



The General Assembly  
State Capitol  
Atlanta

TO: THE GOVERNOR, LIEUTENANT GOVERNOR, SPEAKER OF THE  
HOUSE OF REPRESENTATIVES, MEMBERS OF THE GENERAL  
ASSEMBLY OF GEORGIA AND OTHER INTERESTED PERSONS

REPORT OF THE JOINT COMPENSATION  
TO VICTIMS OF CRIME STUDY COMMITTEE

THE COMMITTEE

Honorable Calvin Smyre, Chairman  
Representative, 92nd District

Honorable Robert H. Bell  
Senator, 5th District

Honorable Jack Connell  
Representative, 87th District

Honorable W. D. Ballard  
Senator, 45th District

Honorable Charles Hatcher  
Representative, 131st District

Honorable J. Beverly Langford  
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Ms. Carol Ann Blair  
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Office of Planning and Budget

December 1977

5-8624

The Joint Compensation to Victims of Crime Study Committee was appointed pursuant to the passage of House Resolution 118-513 at the 1977 session of the General Assembly. The Governor, Lieutenant Governor and Speaker of the House of Representatives each appointed three members to the Committee. The Committee was authorized to do all things it deemed necessary to investigate and study the issues and problems related to the feasibility of compensating victims of crime.

At the first meeting, the Committee decided to investigate compensation programs in other states and to hold public hearings in Georgia to determine how the citizens of this State feel about compensating victims of crime.

NCJRS

JUN 15 1979

COMMITTEE FINDINGS

ACQUISITIONS

The victim of a violent crime endures more than just the shock and trauma produced by the criminal act. The victim also faces economic loss brought on by hospital and medical bills and by time lost from work, and in many instances this economic loss is substantial. All too frequently, these crime victims are unable to recoup these economic losses from either private or public sources. Recognizing that many victims of crime suffer considerable economic loss, some 20 states have established programs to compensate people who are injured by criminal acts. The states that presently have crime victim compensation programs are: Alaska, California, Delaware, Hawaii, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Tennessee, Virginia, Washington and Wisconsin.

The crime victim compensation programs in the 20 states have several important characteristics in common. First, they compensate only innocent victims of crime. Second, the programs will pay compensation only if the victim has been physically injured or has died. Third, the programs provide that the state is subrogated, to the extent of any compensation paid to the victim, to any claim that the victim has against the offender as

a result of the crime. Finally, the state programs do not compensate victims for crimes involving property loss, such as stolen cars or television sets. The states do not act as property insurers.

The states' crime victim compensation programs are administered by various agencies. In the majority of the jurisdictions, among them, Alaska, Maryland and New York, the programs are administered by an independent board or commission. In Massachusetts, Rhode Island and a few other states, the programs have been placed under the courts. In Washington, the program is administered together with that state's workmen's compensation plan by the Department of Labor and Industries.

Most of the states' programs for crime victim compensation are funded by appropriations by the legislatures. In Maryland, Delaware and a few other states, additional costs or fines are imposed in certain criminal cases and the monies are used to offset the cost of the compensation program.

After familiarizing itself with crime victim compensation programs in other states, the Committee held public hearings across the State. The Committee found that most citizens were in favor of compensating victims of crime. The Medical Association of Georgia endorsed a crime victims' compensation program and suggested that a doctor should be a member of any commission or other entity established to administer the program. It was pointed out that injury to victims can be physical or mental or both, and the expertise of a doctor would be important.

It was also pointed out in the hearings that persons accused of crimes are assigned attorneys, provided housing and other services, all at the taxpayers' expense. However, the innocent victims of crime rarely receive any type of aid from public funds.

Certain persons were not in favor of a crime victims' compensation program. It was stated at one hearing that people cannot be compensated for the mental anguish of being the victim of a crime. Although those are the people who need help,

monetary value is of no use. A district attorney stated that existing court-ordered restitution programs are adequate, and it is not necessary to create another governmental program which could be too expensive to operate.

The Committee was very much impressed with the restitution program in Georgia. The State received two million dollars in federal funds to initiate a restitution program with certain classes of prisoners. The prisoners were based in four communities. On July 1, 1977, the State assumed all funding of the restitution program. The program has been extremely successful, as evidenced by the opening of a fifth restitution center and by the fact that representatives from other states have been in Georgia to study and monitor our program. The Committee fully supports the restitution program and believes that criminals should compensate their victims whenever possible before public funds are utilized.

The Committee next considered the issues involved in enacting a crime victim compensation law in Georgia. The State Constitution prohibits the General Assembly from making gratuities. Article III, Section VIII, Paragraph XII, subparagraph 1. provides that

"Except as provided in this Constitution, the General Assembly shall not by vote, resolution, or order, grant any donation or gratuity in favor of any person, corporation or association."

