



# Crime Victim Services

Rule Revision 2012

**Recommendation Summary  
& Draft Rule Language**

# ARIZONA CRIMINAL JUSTICE COMMISSION



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# ARIZONA CRIMINAL JUSTICE COMMISSION



## Crime Victim Services Rule Revision 2012

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## Rule Revision Process Summary

At the January 2012 meeting the Commission approved opening rulemaking dockets for the Crime Victim Assistance Grant Program and the Crime Victim Compensation Program. On March 30<sup>th</sup> those dockets were opened with the Secretary of State's Office giving ACJC one year to complete rules promulgation for these programs. With the dockets open ACJC Victim Services program staff began to collect feedback from stakeholders on recommended rule changes.

Starting in February 2012 a work group of county compensation program coordinators began monthly meetings with ACJC program staff to review and make suggestions on the compensation program rules. The Arizona Coalition for Victim Services (ACVS) formed a sub-committee for the similar purpose of drafting recommendations on proposed rule changes. The ACVS recommendations were approved at the meeting held on March 21<sup>st</sup>.

The first week in April ACJC program staff conducted regional meetings in Phoenix, Flagstaff, and Tucson to solicit feedback from County compensation program board members, members of the victim service community, and concerned members of the general public. Compensation board members from nine different counties participated and provided feedback. Agency representatives attended from the Arizona Coalition Against Domestic Violence, Mothers Against Drunk Driving, Homicide Survivors, and many others. Additionally, several victims and members of the public shared their stories about dealing with the compensation program. Each of these meetings were very well attended and resulted in many valuable recommendations.

On June 4, 2012 a summary of the proposed rule changes and the draft language of the rules were made available to Commission members, county compensation program staff, county compensation board members, victim service providers across the state, and those who attended one of the three regional feedback meetings. ACJC program staff provided an online survey to collect comments and feedback on the draft language of the rules. A total of 28 survey responses were collected by the end of the three week review period. The feedback and recommendations from the online survey and additional comments provided over the phone and through email have been incorporated into the draft language of the rules where appropriate.

Once the Commission approves the draft language of the rules, the next steps focus on moving that language through the Governor's Regulatory Review Council (GRRC) approval process along the following timeline:

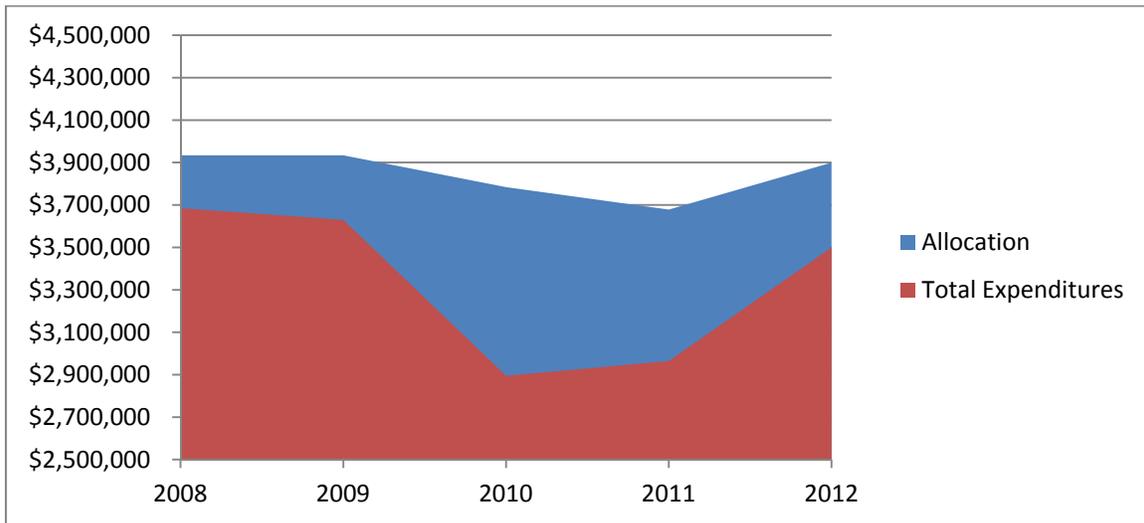
<b>Time Frame</b>	<b>Rulemaking Activity</b>
<b>Jul. 2012</b>	Commission approves drafts of proposed rules for both the compensation program and the assistance program.
<b>Aug. 2012</b>	Notice of proposed rulemaking filed with the Secretary of State in the Arizona Administrative Register.
<b>Sep. 2012</b>	Public comment / oral proceeding / Submit rules to Governor's Regulatory Review Council (GRRC)
<b>Dec. 2012</b>	Rules on agenda for GRRC meeting.
<b>Feb. 2013</b>	New rules for compensation program and assistance program take effect.

## Victim Compensation and Assistance Fund Status

The rule change recommendations attempt to strike a balance between addressing the needs of victims and the victim services community with the availability of program funding. The following is a high-level analysis of how available funding and annual program expenditures influenced rule revisions for the Crime Victim Compensation Program and the Crime Victim Assistance Grant Program. Historically, program allocations are made just under revenue projections for the fiscal year.

