

2022 Regular Session

HOUSE BILL NO. 648

BY REPRESENTATIVE HILFERTY

CRIMINAL/VICTIMS: Provides relative to the Crime Victims Reparations Act

1 AN ACT

2 To amend and reenact R.S. 46:1802(10), 1806(A), 1809(B), 1810(A), and 1813(A), relative
3 to the Crime Victims Reparations Act; to provide relative to definitions; to provide
4 relative to application time periods; to provide relative to documentation; to provide
5 relative to the issuance of reparations awards; to provide relative to reporting
6 requirements; to provide relative to the amount of reparations awards; to provide
7 relative to the amount of emergency awards; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 46:1802(10), 1806(A), 1809(B), 1810(A), and 1813(A) are hereby
10 amended and reenacted to read as follows:

11 §1802. Definitions

12 As used in this Chapter:

13 * * *

14 (10) "Pecuniary loss" means the amount of expense reasonably and
15 necessarily incurred by reason of personal injury, as a consequence of death, or a
16 catastrophic property loss, and includes:

17 (a) For personal injury:

18 * * *

19 (vi) Relocation for claimants who have to relocate as a result of the crime for
20 reasons of personal safety or other reasons reasonably related to the crime.

1 (b) As a consequence of death:

2 * * *

3 (vi) Relocation for claimants who have to relocate as a result of the crime
4 due to the death of the victim.

5 * * *

6 §1806. Application; requirements; confidentiality

7 A.(1)(a) An application for reparations shall be filed in writing with the
8 board within one year after the date of the personal injury, death, or catastrophic
9 property loss or within such longer period as the board determines is justified by the
10 circumstances. The application shall be valid only if ~~the act~~ reasonable
11 documentation of the crime resulting in the personal injury, death, or catastrophic
12 property loss ~~was reported to the appropriate law enforcement officers within~~
13 ~~seventy-two hours after the date of the personal injury, death, or catastrophic~~
14 ~~property loss, or within such longer period as the board determines is justified by the~~
15 ~~circumstances~~ is submitted with the application.

16 (b) For the purposes of this Subsection, "reasonable documentation" means
17 any of the following:

18 (i) A police report documenting the commission of the crime.

19 (ii) Court records evidencing the criminal prosecution of a crime relevant to
20 the application.

21 (iii) A certification of the crime signed under oath by any licensed clinical
22 social worker, professional counselor, or healthcare provider that conducted an
23 examination of the injuries resulting from the commission of the crime.

24 (iv) A certification of the crime signed under oath by a prosecuting attorney
25 or investigating law enforcement officer who has personal involvement in the
26 prosecution or investigation of any criminal case relative to the application.

27 (v) Any other documentation the board deems sufficient to show the
28 commission of a crime relevant to the application.

29 * * *

1 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

2 * * *

3 B. In making its determination, the following provisions shall apply:

4 (1) A finding by the board, for purposes of considering an application for
5 award under this Chapter, that the commission of a crime enumerated in R.S.
6 46:1805(A) resulted in a pecuniary loss covered by this Chapter shall be a sufficient
7 finding with respect to the crimes giving rise to the application for a reparations
8 award. However, the board may make a partial eligibility determination on an
9 application prior to the incurring of a pecuniary loss by the victim or other claimant.
10 When one part of an award is denied, the board shall favor a partial award over the
11 total denial. An order for reparations may be made whether or not any person is
12 arrested, prosecuted, or convicted of the crime giving rise to the application for
13 reparations. The board may suspend proceedings in the interest of justice if a civil
14 or criminal action arising from such act or omission constituting the crime is pending
15 or imminent.

16 * * *

17 (3)(a) No award of reparations shall be made if the board finds that:

18 (i) ~~The crime was not reported within the time specified by R.S. 46:1806(A).~~

19 (ii) (i) The claimant failed or refused to cooperate substantially with
20 reasonable requests of appropriate law enforcement officials.

21 (iii) ~~Reparations may substantially enrich the offender.~~

22 (iv) ~~The~~ (ii) A totality of the circumstances indicate that the claimant was
23 the offender or an accessory, or that an award to the claimant would unjustly benefit
24 any of them. However, such ineligibility shall not apply if the claimant is a victim
25 of human trafficking or trafficking of children for sexual purposes.

26 (v) ~~The claim was not filed timely, as provided by R.S. 46:1806(A) and (B).~~

27 (vi) ~~The crime was committed prior to the effective date of this Chapter.~~

28 * * *

1 (4) The board may deny or reduce an award:

2 (a) If it ~~finds~~ a totality of the circumstances indicate that the behavior of the
3 victim at the time of the crime giving rise to the claim was such that the victim bears
4 some measure of responsibility for the crime that caused the physical injury, death,
5 or catastrophic property loss or for the physical injury, death, or catastrophic
6 property loss. However, such ineligibility shall not apply if the claimant is a victim
7 of a human trafficking-related offense as defined by R.S. 46:1805 or a
8 sexually-oriented criminal offense as defined by R.S. 15:622.

9 ~~(b)~~ To the extent that the pecuniary loss is recouped from collateral or other
10 sources.

11 ~~(c)~~ (b) If it finds that the vehicle operated by the victim was without security
12 as required by R.S. 32:861.

13 ~~(d)~~ (c) If it finds that the victim was not wearing a safety belt in compliance
14 with R.S. 32:295.1.

15 ~~(e)~~ (d) If it finds that the victim was a willing passenger in a motor vehicle,
16 boat, or aircraft that was operated by an individual who was in violation of R.S.
17 14:98 or 98.1.