One such exception is contained in subparagraph 5. under Paragraph XII. This subparagraph states that

"Notwithstanding any other provisions of this Constitution, the General Assembly is hereby authorized to provide by law for the indemnification with respect to death, personal injury or property damage sustained in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in assisting a peace officer in prevention of a crime or apprehension of a criminal. Such law may provide for the method of payment of such

indemnification and all other matters relative to the purposes herein provided. The General Assembly is hereby authorized to appropriate State funds for the payment of such indemnification and for the purpose of implementing any law as authorized by this paragraph."

Consequently, this provision does authorize crime victim compensation, but only in three specific instances relative to giving aid in the apprehension of a criminal, the so-called "Good Samaritan" law. The General Assembly did enact legislation in 1967 authorizing the Claims Advisory Board to compensate persons pursuant to the provisions of subparagraph 5. To the Committee's knowledge, only one person has ever been compensated.

Due to the language in subparagraph 1. and the narrowness of the language in subparagraph 5., before a general crime victim compensation program could be enacted in Georgia, the State Constitution would have to be amended to authorize the General Assembly to establish such a program. House Resolution 82, presently in the House Judiciary Committee, would authorize the General Assembly to establish such a crime victim compensation program. This Resolution or a similar resolution would have to be passed by the General Assembly during the 1978 session and ratified by the voters at the 1978 General Election in November for there to be any possibility of a crime victim compensation program in the State prior to January 1, 1981; provided, however, that a program using federal funds could be established pursuant to federal law.

If the amendment were to pass, there would still be a number of policy questions which would have to be addressed in establishing a program of compensation. In considering legislation in this area, the Committee discussed the following issues:

- I. Who is eligible
  - a. multiple claims on same crime
  - b. out-of-state crime on State resident
  - c. nonresident of in-state crime
  - d. relations and dependents

- II. Procedures for filing
  - a. time
  - b. correspondence
  - c. general procedure
- III. Who will administer program
  - a. new board
  - b. existing board
  - c. courts
- IV. Requirements of eligibility for recovery
  - a. crimes covered and excluded
  - b. claimant meeting other criteria
  - c. extenuating circumstances (auto, relation, property, contributing to the crime, degree of financial hardship, etc.)
- V. How much to pay
  - a. net financial resources
  - b. limits
    - 1. high - \$10,000.00
    - 2. low - \$100.00
  - c. insurance setoff, etc.
- VI. When to pay
  - a. subrogation
  - b. attorney's fees
  - c. emergencies
  - d. lump sum or in installments
- VII. Board's powers
- VIII. Budget estimates
- IX. Public made aware of program through notification by RX, hospitals, police, etc.
- X. How to fund
  - a. liens
  - b. fines
  - c. restitution
  - d. general or special appropriations
- XI. Connection to any federal funds that may exist
- XII. Appellate rights
- XIII. Penalties for fraud, false swearing, etc.

The Committee also discussed possible federal legislation on this subject matter. H. R. 7010, presently before Congress, authorizes the federal government to subsidize state victim compensation programs that meet federal standards set forth in the bill. Up to 50% of the cost of a state compensation program would be paid by the federal government; up to 100% of the cost of compensating victims of federal crimes occurring within a state could be reimbursed.

The House Bill imposes certain requirements on the state compensation programs. In order to be eligible to receive the federal grants, a state program must meet seven criteria:

(1) compensation must be offered to injured individuals and to surviving dependents or spouses in the case of deaths;

(2) claimants seeking compensation must have the right to a hearing with administrative or judicial review;

(3) claimants must "cooperate with appropriate law enforcement authorities" investigating the crime;

(4) law enforcement officials must make reasonable efforts to inform crime victims of the program;

(5) the state must be legally able to recover from the victim any monies eventually paid to him by the person who committed the crime, up to the amount the state paid to him;

(6) the state may not require victims seeking compensation to take welfare benefits unless they already were recipients of such aid;

(7) the state must deny or reduce any claim where the victim is found to have contributed to the infliction of the death or injury giving rise to the claim.

The bill also excludes certain expenses from the amounts for which the state may seek federal reimbursement, although states are not prohibited from spending their own funds for these purposes:

- (1) administrative expenses;
- (2) awards for "pain and suffering" made to victims;
- (3) awards for property loss, such as compensation for a stolen automobile;
- (4) any single award in excess of \$50,000.00;
- (5) any awards which constitute a "double recovery" by the victim, such as a parallel recovery from insurance or from the person who committed the crime;
- (6) awards of less than \$100.00 and for lost earnings based on the loss of less than five work days;
- (7) any awards in excess of \$200.00 per week for lost earnings;
- (8) any award granted to a victim who filed a claim more than one year after the crime unless the state agency has found "good cause" for the delay;
- (9) any award to a victim who failed to report the crime to police within 72 hours without "good cause."