### *Crime Victim Compensation Program*

The rule revision recommendations for the Crime Victim Compensation Program are intended to bring actual annual benefit and administrative expenditures closer to the total dollar amount allocated to the program each year. The following table illustrates the historic gap between the total allocation for the compensation program and actual program expenditures:



The total allocation for the crime victim compensation program was increased by \$200,000 to a total of \$4.1 million dollars for fiscal year 2013. While there has historically been an average of \$500,000 between the annual allocation and actual expenditures, during fiscal year 2012 the compensation program was much more successful in spending allocated funds. Because of this, expanding benefits must be done selectively to meet the most urgent needs in the community while staying within the limits of available funding.

### *Crime Victim Assistance Grant Program*

As illustrated in the table below, the crime victim assistance grant program has historically spent nearly all allocated funding each fiscal year. Because of this the crime victim assistance grant program cannot accommodate any expansion at this time. In fiscal year 2011 the program size was reduced by \$280,000 because of decreased revenue and legislative fund sweeps, further limiting future expansion of the program.

	2008	2009	2010	2011	2012
Beginning Balance	\$ 983,014	\$ 857,858	\$ 682,071	\$ 498,914	\$ 314,696
Revenue	\$ 1,053,707	\$ 1,073,230	\$ 1,084,825	\$ 806,890	\$ 1,248,894
TOTAL AVAILABLE	\$ 2,036,721	\$ 1,931,088	\$ 1,766,896	\$ 1,305,804	\$ 1,563,590
Allocation	\$ 1,300,000	\$ 1,300,000	\$ 1,300,000	\$ 1,020,000	\$ 1,020,000

## **Rule Revision Summary Tables**

Tables VS1 and VS2 on the following pages summarize the changes found in the draft language of the rules. Each recommended change has been given an identifying number followed by a brief description. Reference numbers included in italicized parenthesis following the description text point to the related section in the draft language of the rules. In the "Annual Cost Impact" column and the "Administrative Impact" column, ACJC program staff estimates how the recommended changes impact program expenditures and workload. The "Comments" column includes any additional information and a point value indicating how the recommendation scored on the feedback survey. A top score of 5 indicated a "very satisfied" response to the recommendation.

**TABLE VS1: Proposed Rule Changes Crime Victim Compensation Program**

**(Overall Survey Score: 4.36)**

***Expansion of Benefits***

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
1	Increase the total claim maximum award from \$20,000 to \$25,000 (108.D.1)	Estimated increase of \$265,000 per/yr	Minimal	Estimated that statewide 53 claims reach the claim maximum per year.  (Survey Score: 4.71)
2	Expands crime scene cleanup benefits by:			
2a	Including aggravated assaults and sexual assaults as eligible crime types in addition to homicides (108.C.5)	Significant increase	Significant	190 eligible claims per year; 116 more than homicide alone  (Survey Score: 4.89)
2b	Adding only the repair or replacement of exterior locks, windows, and doors as eligible expenses (101.8.b)	Moderate increase	Moderate	Eligible as a crime scene cleanup expense only.  (Survey Score: 4.64)
2c	Clarifying the victimization must occur in a residence or on the associated property (101.8.a-b)	Minimal increase	Minimal	This is a clarifying change
2d	Changing "blood" to "bodily fluids" in the definition (101.8.a)	No cost impact	None	This is a clarifying change
3	Increase the crime scene cleanup maximum to \$2,000 (108.D.6)	Significant increase. \$380,000 annually if all eligible claims from 2a receive max award.	Moderate	There is little expenditure history for crime scene cleanup to predict how the collected changes will impact annual expenditures. For FY 2011 statewide crime scene cleanup expenditures totaled \$5,295.  (Survey Score: 4.75)

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
3a	\$500 of the maximum for services not provided by a professional to cover supplies and materials costs for one-time use items only (108.D.6)	Moderate increase	Moderate	Claimants who were unable to access a professional service would now be eligible for a limited benefit.  (Survey Score: 4.63)
4	Add a benefit category for reimbursement of transportation costs with a \$1,500 maximum (108.D.7) related to:	Moderate increase	Moderate	The new transportation cost categories (attending court, forensic exam, and victim safety) will generate additional expenses. However, limiting medical and mental health travel costs to the new maximum could result in a cost savings.  (Survey Score: 4.36)
4a	Obtaining medical care (108.C.6.a)	Mixed impact	No change	Allowed under current program rules as a medical expense.
4b	Obtaining mental health counseling and care (108.C.6.b)	Mixed impact	No change	Allowed under current program rules as a mental health expense.
4c	Attending a court proceeding directly related to the incident of criminally injurious conduct that is the subject of the claim (108.C.6.c)	Minimal increase	Minimal	This benefit should coincide with work loss benefits to attend court and could use the same substantiation process.
4d	Obtaining a sexual-assault forensic examination or sexual-assault forensic interview (108.C.6.d)	Average of 100 sexual assault related claims / yr.	Minimal	None
4e	A substantiated threat to the safety or well-being of a victim or derivative victim (108.C.6.e)	Average of 153 DV related claims / yr.	Significant	None
5	Increase the funeral maximum award from \$5,000 to \$7,500 (108.D.5)	Estimated cost increase of \$187,500 per / yr.	Minimal	(Survey Score: 4.71)

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
6	Increase the emergency award maximum from \$500 to \$1,000 (111.B)	No cost impact.	None	An emergency award is an advance on a payment that would have been made on the claim regardless.  (Survey Score: 4.71)
7	Allow work loss benefits to be paid at an hourly rate above the minimum wage standard (108.D.3.a-d)	Minimal	None	This is allowed under the current interpretation of existing program rules. This is a clarifying change.