18 * * *

19 §1810. Amount of reparations award

20 A. Awards payable under this Chapter shall not exceed ~~ten~~ fifteen thousand
21 dollars in the aggregate for all claims arising out of the same crime except for those
22 victims who are permanently, totally, or permanently and totally disabled as a result
23 of the crime, the aggregate award shall not exceed twenty-five thousand dollars.

24 * * *

25 §1813. Emergency awards

26 A. If it appears to the board prior to its taking action on a claim that an award
27 likely will be made and that undue hardship will result to the claimant if no
28 immediate economic relief is provided, the board may make an emergency award to

1 the claimant pending its final decision in the case. The amount of an emergency
2 award shall not exceed ~~five hundred~~ one thousand dollars.

3 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 648 Engrossed

2022 Regular Session

Hilferty

Abstract: Modifies provisions of the Crime Victims Reparations Act pertaining to applications, eligibility, and awards.

Present law (R.S. 46:1801 et seq.) provides for the Crime Victims Reparations Act.

Present law (R.S. 46:1802) provides for definitions.

Present law (R.S. 46:1802(10)) provides for the definition of "pecuniary loss" as the amount of expense reasonably incurred by reason of personal injury, as a consequence of death, or catastrophic property loss.

Present law (R.S. 46:1802(10)(a)) provides the following as pecuniary losses for personal injury:

- (1) Medical, hospital, nursing, or psychiatric care or counseling, and physical therapy.
- (2) Actual loss of past earnings and anticipated loss of future earnings.
- (3) Care of a child or dependent.
- (4) Counseling or therapy for parents or siblings of a victim of a sexual crime.
- (5) Loss of support for a child victim of a sexual crime not otherwise compensated for as a pecuniary loss.

Proposed law retains present law and adds costs of relocation for claimants who have to relocate as a result of a crime as a pecuniary loss for personal injury.

Present law (R.S. 46:1802(10)(b)) provides the following as pecuniary losses as a consequence of death:

- (1) Funeral, burial, or cremation expenses.
- (2) Loss of support to one or more dependents not otherwise compensated for.
- (3) Care of a child or children when the victim's surviving spouse or legal custodian or caretakers of the deceased victim's child is engaged in lawful employment.
- (4) Counseling or therapy for surviving family members and victim's close relationships.
- (5) Crime scene cleanup.

Proposed law retains present law and adds costs of relocation due to the death of the victim as a pecuniary loss as consequence of death.

Present law (R.S. 46:1806) provides for application for reparation requirements. Provides for the requirement that an application for reparations be filed within one year of the date of the personal injury, death, or catastrophic property lost.

Proposed law retains present law.

Present law provides that the application for reparations shall only be valid if the act resulting in the personal injury, death, or catastrophic property loss was reported to appropriate law enforcement officers within 72 hours after the date of the act.

Proposed law changes present law and requires the application be submitted with reasonable documentation.

Proposed law defines "reasonable documentation".

Present law (R.S. 46:1809) provides for the criteria of making awards for payment of reparations. Provides that the board may make partial eligibility determination on an application prior to the victim or other claimant incurring a pecuniary loss.

Proposed law retains present law and adds that when one part of the reparations award is denied, the board shall prefer a partial award over total denial of the award.

Present law provides that a reparations award shall be made when:

- (1) The claimant failed to report the crime within 72 hours.
- (2) The claimant failed or refused to cooperate substantially with reasonable requests by officers.
- (3) The offender may be enriched.
- (4) The claimant was the offender or an accessory and would unjustly benefit them. Present law does not apply if claimant is a victim of trafficking.
- (5) The claim was not timely filed.
- (6) The crime was committed prior to the effective date of the Crime Victims Reparations Act (effective July 17, 1982).

Proposed law repeals present law but retains provisions of present law that provide that reparations awards may be rewarded when the board finds that:

- (1) The claimant failed or refused to cooperate substantially with reasonable requests by officers.
- (2) The totality of the circumstances indicate that the claimant was the offender or an accessory and would unjustly benefit them. Present law does not apply if claimant is a victim of trafficking.

Present law provides that the board may deny or reduce an award in multiple circumstances including if the behavior of the victims bears some responsibility for the crime that caused the physical injury, death, or catastrophic property loss. Present law does not apply if claimant is a victim of a human trafficking-related offense or sexually-oriented criminal offense.

Proposed law retains present law and provides that the board may evaluate the totality of the circumstances when determining whether to reduce or deny an award.

Present law (R.S. 46:1810) provides for the amount of reparations award. Provides that awards shall not exceed \$10,000 in the aggregate for all claims arising out of the same crime, except that awards shall not exceed \$25,000 for victims who are permanently disabled as a result of the crime.

Proposed law retains present law and changes the amount of the award from \$10,000 to \$15,000 in the aggregate for all claims arising out of the same crime.

Present law provides for emergency reparations awards while the final decision is pending. Provides for an emergency award of up to \$500.

Proposed law changes present law to provide for an emergency award of up to \$1,000.

(Amends R.S. 46:1802(10), 1806(A), 1809(B), 1810(A), and 1813(A))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Restore provisions of present law.
2. Add language that states that the Crime Victims Reparations Board may evaluate the totality of the circumstances when determining whether to reduce or deny an award.
3. Change the amount of the award from \$10,000 to \$15,000 in the aggregate for all claims arising out of the same crime.
4. Make technical changes.