The Committee certainly feels that State legislation should meet the federal guidelines so that, if and when, a federal law is passed, the State would qualify for federal funds.

#### CONCLUSION

In conclusion, this Committee fully endorses the restitution programs in effect in Georgia and encourages the expansion of such programs wherever feasible.

It is the opinion of this Committee that the citizens of this State want a crime victim compensation program. The citizens should at least have a right to decide by voting on an amendment to the Constitution relative to this matter. Consequently, this Committee recommends the passage of the attached Resolution which amends the Constitution to authorize the General Assembly to establish a crime victim compensation program. The Committee also recommends the passage of the



attached bill which establishes the crime victim compensation program. Of course, this bill would not become effective if the amendment was not ratified at the November 1978 General Election. The Committee is in favor of passing the bill at the 1978 session of the General Assembly so that the voters at the November General Election, at the time of their vote on the amendment, would know how the crime victim compensation program will operate, be administered and be funded.

Respectfully submitted,

FOR THE SENATE

FOR THE HOUSE

/s/ ROBERT H. BELL  
ROBERT H. BELL  
SENATOR, 5TH DISTRICT

/s/ CALVIN SMYRE, CHAIRMAN  
CALVIN SMYRE, CHAIRMAN  
REPRESENTATIVE, 92ND DISTRICT

/s/ W. D. BALLARD  
W. D. BALLARD  
SENATOR, 45TH DISTRICT

/s/ JACK CONNELL  
JACK CONNELL  
REPRESENTATIVE, 87TH DISTRICT

/s/ J. BEVERLY LANGFORD  
J. BEVERLY LANGFORD  
SENATOR, 51ST DISTRICT

/s/ CHARLES HATCHER  
CHARLES HATCHER  
REPRESENTATIVE, 131ST DISTRICT

GOVERNOR'S APPOINTEES

/s/ MS. CAROL ANN BLAIR  
MS. CAROL ANN BLAIR  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

/s/ WILLIAM E. BAUGHMAN  
WILLIAM E. BAUGHMAN  
DEPARTMENT OF OFFENDER REHABILITATION

/s/ WILLIAM D. KELLEY, JR.  
WILLIAM D. KELLEY, JR.  
OFFICE OF PLANNING AND BUDGET

A RESOLUTION

1 Proposing an amendment to the Constitution so as to 22  
 2 authorize the General Assembly to provide by law for 23  
 3 compensating innocent victims of crime; to authorize the 24  
 4 General Assembly to provide for additional penalty  
 5 assessments in criminal cases and provide that the proceeds 25  
 6 derived therefrom may be used for the specific purpose of 26  
 7 compensating innocent victims of crime; to provide for the 27  
 8 submission of this amendment for ratification or rejection;  
 9 and for other purposes. 28

10 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA: 31

11 Section 1. Article III, Section VIII, Paragraph 34  
 12 All of the Constitution is hereby amended by adding at the 35  
 13 end thereof a new paragraph to read as follows:  
 14 "9. The General Assembly is hereby authorized to 37  
 15 provide by law for compensating innocent victims of 38  
 16 crime. The General Assembly is authorized to define the 39  
 17 types of victims eligible to receive compensation and to  
 18 vary the amounts of compensation according to need. The 40  
 19 General Assembly shall be authorized to appropriate 41  
 20 funds to carry out the provisions of any law adopted  
 21 pursuant to the authority of this paragraph. The 42  
 22 General Assembly shall be further authorized to provide 43  
 23 for the assessment of additional penalties in any case 44  
 24 in which any court in this State shall impose a fine or  
 25 order the forfeiture of any bond in the nature of the 45  
 26 penalty for certain or all offenses against the criminal 46  
 27 or traffic laws of this State and the political 47  
 28 subdivisions thereof. The General Assembly may provide 48

1 that the proceeds derived from such additional penalty 49  
 2 assessments may be allocated for the specific purpose of  
 3 compensating innocent victims of crime." 50

4 Section 2. The above proposed amendment to the 53  
 5 Constitution shall be published and submitted as provided in 54  
 6 Article XII, Section I, Paragraph I of the Constitution of 55  
 7 Georgia of 1976. 56

8 The ballot submitting the above proposed amendment 57  
 9 shall have written or printed thereon the following: 58

10 "[ ] YES Shall the Constitution be amended so as 61  
 11 to authorize the General Assembly to 62  
 12 [ ] NO provide by law for compensating innocent 64  
 13 victims of crime and to authorize the 65  
 14 General Assembly to provide for  
 15 additional penalty assessments in 66  
 16 criminal cases and provide that the  
 17 proceeds derived therefrom may be used 67  
 18 for the specific purpose of compensating  
 19 innocent victims of crime?"