### ***Eligibility Requirements***

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
8	For victims who are deceased, waives the eligibility requirement that a victim cannot be delinquent in paying a state ordered fine, monetary penalty, or restitution (106.C)	Estimated cost increase of \$250,000 per / yr.	Estimated 54 more eligible claims a year statewide	(Survey Score: 4.00)
9	For parents or guardians of a minor victim, waives the eligibility requirement that a claimant cannot be delinquent in paying a state ordered fine, monetary penalty, or restitution. (106.D.1)	Minimal	Minimal	Applicable categories may include limited work loss, travel, and counseling.  (Survey Score: 4.14)
10	For a claimant covering funeral expenses, waives the eligibility requirement that a claimant cannot be delinquent in paying a state ordered fine, monetary penalty, or restitution. (106.D.2)	Minimal	Minimal	(Survey Score: 4.14)

### ***Compensation Board Members***

<b>ID #</b>	<b>Description</b>	<b>Annual Cost Impact</b>	<b>Administrative Impact</b>	<b>Comments (Survey Score of 5 Max)</b>
11	Establish a term of service for board members and states they may be reappointed (105.B)	None	No change	This was never directly stated in the rules.
12	Add a training requirement for newly appointed board members (105.J)	None	Moderate	The Commission would approve training coursework for new board members.  (Survey Score: 4.71)
13	Add a training requirement for reappointed board members (105.K)	None	Moderate	The Commission would approve training coursework for reappointed board members.  (Survey Score: 4.43)
14	Add an attendance requirement for board members (105.L)	None	Minimal	(Survey Score: 4.68)
15	States that staff of the operational unit may not serve as a board member (105.I)	None	None	Allows the board and its decisions to be independent from any perceived influence of the operational unit.  (Survey Score: 4.37)

### ***State-level Claim Review***

<b>ID #</b>	<b>Description</b>	<b>Annual Cost Impact</b>	<b>Administrative Impact</b>	<b>Comments (Survey Score of 5 Max)</b>
16	If a county board upholds a reduction or denial after a rehearing the claimant may request a state-level claim review (110.C)	Minimal	Minimal	(Survey Score: 4.14)

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
17	Members of the State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. Members shall include the ACJC Crime Victim Services Program Manager, a representative of the Attorney General's Office, and a Victim Compensation Board Chair from an operational unit that is not the operational unit originally hearing the claim. (110.A)	Minimal for ACJC	Moderate for ACJC	(Survey Score: 4.18)
18	No new or additional information may be presented at state-level claim reviews. The panel will only review whether or not the decision by the county board was or was not allowable under program rules. (110.E)	No impact	Moderate	This process recognizes the varying priorities boards across the state place on different aspects of the rules. It is not intended as an opportunity for ACJC to provide a State level opinion on rule prioritization or interpretation.  (Survey Score: 4.00)
19	If the Panel overturns a decision made by a Board related to eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim. (110.G.1)	Costs related to a previously denied claim now being approved.	Moderate	Overturning a decision related to eligibility does not give blanket approval to all expenses related to that claim. Each request must be considered independently.
20	If the Panel overturns a decision made by a Board related to an economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit. (110.G.2)	Costs related to a previously denied expenditure now being approved.	Moderate	Overturning a decision related to a specific economic loss does not give blanket approval to all expenses related to that claim. Each request must be considered independently.

## Clarifying and Technical Changes

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
21	Clarify that a collateral source of compensation must be accessible to a claimant (101.4)	None	None	This is a clarifying change
22	Clarify that insurance proceeds are a collateral source of compensation only if payable to cover a specific compensable cost (101.4.g)	Minimal	None	This prevents the compensation program from including as a collateral source insurance proceeds that do not have defined cost coverage, such as life insurance.  (Survey Score: 4.25)
23	Clarify that criminally injurious conduct exists regardless of whether a perpetrator is apprehended or charged (101.9.a)	None	None	This is a clarifying change
24	Deletes the requirement that mental distress be extreme (Throughout)	None	None	Stakeholder feedback suggested that the word "extreme" was very subjective.
25	Allows an operational unit to serve more than one county (Primarily 104)	Could shift fund allocation amounts from one OU to another.	Could shift claim workload from one OU to another.	In several instances the current rules rely on ACJC program staff as a backup to process claims. This recommendation would allow another operational unit to act as a primary backup in those instances with ACJC as a secondary backup.  (Survey Score: 3.68) The majority of responses were "Neutral"
26	Amends the formula used to distribute funds to each operational unit to include the operational unit's share of crime (102.C.4)	Would not affect the overall statewide allocation.	None.	Adding crime rate as a variable in the allocation formula should accommodate an allocation formula that is able to better forecast demand.  (Survey Score: 4.14)

