

2023 Regular Session

HOUSE BILL NO. 439

BY REPRESENTATIVE BRYANT

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AN ACT

To amend and reenact R.S. 44:4.1(B)(31) and R.S. 46:1807(A) and to enact R.S. 46:1807(B)(8) and Chapter 21-A of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1823 through 1838, relative to victims of vehicular homicide; to provide relative to the powers and duties of the Crime Victims Reparations Board; to provide exceptions to public record requirements for certain information submitted to the board; to authorize the board to take actions and perform duties necessary relative to victims of vehicular homicide; to create the Victims of Vehicular Homicide Fund; to provide relative to the payment of reparations for loss for death resulting from vehicular homicide; to provide relative to applications for reparations; to provide relative to the criteria for the payment of reparations; to provide relative to sources of money in the fund; to provide relative to termination; to provide relative to the amount of the reparations award; to provide relative to reports; to provide relative to limited liability of the state; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:4.1(B)(31) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

\* \* \*

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and

1 limitations are hereby continued in effect by incorporation into this Chapter by  
2 citation:

3 \* \* \*

4 (31) R.S. 46:56, 123(K), 236.1.1 through 238, 284, 286.1, 439.1, 446.1,  
5 1073, 1355, 1806, 1827, 1844, 1862, 1923, 2124.1, 2134, 2187, 2356, 2416, 2597,  
6 2603, 2625

7 \* \* \*

8 Section 2. R.S. 46:1807(A) is hereby amended and reenacted and R.S. 46:1807(B)(8)  
9 and Chapter 21-A of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
10 46:1823 through 1838, is hereby enacted to read as follows:

11 §1807. Powers and duties of board; staff

12 A. The board shall administer the provisions of this Chapter and Chapter 21-  
13 A of this Title and shall be responsible, in accordance with this Chapter and Chapter  
14 21-A of this Title, for determining all matters pertaining to applications for  
15 reparations, investigations, and determinations based upon its findings, the granting  
16 or rejecting of claims, and fixing the amounts of such grants or payments and the  
17 methods of their payment.

18 B. In the performance of its powers and duties the board shall:

19 \* \* \*

20 (8) Take such actions and perform such other functions as are required by  
21 Chapter 21-A of this Title or necessary to perform its purposes.

22 \* \* \*

23 CHAPTER 21-A. VICTIMS OF VEHICULAR HOMICIDE

24 §1823. Short title

25 This Chapter may be cited as the Victims of Vehicular Homicide Act.

26 §1824. Definitions

27 As used in this Chapter:

28 (1) "Board" means the Crime Victims Reparations Board as provided in R.S.  
29 46:1803.

1                   (2) "Reparations" means payment of compensation in accordance with the  
 2                   provisions of this Chapter for loss resulting from death by reason of a crime  
 3                   enumerated in this Chapter.

4                   (3) "Victim" means:

5                   (a) Any person who suffers death as a result of a crime committed in this  
 6                   state and covered by this Chapter.

7                   (b) A Louisiana resident who suffers death as a result of a crime described  
 8                   in R.S. 46:1826, except that the criminal act occurred outside of this state. In this  
 9                   Subparagraph, "Louisiana resident" means a person who maintained a place of  
 10                   permanent abode in this state at the time the crime was committed for which  
 11                   reparations are sought.

12                   §1825. Eligibility to apply for reparations

13                   Survivors enumerated in Civil Code Article 2315.2 shall be eligible to make  
 14                   an application to the board for reparations and shall be eligible for an award of  
 15                   reparations in accordance with the provisions of this Chapter. Upon charging or  
 16                   indictment of an offender convicted of a violation of R.S. 14:32.1, the judge shall  
 17                   inform such survivor of eligibility for an award of reparations. The judge shall also  
 18                   provide the contact information for the board to such persons for submitting an  
 19                   application to the board for an award of reparations.