20 All persons desiring to vote in favor of ratifying 70  
 21 the proposed amendment shall vote "Yes". All persons 71  
 22 desiring to vote against ratifying the proposed amendment 72  
 23 shall vote "No". 73

24 If such amendment shall be ratified as provided in 75  
 25 said Paragraph of the Constitution, it shall become a part 76  
 26 of the Constitution of this State. 77

A BILL TO BE ENTITLED  
AN ACT

1 To provide for compensation and aid to certain 26  
 2 victims of crime; to provide for a declaration of purpose 27  
 3 and legislative intent; to define certain terms; to provide 28  
 4 for a Criminal Injuries Compensation Board, the appointment,  
 5 powers and duties, and compensation of its members; to 29  
 6 provide for eligibility for awards; to provide for filing of 30  
 7 claims; to provide a minimum allowable claim; to provide 31  
 8 procedures for decisions on claims; to provide for emergency  
 9 awards; to provide for types of awards; to provide for 32  
 10 attorney's fees; to provide for payment of awards; to 33  
 11 provide for subrogation; to provide for judicial review; to 34  
 12 provide for additional costs to be imposed in certain  
 13 criminal cases; to provide penalties for false claims; to 35  
 14 repeal a specific Act; to provide an effective date 36  
 15 conditioned upon the ratification of a certain 37  
 16 constitutional amendment; to repeal conflicting laws; and  
 17 for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: 40

19 Section 1. Declaration of purpose and legislative 43  
 20 intent. The General Assembly recognizes that many innocent 44  
 21 persons suffer personal physical injury or death as a result 45  
 22 of criminal acts or in their efforts to prevent crime or 46  
 23 apprehend persons committing or attempting to commit crimes  
 24 or in aiding or attempting to aid law enforcement officers 47  
 25 upon their request. Such persons or their dependents may 48  
 26 thereby suffer disability, incur financial hardships or 49  
 27 become dependent upon public assistance. The General

1 Assembly finds and determines that there is a need for 50  
 2 government financial assistance for such victims of crime. 51  
 3 Accordingly, it is the General Assembly's intent that aid, 52  
 4 care and support be provided by the State, as a matter of  
 5 moral responsibility, for such victims of crime. 53

6 Section 2. Definitions. For the purpose of this 56  
 7 Act:

8 (a) "Board" shall mean the Criminal Injuries 58  
 9 Compensation Board.

10 (b) "Claimant" shall mean the person filing a 60  
 11 claim pursuant to this Act.

12 (c) "Crime" shall mean a felony or misdemeanor, as 62  
 13 defined in Code Section 26-401, as amended, committed by any 63  
 14 person in this State; provided, however, that no act 64  
 15 involving the operation of a motor vehicle which results in  
 16 injury shall constitute a crime for the purpose of this Act 65  
 17 unless the injuries were intentionally inflicted through the 66  
 18 use of a vehicle.

19 (d) "Victim" shall mean a person who suffers 68  
 20 personal physical injury or death as a direct result of a 69  
 21 crime.

22 Section 3. Criminal Injuries Compensation Board - 72  
 23 creation; composition; appointment, qualifications and term; 73  
 24 of members; chairman; salaries. (a) There is hereby 74  
 25 created the Criminal Injuries Compensation Board, to consist 75  
 26 of five members. The members of the Board shall be  
 27 appointed by the Governor with the advice and consent of the 76  
 28 Senate. At least one member of the Board shall have been 77  
 29 admitted to practice law in the State of Georgia for not 78  
 30 less than five years next preceding his appointment.

31 (b) The term of office of each such member shall 80  
 32 be five years, except that the members first appointed shall 81

1 serve for terms of six years, five years, four years, three 82  
 2 years and two years, respectively. Any member appointed to 83  
 3 fill a vacancy occurring otherwise than by expiration of a  
 4 term shall be appointed for the remainder of the unexpired 84  
 5 term.

6 (c) The Governor shall designate one member of the 86  
 7 Board as chairman, to serve at the pleasure of the Governor. 87

8 (d) The members of the Board shall serve without 89  
 9 compensation but shall be reimbursed for travel and other 90  
 10 expenses incurred by them in carrying out their official 91  
 11 duties in the same amount as provided for certain State  
 12 boards and commissions under Section 4 of an Act approved 92  
 13 April 13, 1973 (Ga. Laws 1973, p. 701), as now or hereafter 93  
 14 amended.