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
27	Clarifies that an agency that serves as an operational unit is required to forward to the Board a claim made by an Arizona residence relating to conduct occurring outside of Arizona in an area without a crime victim compensation program (104.B.2.c)	None	None	This is a clarifying change, creating consistency between this section and (106.A.1.b)
28	Clarifies to what degree a victim's conduct must contribute to the victimization to result in a reduction or denial (108.F.3)	None	None	Institutes a higher standard of contribution and attempts to better correlate the victim's actions to the resulting crime  (Survey Score: 3.93) This recommendation was changed in response to survey feedback.
29	Defines "Proximate cause" (101.26)	None	None	None
30	Removes all social security numbers from the victim compensation application (107.D.1.f, 107.D.2.f)	None	None	SSN is not necessary to process a claim
31	Defines "Total and permanent disability" (101.30)	None	None	None
32	Allows county boards to approve a lump sum or periodic payments for claimants who are totally and permanently disabled as a result of the victimization (108.E)	Possible short term expenditure increase, but no long term impact	Should positively impact program workload by reducing the amount of time until a claim reaches the maximum	These payouts should only occur for claims that would have eventually reached the maximum award  (Survey Score: 4.43)
33	Substantiating a claim for total and permanent disability requires a letter from a doctor or counselor (107.E.2.b.ii)	None	Could be a reduction in workload trading one letter for numerous bills and invoices	None
34	Defines "Transportation cost" (101.31)	None	None	None

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
35	Includes additional persons defined under "derivative victim" as eligible to receive loss of support payments (108.C.2.c)	Minimal Increase	Minimal	Language was duplicative of derivative victim definition. Revision removes duplicative language and references the definition.  (Survey Score: 4.27)
36	Operational units have 10 days instead of 5 to notify claimants of the board's decision (108.A)	None	None	Recommendation makes the notification period consistent throughout the rules.  (Survey Score: 4.25)

**TABLE VS2: Proposed Rule Changes Crime Victim Assistance Grant Program**

**(Overall Survey Score: 4.15)**

ID #	Description	Annual Cost Impact	Administrative Impact	Comments (Survey Score of 5 Max)
1	Makes application availability timeframe match the availability period included in A.R.S § 41.2407 (202.C)	None	None	None
2	Clarifying changes (204.A.2.c), (204.C.1), (204.C.7)	None	None	None

**TITLE 10. LAW**

**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**

**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-105. Crime Victim Compensation Board
- R10-4-106. Prerequisites for a Compensation Award
- R10-4-107. Submitting a Claim
- R10-4-108. Compensation Award Criteria
- R10-4-109. Hearing; Request for Rehearing ~~or Review~~
- R10-4-110. State-level Claim Review
- ~~R10-4-110.~~ R10-4-111. Emergency Compensation Award

**ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Grant Eligibility Requirements
- R10-4-204. Services

## ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

### R10-4-101. Definitions

In this Article:

1. “Board” means the Crime Victim Compensation Board of an operational unit.
2. “Claim” means an application for compensation submitted under this Article.
3. “Claimant” means a natural person who files a claim.
4. “Collateral source” means a source of compensation for economic loss that a claimant received or is ~~available~~ accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
  - a. The perpetrator or a third party responsible for the perpetrator’s actions;
  - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
    - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
    - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
  - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
  - d. State-required, insurance for a temporary, ~~nonoccupational~~ non-occupational disability;
  - e. Worker’s compensation insurance;
  - f. Wage continuation program of any employer;
  - g. Insurance proceeds payable ~~for loss~~ to cover a specific compensable cost due to criminally injurious conduct or an act of international terrorism;
  - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
  - i. A gift, devise, or bequest to cover a specific compensable cost.
5. “Commission” means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. “Compensable cost” means an economic loss for which a compensation award is allowed under this Article.
7. “Compensation award” means a payment made to a claimant under the standards at R10-4-108.
8. “Crime scene cleanup expense” means the reasonable and customary cost for: ~~a professional service to remove or attempt to remove blood~~
  - a. Removing or attempting to remove of bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct occurring ~~in~~ within a residence or the surrounding curtilage;
  - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct occurring within a residence or the surrounding curtilage.
9. “Criminally injurious conduct” means conduct that:

- a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
  - b. Poses a substantial threat of physical injury, ~~extreme~~ mental distress, or death; and
  - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. “Derivative victim” means:
- a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
  - b. A child born to a victim after the victim’s death;
  - c. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
  - d. A member of the victim’s family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct;
  - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
  - f. A natural person whose own mental health counseling and care or presence during the victim’s mental health counseling and care is required for the successful treatment of the victim.
11. “Durable medical equipment” means an appliance, apparatus, device, or product that:
- a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
  - b. Improves the function of an injured body part or delays deterioration of a patient’s physical condition;
  - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
  - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. “Economic loss” means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
- ~~13. “Extreme mental distress” means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.~~
- ~~14.~~13. “Fund” means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
- ~~15.~~14. “Funeral expense” means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim’s funeral, cremation, Native American ceremony, or burial.

