to obtain the benefits of this Act through fraud, or through the use of false information, documents or representation.”

Section 5 – Section 9 of Act No. 183 of July 29, 1998, as amended, is hereby amended to read as follows:

“Section 9. - Eligibility Requirements

In order to be entitled to the benefits granted by this Act, the victim shall meet the following requirements:

(a) Report to law enforcement officers the commission of the criminal conduct which has caused the injury. This report shall be made within ninety-six (96) hours following the criminal act, unless there is a just cause for the delay.

(b) ...

(c) ...”

Section 6 – Subsection (b) of Section 10 of Act No. 183 of July 29, 1998, as amended, is hereby amended to read as follows:

“Section 10.- Application for Compensation.-

(a) Every claimant shall submit in writing the corresponding application before the Office on the form prepared to such effects. When the

claimant is a minor or a disabled person, he/she shall appear represented by his/her parents, custodian or guardian.

(b) The claimant shall have the obligation to enclose with the application all the medical reports available regarding the injury for which compensation is requested and any other information required by regulations. In the case of an emergency in which the physical injury of the victims is obvious, the Director may be flexible in the application of this requirement to the claimant, at his/her discretion, or as provided by regulations. However, after the emergency has been managed, the crime victim shall comply with the abovestated requirements.”

Section 7.- Section 11 of Act No. 183 of July 29, 1998, as amended, is hereby amended to read as follows:

“Section 11.- Compensation to be paid

The benefits granted by this Act shall compensate the claimant for the following reasons up to the limits provided through regulations:

(a) Reasonable expenses incurred for medical treatment, including chiropractic or rehabilitation, hospitalization services, and medical care, and others such as ambulance service, medications, medical equipment, prosthetics, eyeglasses, dental prosthetics, and transportation expenses for medical appointments and treatments. Provided, that in case of permanent physical injuries of a catastrophic nature, the Director of the Office may grant compensation which exceeds the allowed limit, up to a maximum of \$25,000.00.

(b) Reasonable expenses incurred for psychological or psychiatric treatment, including medication and transportation expenses.

(c) Income that the victim would have earned if he/she or his/her family had not suffered the injury.

(d) In the case of death, benefits shall be granted for the following:

(1) Reasonable expenses incurred for funeral services, burial or cremation that shall not exceed three thousand (3,000) dollars.

(2) Reasonable expenses incurred for medical, chiropractic, or rehabilitation treatment, hospitalization services and medical care, and others such as ambulance service, medications, medical equipment, prosthetics, eyeglasses and dental prosthetics incurred prior to the death of the victim, to the maximum allowed by this Act.

(3) Reasonable expenses incurred for the psychological or psychiatric treatment of the surviving claimants of the victim, who resided with the latter, or up to a second degree of consanguinity even when not residing with the victim. The compensation to be paid on this account shall not exceed one thousand (1,000) dollars.

(4) Payment of benefits up to a maximum of one thousand (1,000) dollars to the surviving claimants of the victim who resided with the latter, or up to a second degree of consanguinity that did not reside with the victim, and who shall not receive any benefits other than government financial aids, or none of the compensations indicated in Section 12 of this Act, and when it is evidenced that the loss of support is greater than the amount granted herein.

(e) Transportation expenses to relatives who cared for the victim, of up to a maximum of one thousand (1,000) dollars.

(f) Legal expenses, whether attorney fees or costs, which the victim or the claimant had to incur due to the criminal conduct for legal proceedings, whether these occurred before, during or after the criminal prosecution of the aggressor, of up to a maximum of one thousand five hundred (1,500) dollars.

Mental anguish and suffering shall not be entitled to compensation under the benefits of this Act.

The benefits to be granted under the provisions of this Act shall not exceed a maximum of six thousand (6,000) dollars per person, or up to a maximum of fifteen thousand (15,000) dollars per family.”

Section 8.- The provisions of this Act shall in no way affect or impair the rights of the persons who request the benefits granted by Act No. 183 of July 29, 1998, as amended, and who are eligible for such benefits as provided in the present Section 7 of Act No. 183, prior to the effectiveness of Section 3 of this Act, provided the criminal conduct for which benefits are claimed occurred prior to the effectiveness of the new Penal Code established by Act No. 149 of June 18, 2004, as amended.

Section 9.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 3 (S.B. 744) (Reconsidered) of the 2nd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 3, 5, 7, 8, 9, 10, and 11 of Act No. 183 of July 29, 1998, as amended, known as the “Crime Victims Compensation Act,” in order to conform said Act to the new Penal Code, Act No. 149 of June 18, 2004; to make flexible the requirements to obtain compensation in cases of emergencies when the physical damage to the victim is obvious; to increase the limits for payment of compensation; to empower the Director of the Victims Compensation Office to grant compensation over the established limit for catastrophic or extraordinary medical cases;

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 9th of February of 2006.

Francisco J. Domenech
Director