15 (e) The board shall be assigned to the Secretary 95  
 16 of State for administrative purposes only as prescribed in 96  
 17 Section 3 of the Executive Reorganization Act of 1972, 97  
 18 approved April 6, 1972 (Ga. Laws 1972, p. 1015), as now or  
 19 hereafter amended.

20 Section 4. Same - powers and duties. The Board 100  
 21 shall have the following powers and duties: 101

22 (a) To establish and maintain an office and 103  
 23 appoint a secretary, clerks and such other employees and 104  
 24 agents as may be necessary, such employees to be subject to 105  
 25 the rules and regulations of the State Merit System, and  
 26 prescribe their duties. 106

27 (b) To adopt, promulgate, amend and rescind 108  
 28 suitable rules and regulations to carry out the provisions 109  
 29 and purposes of this Act, including rules for the approval 110  
 30 of attorneys' fees for representation before the Board or  
 31 before the court upon judicial review as hereinafter 111  
 32 provided.

33 (c) To request from the Attorney General, 113

1 Department of Public Safety, or county or municipal police 114  
 2 departments such investigation and data as will enable the 115  
 3 board to determine if, in fact, a crime was committed or  
 4 attempted and the extent, if any, to which the victim or 116  
 5 claimant was responsible for his own injury. 117  
 6 (d) To hear and determine all claims for awards 119  
 7 filed with the Board pursuant to this Act and to 120  
 8 reinvestigate or reopen cases as the Board deems necessary.  
 9 (e) To direct medical examination of victims. 122  
 10 (f) To hold hearings, administer oaths or 124  
 11 affirmations, examine any person under oath or affirmation 125  
 12 and require the production of any books, papers, documentary 126  
 13 or other evidence. The Board may compel the presence of all  
 14 parties necessary to a proper disposal of each case by the 127  
 15 issuance of summons, subpoenas and warrants which may be 128  
 16 served as executed by any officer as authorized by State 129  
 17 law. The powers provided in this subsection may be  
 18 delegated by the Board to any member or employee thereof. 130  
 19 (g) To take or cause to be taken affidavits or 132  
 20 depositions within or without the State. 133  
 21 (h) To receive and administer federal funds for 135  
 22 the purposes of this Act.  
 23 (i) To carry out programs designed to inform the 137  
 24 public of the purposes of this Act.  
 25 (j) To render each year to the Governor and to the 139  
 26 General Assembly a written report of its activities. 140  
 27 Section 5. Eligibility for awards. (a) No award 143  
 28 shall be made unless the Board finds that (1) a crime was 144  
 29 committed, (2) such crime directly resulted in personal 145  
 30 physical injury to, or death of, the victim, and (3) police 146  
 31 records show that such crime was promptly reported to the  
 32 proper authorities; and in no case may an award be made 147  
 33 where the police records show that such report was made more 148

1 than 48 hours after the occurrence of such crime unless the 149  
 2 board, for good cause shown, finds the delay to have been 150  
 3 justified. The Board, upon finding that any claimant or  
 4 award recipient has not fully cooperated with all law 151  
 5 enforcement agencies, may deny or withdraw any award, as the 152  
 6 case may be.

7 (b) Except as provided in subsection (c) of this 154  
 8 Section, the following persons shall be eligible for awards 155  
 9 pursuant to this Act:

10 (1) a victim of a crime; 157

11 (2) a surviving spouse or child of a victim 159  
 12 of a crime who died as a direct result of such 160  
 13 crime;

14 (3) any other person dependent for his 162  
 15 principal support upon a victim of a crime who died 163  
 16 as a direct result of such crime;

17 (4) any person who is injured or killed while 165  
 18 aiding or attempting to aid a law enforcement 166  
 19 officer in the prevention of crime or apprehension  
 20 of a criminal at the officer's request, or trying 167  
 21 to prevent a crime or an attempted crime from 168  
 22 occurring in his presence or trying to apprehend a 169  
 23 person who had committed a crime in his presence or  
 24 had, in fact, committed a felony;

25 (5) a surviving spouse or child of any person 171  
 26 who dies as a direct result of aiding or attempting 172  
 27 to aid a law enforcement officer in the prevention  
 28 of crime or apprehension of a criminal at the 173  
 29 officer's request, or trying to prevent a crime or 174  
 30 an attempted crime from occurring in his presence  
 31 or trying to apprehend a person who had committed a 175  
 32 crime in his presence or had, in fact, committed a 176  
 33 felony;

34 (6) any other person dependent for his 178



1 principal support upon any person who dies as a 177  
 2 direct result of aiding or attempting to aid a law  
 3 enforcement officer in the prevention of crime or 180  
 4 apprehension of a criminal at the officer's 181  
 5 request, or trying to prevent a crime or in  
 6 attempted crime from occurring in his presence or 182  
 7 trying to apprehend a person who had committed a 183  
 8 crime in his presence or had, in fact, committed a  
 9 felony.