- ~~16-15.~~ “Good cause” means a reason that the Board determines is substantial enough to afford a legal excuse.
- ~~17-16.~~ “Inactive claim” means a claim for which no compensation award is made for 12 consecutive months.
- ~~18-17.~~ “Incident of criminally injurious conduct” means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~19-18.~~ “International terrorism” has the meaning prescribed in 18 U.S.C. 2331.
- ~~20-19.~~ “Jurisdiction” means any county in this state.
- ~~21-20.~~ “Medical expense” means a reasonable and customary cost for medical care provided to a victim due to a physical injury or medical condition that is a direct result of criminally injurious conduct or an act of international terrorism.
21. “Mental distress” means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
22. “Mental health counseling and care expense” means a reasonable and customary cost to assess, diagnose, and treat a victim’s or derivative victim’s ~~extreme~~ mental distress resulting from criminally injurious conduct or an act of international terrorism.
23. “Minimum wage standard” means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
24. “Operational unit” means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
25. “Program” means the Crime Victim Compensation Program.
26. “Proximate cause” means an event sufficiently related to criminally injurious conduct to be held the cause of the criminally injurious conduct.
- ~~26-27.~~ “Reasonable and customary” means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~27-28.~~ “Resident” means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
- ~~28-29.~~ “Subrogation” means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
30. “Total and permanent disability” means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct and:
- a. Produces a significant and sustained reduction in the victim’s former mental or physical abilities dramatically altering the victim’s ability to interact with others and carry on normal functions of life;

- b. Lessens the victim's ability to work to a material degree; or
- c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.

31. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:

- a. Mileage, calculated at the rate established by:
  - i. The operational unit, or
  - ii. The state if the operational unit has not established a mileage rate;
- b. Fare expenses; and
- c. Vehicle rental at the cost specified in the rental agreement.

~~29.~~32. "Victim" means a natural person who suffers a physical injury or medical condition, ~~extreme~~ mental distress, or death as a direct result of:

- a. Criminally injurious conduct,
- b. An act of international terrorism,
- c. The person's good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
- d. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.

~~30.~~33. "Work loss" means a reduction in income from:

- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
- b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

**R10-4-102. Administration of the Fund**

- A. The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a claimant.
- B. The Commission shall designate one operational unit ~~in~~ for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a formula that the Commission determines annually using:
  - 1. A ~~uniform~~ base amount for each operational unit,
  - 2. An analysis of the prior year's ~~expenditure~~ claim activity, ~~and~~
  - 3. The share of population of each jurisdiction, and
  - 4. The share of crime of each jurisdiction.

- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes ~~the~~ an operational unit ~~in~~ for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall ~~allow a claimant from that jurisdiction to apply directly to the Commission for a compensation award. The Commission will determine whether to~~ designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

**R10-4-103. Statewide Operation**

For any ~~portion of the state~~ jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article or provide for a program by contract.

**R10-4-104. Operational Unit Requirements**

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
  1. Only if the public or private agency agrees not to:
    - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
    - b. Make a distinction between a resident and a non-resident in evaluating a claim; and

- c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
2. Only if the public or private agency agrees to:
- a. Forward to the Board a claim relating to an incident of criminally injurious conduct or an act of international terrorism occurring in the public or private agency's jurisdiction or jurisdictions;
  - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
  - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring outside of Arizona in an area without a crime compensation program;
  - ~~e.d.~~ Notify the Commission of any change in the public or private agency's program procedures before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
  - ~~d.e.~~ Submit a written quarterly financial report to the Commission, on a form provided by the Commission, and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
  - ~~e.f.~~ Provide an application form to a claimant;
  - ~~f.g.~~ Comply with all civil rights requirements;
  - ~~g.h.~~ Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
  - ~~h.i.~~ Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

**R10-4-105. Crime Victim Compensation Board**

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.

**B.** Board members serve a three-year term and are eligible for reappointment.

**B.C.** When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.

**C.D.** When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.

**D.E.** A majority of the Board membership constitutes a quorum that may transact the business of the Board.

**E.F.** The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.

**F.G.** The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.

**G.H.** As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.

**I.** An employee of an operational unit shall not serve as a Board member.

**J.** A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.

**K.** A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.

**L.** A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

#### **R10-4-106. Prerequisites for a Compensation Award**

**A.** The Board shall make a compensation award only if it determines that:

1. Criminally injurious conduct or an act of international terrorism:
  - a. Occurred in Arizona; or
  - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
3. The victim of the criminally injurious conduct or act of international terrorism or a person who submits a claim regarding criminally injurious conduct or an act of international terrorism was not:

- a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, ~~extreme~~ mental distress, medical condition, or death;
  - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
  - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement authority within 72 hours after its discovery;
  5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
  6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
  7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.
- C.** If a victim died as a result of criminally injurious conduct, the requirement under subsection (A)(3)(e) is waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
- D.** If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsection (A)(3)(e), the requirement under subsection (A)(3)(e) may be waived for:
1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious conduct or an act of international terrorism, or
  2. A compensation award for expenses under R10-4-108(C)(3).