20                   §1826. Crimes to which Chapter applies

21                   A. The board may make an award and order the payment of reparations for  
 22                   loss in accordance with the provisions of this Chapter for death resulting from the  
 23                   offense of vehicular homicide, pursuant to R.S. 14:32.1, when the offender failed to  
 24                   maintain compulsory motor vehicle liability security pursuant to R.S. 32:861, and  
 25                   the victim failed to maintain uninsured motorist coverage.

26                   B. For the purposes of this Chapter, a person shall be deemed to have  
 27                   committed a criminal act or omission notwithstanding that by reason of age, insanity,  
 28                   or other reason he was legally incapable of committing a crime.

1           §1827. Application; requirements; confidentiality

2                   A.(1) An application for reparations shall be filed in writing with the board  
3                   within one year after the date of the death or within such longer period as the board  
4                   determines is justified by the circumstances. The application shall be valid only if  
5                   reasonable documentation of the crime resulting in the death is submitted with the  
6                   application.

7                   (2) For the purposes of this Subsection, "reasonable documentation" means  
8                   any of the following:

9                           (a) A police report documenting the commission of the crime of vehicular  
10                           homicide, pursuant to R.S. 14:32.1, and documenting that the offender did not  
11                           maintain compulsory motor vehicle liability security pursuant to R.S. 32:861.

12                           (b) Court records evidencing the criminal prosecution of the crime of  
13                           vehicular homicide, pursuant to R.S. 14:32.1.

14                           (c) A certification of the crime signed under oath by a prosecuting attorney  
15                           or investigating law enforcement officer who has personal involvement in the  
16                           prosecution or investigation of the criminal case relative to the application.

17                           (d) A copy of the death certificate.

18                   B. Application shall be made on a form prescribed and provided by the  
19                   board, which shall contain the following:

20                           (1) A description of the date, nature, and circumstances of the act or acts  
21                           resulting in the death of the victim.

22                           (2) A copy of the death certificate.

23                           (3) An authorization permitting the board or its representatives to verify the  
24                           contents of the application.

25                           (4) Records, documents, and information in the possession of the board  
26                           received pursuant to a law enforcement investigation or a verification of application  
27                           by a law enforcement agency shall be considered investigative records of a law  
28                           enforcement agency as described in R.S. 44:3 and shall not be disseminated under  
29                           any condition without the permission of the agency providing the record or  
30                           information to the board.

1           §1828. Criteria for making awards; prohibitions; authority to deny or reduce awards

2                   A. The board shall order the payment of reparations in an amount determined  
 3           by it if, upon receipt of the application and without hearings, it finds by a  
 4           preponderance of the evidence that loss was sustained by reason of death and that  
 5           such loss was proximately caused by the crime of vehicular homicide, pursuant to  
 6           R.S. 14:32.1.

7                   B. A finding by the board, for purposes of considering an application for  
 8           award under this Chapter, that the charge or indictment of a crime enumerated in  
 9           R.S. 46:1826 resulted in a loss covered by this Chapter shall be a sufficient finding  
 10          with respect to the crime giving rise to the application for a reparations award.

11                  C. No person shall be denied or otherwise deemed ineligible for reparations  
 12          pursuant to this Chapter, nor shall any award for reparations pursuant to this Chapter  
 13          be reduced, on the basis that the person has any conviction or adjudication of  
 14          delinquency, on the basis that the person is currently on probation or parole, or on  
 15          the basis that the person has previously served any sentence of incarceration,  
 16          probation, or parole unrelated to the offense for which reparations would otherwise  
 17          be awarded pursuant to this Chapter.

18          §1829. Amount of reparations award

19                  Awards payable under this Chapter shall not exceed sixty thousand dollars  
 20          per occurrence, in the aggregate, for all claims arising out of the same crime. No  
 21          survivor shall recover more than fifteen thousand dollars on behalf of each victim.

22          §1830. Reparation order; terms and conditions

23                  A. The board may order the payment of an award in a lump sum.

24                  B. The state treasurer shall pay to the person named in the order of payment  
 25          of reparations the amount stated therein in accordance with the provisions of such  
 26          order.

27                  C. The board shall not be subject to garnishment, execution, or attachment  
 28          on any award.