10 (c) (1) A person who is criminally responsible 185  
 11 for the crime upon which a claim is based or an 186  
 12 accomplice of such person or a member of the family  
 13 of such person shall not be eligible to receive an 187  
 14 award with respect to such claim. For the purposes 188  
 15 of this subsection, "family", when used with  
 16 reference to a person, shall mean (A) any person 189  
 17 related to such person within the third degree of 190  
 18 consanguinity or affinity, (B) any person  
 19 maintaining a sexual relationship with such person, 191  
 20 or (C) any person residing in the same household 192  
 21 with such person.

22 (2) A person who is not a resident of the 194  
 23 state of Georgia at the time the crime was 195  
 24 committed shall not be eligible for awards pursuant  
 25 to this Act unless a resident of the State of 196  
 26 Georgia would be eligible for awards under a 197  
 27 similar law in the state of residence of such  
 28 person.

29 Section 9. Filing of claims. (a) A claim may be 200  
 30 filed by a person eligible to receive an award, as provided 201  
 31 in Section 5 of this Act, or, if such person is a minor, by 202  
 32 his parent or guardian. In any case in which the person 203  
 33 entitled to make a claim is mentally incompetent, the claim

1 may be filed on his behalf by his guardian or such other 204  
 2 individual authorized to administer his estate. 205

3 (b) A claim must be filed by the claimant not 207  
 4 later than 180 days after the occurrence of the crime upon 208  
 5 which such claim is based or not later than 180 days after 209  
 6 the death of the victim; provided, however, that upon good 210  
 7 cause shown, the Board may extend that time for filing for a  
 8 period not exceeding two years after such occurrence. 211

9 (c) The claim shall be verified and shall contain 213  
 10 the following:

11 (1) a description of the date, nature and 215  
 12 circumstances of the crime or public offense; 216

13 (2) a complete financial statement, 218  
 14 including, but not limited to, the cost of medical 219  
 15 care or burial expense, the loss of wages or  
 16 support the victim has incurred or will incur and 220  
 17 the extent to which the victim has been or may be 221  
 18 indemnified for these expenses from any source;

19 (3) when appropriate, a statement indicating 223  
 20 the extent of any disability resulting from the 224  
 21 injury incurred;

22 (4) an authorization permitting the Attorney 226  
 23 General to verify the contents of the application; 227

24 (5) such other information as the Board may 229  
 25 require.

26 (d) Claims shall be filed in the office of the 231  
 27 secretary of the Board in person or by mail. The secretary 232  
 28 shall accept for filing all claims submitted by persons 233  
 29 eligible under subsection (a) of this Section and alleging  
 30 the jurisdictional and other requirements set forth in this 234  
 31 Act.

32 (e) Upon filing of a claim pursuant to this Act, 236  
 33 the Board shall promptly notify the district attorney of the 237  
 34 county wherein the crime is alleged to have occurred. If, 238

1 within ten days after such notification, the district 239  
 2 attorney so notified advises the Board that a criminal 240  
 3 prosecution is pending upon the same alleged crime, the 241  
 4 board shall defer all proceedings under this Act until such 242  
 5 time as such criminal prosecution has been concluded and 243  
 6 shall so notify such district attorney and the claimant. 244  
 7 When such criminal prosecution has been concluded, the 245  
 8 district attorney shall promptly so notify the Board. 246  
 9 Nothing in this Section shall limit the authority of the 247  
 10 board to grant emergency awards as hereinafter provided. 248

11 Section 7. Minimum allowable claim. No award 249  
 12 shall be made on a claim unless the claimant has incurred a 250  
 13 minimum out-of-pocket loss of \$100.00 or has lost at least 251  
 14 two continuous weeks' earnings or support. Out-of-pocket 252  
 15 loss shall mean reimbursed and unreimbursable expenses or 253  
 16 indebtedness reasonably incurred for medical care or other 254  
 17 services necessary as a result of the injury upon which such 255  
 18 claim is based. 256