**R10-4-107. Submitting a Claim**

**A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:

1. A victim;
2. A derivative victim;
3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.

~~**B.** An operational unit shall not accept a claim from a person who is:~~

- ~~1. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~2. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~3. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;~~
- ~~4. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or~~
- ~~5. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.~~

~~**C.B.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.~~

~~**D.C.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.~~

~~**E.D.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit ~~in~~ for the jurisdiction in which the incident of criminally injurious conduct occurred or ~~in the county and state~~ to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct is an act of international~~

terrorism ~~lives~~ or occurred in an area without a victim compensation program. The claimant shall provide the following:

1. About the victim:
  - a. Full name,
  - b. Residential address,
  - c. Gender,
  - d. Date of birth,
  - e. Residential and work telephone numbers,
  - f. ~~Social Security number,~~
  - ~~g.f.~~ Statement of whether the victim is deceased,
  - ~~h.g.~~ Ethnicity,
  - ~~i.h.~~ Statement of whether the victim is a resident, and
  - ~~j.i.~~ Statement of whether the victim is disabled;
2. About the claimant if the claimant is not the victim:
  - a. Full name;
  - b. Residential address;
  - c. Gender;
  - d. Date of birth;
  - e. Residential and work telephone numbers;
  - f. ~~Social Security number;~~
  - ~~g.f.~~ Relationship to the victim; and
  - ~~h.g.~~ If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, ~~Social Security number~~, and date of birth of each, and for derivative victims, the relationship to the victim;
3. About the crime:
  - a. Type of crime;
  - b. Statement of whether the crime was related to domestic violence;
  - c. Statement of whether the crime was a federal crime;
  - d. Date on which crime was committed;
  - e. Date on which crime was reported to law enforcement authorities;
  - f. Name of law enforcement agency to which the crime was reported;
  - g. Name of law enforcement officer to whom the crime was reported;
  - h. Law enforcement report number;
  - i. Location of crime;

- j. Name of perpetrator, if known; and
  - k. Brief description of the crime and resulting injuries;
4. About a civil lawsuit:
    - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
    - b. If the answer to subsection ~~(E)(4)(a)~~ (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
  5. About benefits from collateral sources:
    - a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
    - b. For each benefit identified:
      - i. Type of benefit,
      - ii. Contact address and telephone number; and
      - iii. Claimant's identification or policy number;
  6. About the economic loss for which compensation is requested:
    - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for medical care, the date and mileage of each trip;~~
    - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider, ~~and if mileage is claimed for mental health counseling and care, the date and mileage of each trip;~~
    - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
    - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
    - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid; ~~and~~
    - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
  7. The claimant's dated signature:

- a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
- b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
- c. Authorizing the release of confidential information necessary to administer the claim; and
- d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct or act of international terrorism and is necessary to verify the claim.

**F.E.** A claimant shall attach the following to the claim form submitted under subsection ~~(E)~~ (D):

1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection ~~(E)(6)~~ (D)(6); and
2. If work loss expenses are claimed, a signed statement on official letterhead:
  - a. From the claimant's employer verifying the information provided under subsection ~~(E)(6)(c)~~ (D)(6)(c); and
  - b. If applicable, from the physician or mental health care provider indicating ~~that~~ the claimant:
    - i. was Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
    - ii. Is totally and permanently disabled.

**R10-4-108. Compensation Award Criteria**

- A.** The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, whether to make a compensation award and if so, the terms and amount of the compensation award. The Board shall make a decision within 60 days after the operational unit receives a claim under R10-4-107 unless good cause exists. The Board shall inform the claimant in writing within ~~five~~ 10 days of the Board's decision.
- B.** The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C.** The Board shall make a compensation award only for the following:
  1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, or death.
    - a. The Board shall include the following as a medical expense:
      - i. Repair of damage to a prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
      - ii. Durable medical equipment; ~~and~~

- ~~iii. Reasonable transportation costs related to obtaining medical care.~~
  - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;
2. Reasonable and customary work loss expenses for:
- a. A victim whose ability to work is reduced due to physical injury, ~~extreme~~ mental distress, or medical condition resulting from the criminally injurious conduct or act of international terrorism;
  - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;
  - c. A ~~deceased victim's spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the ~~spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild~~ derivative victim listed in R10-4-101(10)(a) through (c);
  - d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;
  - e. A derivative victim to make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
  - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
3. Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's ~~extreme~~ mental distress resulting from the criminally injurious conduct or act of international terrorism if:
- a. The mental health counseling and care is provided by an individual who:
    - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
    - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
    - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
    - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and

- b. The mental health counseling and care expenses:
  - i. ~~Include only reasonable costs of transportation related to obtaining the mental health counseling and care; and~~
  - ii. ~~Do~~ do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary; ~~and~~
- 5. Reasonable and customary crime scene cleanup expenses due to a victim's ~~death from criminally injurious conduct in a residence~~ homicide, aggravated assault, or sexual assault; and
- 6. Reasonable and customary transportation costs related to:
  - a. Obtaining medical care as defined in subsection (C)(1).
  - b. Obtaining mental health counseling and care as defined in subsection (C)(4).
  - c. Attending a court proceeding directly related to the incident of criminally injurious conduct that is the subject of the claim.
  - d. The victim obtaining a sexual-assault forensic examination or participating in a sexual-assault forensic interview, and
  - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).