1           §1831. Finality of decision

2                   A decision or order of the board with respect to any application or claim for  
3           reparations shall be final and shall not be subject to any review by a court.

4           §1832. Effect of reparations award on right to recover damages in civil action;  
5                   repayment of award

6                   A. An order for reparations payments pursuant to this Chapter shall not  
7           affect the right of any person to institute a civil suit to recover damages for the death  
8           from any other person. However, if damages in a civil action are recovered, from the  
9           offender or any other third party, the person shall reimburse the Victims of Vehicular  
10           Homicide Board, through the board, in an amount equal to the amount of the  
11           reparations award or such lesser amount as is recovered in damages in the civil  
12           action.

13                   B. When any person who has received an award from the board files a civil  
14           action to recover damages, he shall, at the time of the filing of the suit, notify the  
15           board.

16           §1833. Recovery from the offender

17                   A. Whenever any person is charged with vehicular homicide pursuant to R.S.  
18           14:32.1 and an order for the payment of reparations is or has been made pursuant to  
19           this Chapter from the act constituting the crime for the charge, the attorney general,  
20           within two years after the date on which charges are final, may institute a civil action  
21           against the person charged for the recovery of all or any part of the reparations  
22           payment. The suit shall be instituted in the district court having jurisdiction in the  
23           parish in which such person resides or is found. The court shall have jurisdiction to  
24           hear, determine, and render judgment in any such action. Any amount recovered  
25           pursuant to this Subsection shall be deposited in the state treasury and, after meeting  
26           the requirements of Article VII, Section 9 of the Constitution of Louisiana, credited  
27           to the Victims of Vehicular Homicide Fund hereinafter created. If an amount greater  
28           than that paid pursuant to the order for payment of reparations is recovered and  
29           collected in any such action, the board shall pay the balance to the person.

1           B. The board shall provide the attorney general with such information, data,  
2           and reports as he may require to institute actions in accordance with this Section.

3           §1834. Victims of Vehicular Homicide Fund; creation; sources and use of funds

4           A. The Victims of Vehicular Homicide Fund, hereinafter referred to as "the  
5           fund," is hereby created as a special fund in the state treasury.

6           B. The fund shall be composed of:

7           (1) Monies derived from appropriations by the legislature or private funds  
8           not to exceed five hundred thousand dollars per fiscal year.

9           (2) Any federal monies made available to the state for victim compensation.

10          (3) All monies received from any action to recover damages for a crime  
11          which was the basis of a reparations award pursuant to this Chapter.

12          (4) Any gift, grant, devise, or bequest of monies or properties of any nature  
13          or description.

14          C. Monies in the fund shall be invested by the treasurer in the same manner  
15          as state general fund monies. Unexpended and unencumbered monies in the fund at  
16          the end of the fiscal year shall remain in the fund. Subject to appropriation, monies  
17          in the fund shall be used solely to pay reparation awards pursuant to this Chapter and  
18          disbursements therefrom shall be made by the state treasurer upon written order of  
19          the board, signed by the chairman, or a court.

20          §1835. Report to legislature and governor

21          The board shall submit an annual report to the legislature and the governor  
22          detailing its activities during the preceding year. The report shall be made available  
23          electronically on the website of the Louisiana Commission on Law Enforcement and  
24          Administration of Criminal Justice. A sufficient number of copies shall be printed  
25          for distribution to the governor, the chairman of the House Committee on Judiciary,  
26          the chairman of the Senate Committee on Judiciary C, and to as many others as may  
27          be requested.

28          §1836. Penalty for fraud

29          No person shall procure or counsel another person to procure reparations  
30          pursuant to the provisions of this Chapter by any fraud. The penalty for the violation

1 of the provisions of this Section shall be a fine of not more than five hundred dollars  
2 or imprisonment for not more than one year, or both.

3 §1837. Limited liability of the state

4 The state shall not be liable for the claim of any applicant in excess of the  
5 funds appropriated for the payment of claims under this Chapter.

6 §1838. Termination of fund

7 Unless otherwise extended, the provisions of this Chapter shall be null, void,  
8 and without effect and shall cease to exist on August 1, 2027.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_