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. 46:1806(A)(1), 1809(B)(1), (3)(a), and (4)(a), 1810(A), and	
3	1813(A) and to enact R.S. 46:1802(10)(a)(vi) and (b)(vi), relative to the Crime	
4	Victims Reparations Act; to provide relative to definitions; to provide relative to	
5	application time periods; to provide relative to documentation; to provide relative to	
6	the issuance of reparations awards; to provide relative to reporting requirements; to	
7	provide relative to the amount of reparations awards; to provide relative to the	
8	amount of emergency awards; and to provide for related matters.	
9	Be it enacted by the Legislature of Louisiana:	
10	Section 1. R.S. 46:1806(A)(1), 1809(B)(1), (3)(a), and (4)(a), 1810(A), and 1813(A)	
11	are hereby amended and reenacted and R.S. 46:1802(10)(a)(vi) and (b)(vi) are hereby	
12	enacted to read as follows:	
13	§1802. Definitions	
14	As used in this Chapter:	
15	* * *	
16	(10) "Pecuniary loss" means the amount of expense reasonably and	
17	necessarily incurred by reason of personal injury, as a consequence of death, or a	
18	catastrophic property loss, and includes:	
19	(a) For personal injury:	
20	* * *	

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(vi) Relocation for claimants who have to relocate as a result of the crime for
2	reasons of personal safety or other reasons reasonably related to the crime.
3	(b) As a consequence of death:
4	* * *
5	(vi) Relocation for claimants who have to relocate as a result of the crime
6	due to the death of the victim.
7	* * *
8	§1806. Application; requirements; confidentiality
9	A.(1)(a) An application for reparations shall be filed in writing with the
10	board within one year after the date of the personal injury, death, or catastrophic
11	property loss or within such longer period as the board determines is justified by the
12	circumstances. The application shall be valid only if the act reasonable
13	documentation of the crime resulting in the personal injury, death, or catastrophic
14	property loss was reported to the appropriate law enforcement officers within
15	seventy-two hours after the date of the personal injury, death, or catastrophic
16	property loss, or within such longer period as the board determines is justified by the
17	circumstances is submitted with the application.
18	(b) For the purposes of this Subsection, "reasonable documentation" means
19	any of the following:
20	(i) A police report documenting the commission of the crime.
21	(ii) Court records evidencing the criminal prosecution of a crime relevant to
22	the application.
23	(iii) A certification of the crime signed under oath by any licensed clinical
24	social worker, professional counselor, or healthcare provider that conducted an
25	examination of the injuries resulting from the commission of the crime.
26	(iv) A certification of the crime signed under oath by a prosecuting attorney
27	or investigating law enforcement officer who has personal involvement in the
28	prosecution or investigation of any criminal case relative to the application.

1	(v) Any other documentation the board deems sufficient to show the
2	commission of a crime relevant to the application.
3	* * *
4	§1809. Criteria for making awards; prohibitions; authority to deny or reduce awards
5	* * *
6	B. In making its determination, the following provisions shall apply:
7	(1) A finding by the board, for purposes of considering an application for
8	award under this Chapter, that the commission of a crime enumerated in R.S.
9	46:1805(A) resulted in a pecuniary loss covered by this Chapter shall be a sufficient
10	finding with respect to the crimes giving rise to the application for a reparations
11	award. However, the board may make a partial eligibility determination on an
12	application prior to the incurring of a pecuniary loss by the victim or other claimant.
13	When one part of an award is denied, the board shall favor a partial award over the
14	total denial. An order for reparations may be made whether or not any person is
15	arrested, prosecuted, or convicted of the crime giving rise to the application for
16	reparations. The board may suspend proceedings in the interest of justice if a civil
17	or criminal action arising from such act or omission constituting the crime is pending
18	or imminent.
19	* * *
20	(3)(a) No award of reparations shall be made if the board finds that:
21	(i) The crime was not reported within the time specified by R.S. 46:1806(A).
22	(ii) (i) The claimant failed or refused to cooperate substantially with
23	reasonable requests of appropriate law enforcement officials.
24	(iii) Reparations may substantially enrich the offender.
25	(iv) The (ii) A totality of the circumstances indicate that the claimant was
26	the offender or an accessory, or that an award to the claimant would unjustly benefit
27	any of them. However, such ineligibility shall not apply if the claimant is a victim
28	of human trafficking or trafficking of children for sexual purposes.
29	(v) The claim was not filed timely, as provided by R.S. 46:1806(A) and (B).

1	(vi) The crime was committed prior to the effective date of this Chapter.
2	* * *
3	(4) The board may deny or reduce an award:
4	(a) If it finds a totality of the circumstances indicate that the behavior of the
5	victim at the time of the crime giving rise to the claim was such that the victim bears
6	some measure of responsibility for the crime that caused the physical injury, death,
7	or catastrophic property loss or for the physical injury, death, or catastrophic
8	property loss. However, such ineligibility shall not apply if the claimant is a victim
9	of a human trafficking-related offense as defined by R.S. 46:1805 or a
10	sexually-oriented criminal offense as defined by R.S. 15:622.
11	* * *
12	§1810. Amount of reparations award
13	A. Awards payable under this Chapter shall not exceed ten fifteen thousand
14	dollars in the aggregate for all claims arising out of the same crime except for those
15	victims who are permanently, totally, or permanently and totally disabled as a result
16	of the crime, the aggregate award shall not exceed twenty-five thousand dollars.
17	* * *
18	§1813. Emergency awards
19	A. If it appears to the board prior to its taking action on a claim that an award
20	likely will be made and that undue hardship will result to the claimant if no
21	immediate economic relief is provided, the board may make an emergency award to
22	the claimant pending its final decision in the case. The amount of an emergency
23	award shall not exceed five hundred one thousand dollars.
24	* * *

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 Reengrossed	2022 Regular Session	Hilferty
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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.

<u>Present law</u> (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.

<u>Present law</u> (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.

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

<u>Present law</u> (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.

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

<u>Present law</u> (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.

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Proposed law retains present law.

<u>Present law</u> 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.

<u>Proposed law</u> changes <u>present law</u> and requires the application be submitted with reasonable documentation.

Proposed law defines "reasonable documentation".

<u>Present law</u> (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.

<u>Proposed law</u> retains <u>present law</u> 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.

<u>Present law</u> 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. <u>Present law</u> 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).

<u>Proposed law</u> repeals <u>present law</u> but retains provisions of <u>present law</u> 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. <u>Present law</u> does not apply if claimant is a victim of trafficking.

<u>Present law</u> 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. <u>Present law</u> does not apply if claimant is a victim of a human trafficking-related offense or sexually-oriented criminal offense.

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

<u>Present law</u> (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.

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

<u>Present law</u> 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. 46:1806(A)(1), 1809(B)(1), (3)(a), and (4)(a), 1810(A), and 1813(A); Adds R.S. 46:1802(10)(a)(vi) and (b)(vi))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Judiciary</u> to the <u>original</u> bill:

- 1. Restore provisions of <u>present law</u>.
- 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.

The Committee Amendments Proposed by <u>House Committee on Appropriations</u> to the <u>engrossed</u> bill:

1. Make technical changes.