**D.** The Board shall not make a compensation award to a claimant that exceeds:

- 1. ~~Twenty-five thousand dollars for all economic loss sustained by the claimant submitted under a claim~~ as a result of an incident of criminally injurious conduct or act of international terrorism;
- 2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
- 3. For work loss expenses:
  - a. Work loss expenses under subsections (C)(2)(a) and (C)(2)(c) are limited to an amount per calendar week equal to 40 hours ~~per week~~ at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
  - b. Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to an amount per calendar month equal to 40 hours ~~per month~~ at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
  - c. Work loss expenses under subsection (C)(2)(e) are limited to an amount equal to 24 hours at the current minimum wage, and
  - d. Work loss expenses under subsection (C)(2)(f) are limited to an amount equal to 160 ~~40~~ hours ~~per week~~ at the current minimum wage ~~to a maximum of 160 hours~~;
- 4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;

5. For funeral expenses, ~~\$5,000~~ \$7,500; and
6. For crime scene cleanup expenses, ~~\$1,000~~. \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and
7. For transportation costs, \$1,500 paid as reimbursement of actual transportation expenses.

**E.** If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.

**F.** The Board shall deny or reduce a compensation award to a claimant if:

1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
3. The Board determines that the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death was due in substantial part to the victim's:
  - a. Negligence,
  - b. Intentional unlawful conduct ~~that occurred at the time of the incident of criminally injurious conduct~~ that was the proximate cause of the incident of criminally injurious conduct, or
  - c. Conduct ~~that intentionally intended to provoke~~ provoked or ~~aggravated~~ aggravate that was the proximate cause of the incident of criminally injurious conduct.

**F.G.** The Board shall deny or reduce a compensation award under subsection ~~(E)(3)~~ (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, ~~extreme~~ mental distress, or death.

**G.H.** The Board shall deny a compensation award to a claimant if:

1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
  - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;

- b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was negatively affected; or
  - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; or
2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.

**H.I.** If there are insufficient funds to make a compensation award, the Board may;

1. Deny the claim,
2. Make a partial award and reconsider the claim later during the fiscal year, or
3. Extend the claim into a subsequent fiscal year.

**I.J.** The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.

**J.K.** The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

**K.L.** The operational unit may close an inactive claim:

1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case;
- and
3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

**R10-4-109. Hearing; Request for Rehearing ~~or Review~~**

**A.** ~~The~~ If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article ~~if:~~

- ~~1. The Board determines that a hearing will enable it to evaluate the claim and make a proper decision; or~~
- ~~2. A claimant appeals a decision made by the Board without a hearing. A claimant who wishes to have a hearing shall submit to the Board a written request within 30 days after receiving notice of the Board's decision stating the basis for the request.~~

**B.** The Board shall provide a claimant with at least ~~30 days~~ 10 days' notice of a hearing ~~and due process or rehearing.~~

**C.** The Board shall ~~serve any~~ provide written notice ~~required under this Section by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon~~

~~personal service or within five days after mailing by certified mail of its decision to the claimant within 10 days after a hearing or rehearing.~~

**D.** The Board shall ~~provide written~~ serve notice of its ~~decision to the claimant within 20 days after a hearing a compensation award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.~~

**E.** The Board may request a rehearing of a decision at any time and for any reason under this Article.

**~~E.F.~~** A claimant who is aggrieved by a decision of the Board made ~~after~~ at a hearing may request a rehearing ~~or review~~ of the decision within 30 days after the Board serves notice of the decision. A claimant shall request ~~for a rehearing or review~~ in writing and specify the grounds for the request.

**~~F.G.~~** A claimant may amend a request for a rehearing ~~or review~~ of a Board decision at any time before it is ruled on by the Board.

**~~G.H.~~** The Board may require additional written explanation of an issue raised in a request for rehearing ~~or review~~ of a Board decision and may provide for oral argument.

**~~H.I.~~** The Board ~~may~~ shall grant a rehearing ~~or review~~ for any of the following reasons materially affecting a claimant's rights:

1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
2. Misconduct of the Board, the operational unit, or staff of the operational unit;
3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
5. The decision is not justified by the evidence or is contrary to law.