19 Section 8. Procedures for decisions on claims. 257  
 20 (a) A claim, when accepted for filing, shall be 258  
 21 investigated and determined, regardless of whether the 259  
 22 alleged criminal has been apprehended or prosecuted for or 260  
 23 convicted of any crime based upon the same incident, or has 261  
 24 been acquitted or found not guilty of the crime in question 262  
 25 owing to criminal responsibility or other legal exemption. 263  
 26 The Board shall thereupon cause an investigation to be 264  
 27 conducted into the validity of the claim. The investigation 265  
 28 shall include, but not be limited to, an examination of 266  
 29 police, court and official records and reports concerning 267  
 30 the crime and an examination of medical and hospital reports 268  
 31 relating to the injury upon which the claim is based. 269  
 32 (b) The Board may decide the claim in favor of a 270

1 claimant on the basis of the papers filed in support thereof 268  
 2 and the report of the investigation of the claim. If the 269  
 3 Board is unable to decide the claim upon the basis of the 270  
 4 said papers and report, it shall order a hearing. At the  
 5 hearing any relevant evidence, not legally privileged, shall 271  
 6 be admissible.

7 (c) After examining the papers filed in support of 273  
 8 the claim and the report of investigation, and after a 274  
 9 hearing, if any, the Board shall make a decision either 275  
 10 granting an award pursuant to Section 10 of this Act or deny  
 11 the claim.

12 (d) In determining the amount of an award, the 277  
 13 Board shall determine whether, because of his conduct, the 278  
 14 victim of such crime contributed to the infliction of his 279  
 15 injury, and the Board shall reduce the amount of the award 280  
 16 or reject the claim altogether, in accordance with such  
 17 determination; provided, however, that the Board may 281  
 18 disregard for this purpose the responsibility of the victim 282  
 19 for his own injury where the record shows that such  
 20 responsibility was attributable to efforts by the victim to 283  
 21 aid or attempt to aid a law enforcement officer in the 284  
 22 prevention of crime or apprehension of a criminal at the 285  
 23 officer's request, or to prevent a crime or an attempted  
 24 crime from occurring in his presence or to apprehend a 286  
 25 person who had committed a crime in his presence or had, in 287  
 26 fact, committed a felony.

27 (e) In determining the amount of the award, the 288  
 28 Board shall consider other payments of public or private 289  
 29 insurance, industrial insurance or other medical health or 290  
 30 disability benefits.

31 (f) If the Board finds that the claimant will not 293  
 32 suffer serious financial hardship if not granted financial 294  
 33 assistance pursuant to this Act, the Board shall deny an 295  
 34 award. In determining such serious financial hardship, the

1 board shall consider all of the financial resources of the 296  
 2 claimant.

3 Section 9. Emergency awards. Notwithstanding the 299  
 4 provisions of Section 6 and Section 8 of this Act, if it 300  
 5 appears to the Board member to whom a claim is assigned, 301  
 6 prior to taking action upon such claim, that (a) such claim 302  
 7 is one with respect to which an award probably will be made,  
 8 and (b) undue hardship will result to the claimant if 303  
 9 immediate payment is not made, the Board member may make an 304  
 10 emergency award to the claimant pending a final decision in 305  
 11 the case; provided, however, that (1) the amount of such 306  
 12 emergency award shall not exceed \$500.00, (2) the amount of  
 13 such emergency award shall be deducted from any final award 307  
 14 made to the claimant, and (3) the excess of the amount of 308  
 15 such emergency award over the final award, or the full 309  
 16 amount of the emergency award if no final award is made,  
 17 shall be repaid by the claimant to the Board. 310

18 Section 10. Types of awards. (a) If a claim is 313  
 19 approved, the Board shall determine what type of award will 314  
 20 best aid the person eligible. The Board may take any or all 315  
 21 of the following actions:

22 (1) authorize a cash payment to the person 317  
 23 equal to the pecuniary loss attributable to medical 318  
 24 or medically related expenses, including 319  
 25 psychiatric and psychological treatment or 320  
 26 counseling, directly resulting from the injury;

27 (2) authorize a cash payment to the person 321  
 28 equal to the pecuniary loss resulting from loss of 322  
 29 wages or support directly resulting from the  
 30 injury;

31 (3) authorize cash payments to or on behalf 324  
 32 of the person for job retraining or similar 325

1 employment-oriented rehabilitative services. 325

2 Provided, however, that no person shall receive an amount in 327

3 awards exceeding \$10,000.00. 328

4 (b) Assistance granted pursuant to this Act shall 330

5 not disqualify an otherwise eligible person from 331

6 participation in any other public assistance program.

7 Cash payments made pursuant to this Act may be on a 333

8 one-time or periodic basis. If periodic, the Board may 334

9 increase, reduce or terminate the amount of assistance 335

10 according to need, subject to the maximum limits provided in 336

11 subsection (a).

