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LAW/RWH

ASSEMBLY, No. 2372

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 4, 2010

Sponsored by:

Assemblyman NELSON T. ALBANO
District 1 (Cape May, Atlantic and Cumberland)
Assemblyman MATTHEW W. MILAM
District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Senators Van Drew, Girgenti and Madden

SYNOPSIS

Establishes exception to five-year limit on payment of victim claims.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/19/2010)

1 AN ACT concerning claims for victim compensation and amending
2 P.L.1971, c.317.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended as
8 follows:

9 18. No order for the payment of compensation shall be made
10 under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the
11 application has been made within two years after the date of the
12 personal injury or death or after that date upon determination by the
13 **[agency] office** that good cause exists for the delayed filing, and
14 the personal injury or death was the result of an offense listed in
15 section 11 of P.L.1971, c.317 (C.52:4B-11) which had been
16 reported to the police or other appropriate law enforcement agency
17 within three months after its occurrence or reasonable discovery.
18 The **[agency] office** will make its determination regarding the
19 application within six months of acknowledgment by the **[agency]**
20 office of receipt of the completed application and any and all
21 necessary supplemental information.

22 In determining the amount of an award, the **[agency] office** shall
23 determine whether, because of his conduct, the victim of such crime
24 contributed to the infliction of his injury, and the **[agency] office**
25 shall reduce the amount of the award or reject the application
26 altogether, in accordance with such determination; provided,
27 however, that the **[agency] office** shall not consider any conduct of
28 the victim contributory toward his injury, if the record indicates
29 such conduct occurred during efforts by the victim to prevent a
30 crime or apprehend a person who had committed a crime in his
31 presence or had in fact committed a crime.

32 The **[agency] office** may deny or reduce an award where the
33 victim has not paid in full any payments owed on assessments
34 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or
35 restitution ordered following conviction for a crime.

36 No compensation shall be awarded if:

37 a. Compensation to the victim proves to be substantial unjust
38 enrichment to the offender or if the victim did not cooperate with
39 the reasonable requests of law enforcement authorities unless the
40 victim demonstrates a compelling health or safety reason for not
41 cooperating; or

42 b. (Deleted by amendment, P.L.1990, c.64.)

43 c. The victim was guilty of a violation of subtitle 10 or 12 of
44 Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 caused or contributed to his injuries; or

2 d. The victim was injured as a result of the operation of a
3 motor vehicle, except as provided in subsection c. or d. of section
4 11 of P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the
5 same was used as a weapon in a deliberate attempt to run the victim
6 down; or

7 e. The victim suffered personal injury or death while an
8 occupant of a motor vehicle or vessel where the victim knew or
9 reasonably should have known that the driver was operating the
10 vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990,
11 c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19),
12 section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of
13 paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of
14 N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

15 f. The victim has been convicted of a crime and is still
16 incarcerated; or

17 g. The victim sustained the injury during the period of
18 incarceration immediately following conviction for a crime.

19 Except as provided herein, no compensation shall be awarded
20 under P.L.1971, c.317 in an amount in excess of \$25,000, and all
21 payments shall be made in a lump sum, except that in the case of
22 death or protracted disability the award may provide for periodic
23 payments to compensate for loss of earnings or support. Five years
24 after the entry of an initial determination order, a claim for
25 compensation expires and no further order is to be entered with
26 regard to the claim except:

27 (1) for requests for payment of specific out-of-pocket expenses
28 received by the Victims of Crime Compensation [Agency] Office
29 prior to the expiration of the five-year period except in those cases
30 determined by the [agency] office to be catastrophic in nature; or

31 (2) when the office determines that compelling circumstances
32 exist justifying the payment of a claim beyond the five-year limit.

33 No award made pursuant to P.L.1971, c.317 shall be subject to
34 execution or attachment other than for expenses resulting from the
35 injury which is the basis of the claim.

36 Compensation may be awarded in an amount not exceeding the
37 actual cost of a rehabilitative service of the type enumerated in
38 section 2 of P.L.1999, c.166 (C.52:4B-18.2).

39 The award may provide for periodic payments in the case of
40 protracted care or rehabilitative assistance.

41 (cf: P.L.2007, c.95, s.18)

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43 2. This act shall take effect immediately.

STATEMENT

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This bill would establish an exception to the five-year limitation on payments of claims to victims by the Victims of Crime Compensation Office.

Under current law, a victim's claim for compensation expires five years after an initial determination order is made by the Victims of Crime Compensation Office. This bill would allow the office to continue making payments to a victim if the office determines that compelling circumstances exist justifying the payment of a claim beyond the five-year limit.

It is the sponsor's intent to assist victims who have legitimate reasons to require services beyond five years. For example, a victim who received mental counseling health during an initial trial against the defendant was denied further counseling during a retrial because the new trial occurred more than five years after the victim first received counseling during the first trial. Under this bill, the office would have discretion to award payments beyond the five-year limitation in such cases.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2372

STATE OF NEW JERSEY

DATED: MARCH 4, 2010

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2372.

Assembly Bill No. 2372 establishes an exception to the five-year limitation on payments of claims to victims by the Victims of Crime Compensation Office.

Under current law, a victim's claim for compensation expires five years after an initial determination order is made by the Victims of Crime Compensation Office. This bill would allow the office to continue making payments to a victim if the office determines that compelling circumstances exist justifying the payment of a claim beyond the five-year limit.

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SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2372

STATE OF NEW JERSEY

DATED: OCTOBER 7, 2010

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 2372.

This bill establishes an exception to the five-year limitation on payments of claims to victims by the Victims of Crime Compensation Office.

Under current law, a victim's claim for compensation expires five years after an initial determination order is made by the Victims of Crime Compensation Office. This bill would allow the office to continue making payments to a victim if the office determines that compelling circumstances exist justifying the payment of a claim beyond the five-year limit.

According to the sponsor, this bill is needed to assist victims who have legitimate reasons to require services beyond five years. For example, a victim who received mental health counseling during an initial trial against the defendant was denied further counseling during a retrial because the new trial occurred more than five years after the victim received counseling during the first trial. Under this bill, the office would have discretion to award payments beyond the five-year limitation in such cases.

As reported by the committee, this bill is identical to Senate Bill No.1893, which also was reported by the committee on this date.

SENATE, No. 1893

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 13, 2010

Sponsored by:

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senator Madden

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STATEMENT

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49 Compensation Office.

S1893 VAN DREW, GIRGENTI

4

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