**J.** When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.

**~~I.K.~~** The Board may affirm or modify a decision ~~or grant a rehearing to the claimant~~ on all or part of the issues for any of the reasons listed in subsection ~~(H)~~ (I). An order ~~granting a rehearing or~~ modifying a decision shall specify with particularity the grounds for the order. ~~If a rehearing is granted, the rehearing shall cover only the matters specified in the order.~~

**~~J.~~** ~~Not later than 30 days after the date of a decision and after giving the claimant notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a hearing on a request by a claimant. The Board may grant a request for a rehearing or review for a reason not stated in the request. An order granting a rehearing or review shall specify with particularity the grounds on which the hearing or review is granted.~~

**R10-4-110. State-level Claim Review**

- A.** The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
  2. A representative of the Office of the Attorney General, and
  3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- B.** The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 days after receiving the written request required under subsection (C).
- C.** A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- D.** A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E.** When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
1. Considers only evidence previously presented to the Board, and
  2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F.** The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G.** A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
  2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H.** The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 days after the state-level claim review.

**R10-4-110. R10-4-111 Emergency Compensation Award**

- A.** After receiving a claim submitted under R10-4-107, an operational unit may grant ~~an~~ one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and

2. Serious hardship will result to the person if an immediate compensation award is not made.
- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed ~~\$500~~ \$1,000.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

## **ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

### **R10-4-201. Definitions**

In this Article:

1. “Commission” means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. “Crime” means conduct, completed or preparatory, committed in Arizona, that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. “Financial support from other sources” means that at least one-fourth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. “Fund” means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. “Immediate family” means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. “In-kind contribution” means a non-cash donation to which a cash value can be given.
7. “Subrogation” means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
8. “Substantial financial support from other sources” means that at least half of the financial support to a victim assistance program is from sources other than the Fund.
9. “Victim” means a natural person against whom a crime is perpetrated and the victim’s immediate family.

### **R10-4-202. Administration of the Fund**

- A.** The Commission shall deposit in the Fund all funds received under A.R.S. §§ 31-466(A) and 31-411(F) and any other funds received for victim assistance.
- B.** The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution and effective and efficient use of the funds.

- C. At least ~~two months~~ six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is [www.azcjc.gov](http://www.azcjc.gov).
- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

**R10-4-203. Grant Eligibility Requirements**

- A. A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- B. A public agency or private nonprofit organization qualified under subsection (A) may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a program that:
  - 1. Provides services described in R10-4-204 to victims;
  - 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;
  - 3. Uses volunteers effectively and efficiently to provide victim services;
  - 4. Promotes coordinated public and private efforts to assist victims within the community served;
  - 5. Assists a victim in seeking available victim compensation benefits; and
  - 6. Complies with all applicable civil rights laws.
- C. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for at least three years shall demonstrate to the Commission that the program:
  - 1. Has substantial financial support from a source other than the Fund; and
  - 2. Has a history of providing effective services to victims. The Commission shall determine whether the program's victim services are effective based on:
    - a. The length of time the program has provided victim services, and
    - b. Whether data indicate program results are achieved in a cost-effective manner.
- D. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for fewer than three years shall demonstrate to the Commission that the program:

1. Has financial support from a source other than the Fund; and
  2. Is designed to meet a currently unmet need for a specific victim service.
- E.** To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
1. Submit to the Commission quarterly financial reports, on a form provided by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
  2. Submit an annual report to the Commission, on a form provided by the Commission, and provide the following information:
    - a. Number of victims served by type of crime during the reporting period;
    - b. Type of services provided;
    - c. Number of times each service was provided;
    - d. Ethnic background, age, and sex of each victim served;
    - e. Number and type of assistance provided to victims in obtaining victim compensation; and
    - f. A narrative assessment of the impact of Commission funds on the program.

**R10-4-204. Services**

- A.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services:
1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;
  2. Emergency services including:
    - a. Temporary shelter for a victim who cannot safely remain in current lodgings;
    - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; and
    - c. Temporary repairs such as locks and windows damaged as a result of a crime to prevent the ~~immediate re-burglarization of a home or apartment~~ from being re-burglarized immediately;
  3. Support services, including:
    - a. Counseling dealing with the effects of victimization;
    - b. Assistance dealing with other social services and criminal justice agencies;
    - c. Assistance in obtaining the return of property kept as evidence;
    - d. Assistance in dealing with the victim's landlord or employer; and
    - e. Referral to other sources of assistance as needed;
  4. Court-related services, including:
    - a. Direct services or petty cash that helps a victim participate in criminal justice proceedings, including transportation to court, child care, meals, and parking expenses; and

- b. Advocate services including escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
  5. Notification services, including notifying a victim:
    - a. Of significant developments in the investigation or adjudication of the case;
    - b. That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and
    - c. Of the final disposition of the case.
- B.** A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to provide:
  1. Training for salaried or volunteer staff of criminal justice, social services, mental health, or related agencies, who provide direct services to victims; and
  2. Printing and distributing brochures or similar announcements describing the direct services available, how to obtain program assistance, and volunteer opportunities.
- C.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
  1. Crime prevention efforts, other than those aimed at providing specific emergency help after a ~~victimization~~ an individual is victimized;
  2. General public relations programs;
  3. Advocacy for a particular legislative or administrative reform;
  4. General criminal justice agency improvement;
  5. A program in which victims are not the primary beneficiaries;
  6. Management training or training for persons who do not provide direct services to a victim; or
  7. Victim Compensation provided under ~~R10-4-101 et seq~~ this Chapter.