12 (c) (1) The Board may also authorize payment of 338

13 attorney's fees representing the reasonable value 339

14 of legal services rendered to the claimant, but not

15 to exceed ten percent of the amount of the award or 340

16 \$500.00, whichever is less.

17 (2) No attorney shall charge, demand, receive 342

18 or collect any amount for services rendered in 343

19 connection with any proceedings under this Act

20 except as awarded under this Section. 344

21 Section 11. Payment of awards. After determining 347

22 that the award should be paid and the method of payment, the 349

23 Board, within five days, shall forward a certified copy of 349

24 the order granting the award to the Director, Fiscal 350

25 Division, Department of Administrative Services, who shall

26 be authorized to draw a warrant or warrants upon the State 351

27 treasury to pay the amount of the award in a lump sum or 352

28 periodically, payable to each beneficiary from funds 353

29 appropriated to or otherwise made available for the purposes

30 of this Act.

31 Section 12. Subrogation. Acceptance of an award 356

32 made pursuant to this Act shall subrogate the State, to the 357

1 extent of such award, to any right or right of action 358  
 2 occurring to the claimant or the victim to recover payments 359  
 3 on account of losses resulting from the crime with respect  
 4 to which the award is made. 360

5 Section 13. Judicial review. Any person aggrieved 363  
 6 by a decision of the Board shall have the right of judicial 364  
 7 review. Appeals taken from a decision of the Board shall be 365  
 8 governed by the provisions of the Georgia Administrative 366  
 9 Procedure Act, approved March 10, 1964 (Ga. Laws 1964, p.  
 10 338), as now or hereafter amended, relative to judicial 367  
 11 review of administrative decisions. 369

12 Section 14. Additional cost to be imposed in 371  
 13 criminal cases. Where any person is convicted after the 372  
 14 effective date of this Act of any crime by any judge with 373  
 15 criminal jurisdiction, there shall be imposed as additional 374  
 16 cost in the case, in addition to any other costs required to  
 17 be imposed by law, the sum of \$5.00. All such sums shall be 375  
 18 paid over to the Director, Fiscal Division, Department of 376  
 19 Administrative Services, to be deposited into a special 377  
 20 account for the Board. The Board shall be authorized to use 378  
 21 funds in such special account to carry out the provisions of  
 22 this Act. Under no condition shall a political subdivision 379  
 23 be held liable for the payment of this sum of \$5.00. Crime, 380  
 24 as used in this Section, does not include violations of Code 381  
 25 title 45, known as the Game and Fish Code, as amended; 382  
 26 violations of the motor vehicle equipment and inspection  
 27 provisions found in the Act known as the Uniform Act 383  
 28 Regulating Traffic on Highways, approved January 11, 1954 384  
 29 (Ga. Laws 1953, Nov.-Dec. Sess., p. 556), as amended; and 385  
 30 violations of traffic laws, traffic ordinances and driver's  
 31 license laws, except violations which require a mandatory 386  
 32 suspension of a driver's license pursuant to the provisions 387

1 of Code Section 68B-305, as amended. 387

2 Section 15. Penalty. Any person who asserts a 390  
 3 false claim under the provisions of this Act shall be guilty 391  
 4 of a misdemeanor and, upon conviction thereof, shall be 392  
 5 punished as for a misdemeanor and shall further forfeit any 393  
 6 benefit received and shall reimburse and repay the State for  
 7 payments received or paid on his behalf pursuant to any of 394  
 8 the provisions hereunder.

9 Section 16. Specific repealer. An Act providing 397  
 10 for compensation by the State to persons who sustained 398  
 11 personal injury or property damage or both or to dependent 399  
 12 heirs of persons who are killed in attempting to prevent the 400  
 13 commission of certain crimes against the person of another  
 14 or in aiding or attempting to aid an officer of the law upon 401  
 15 request, approved April 18, 1967 (Ga. Laws 1967, p. 712), is 402  
 16 hereby repealed in its entirety.

17 Section 17. Effective date. The provisions of 405  
 18 this Act shall become effective on January 1, 1979; 406  
 19 provided, however, that the provisions of this Act shall 407  
 20 only become effective on the above date upon the  
 21 ratification of House Resolution No. 82-370 at the November 408  
 22 1978 General Election, which Resolution authorizes the 409  
 23 General Assembly to provide for a program of rehabilitation  
 24 and financial assistance to certain victims of crime. 410

25 Section 18. Repealer. All laws and parts of laws 413  
 26 in conflict with this Act are hereby repealed. 414



**END**