

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0613

## HOUSE BILL NO. 1278

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the crime victims'  
2 compensation program.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-28B-1 be amended to read as follows:

5 23A-28B-1. Terms used in this chapter mean:

6 (1) "Claimant," any person entitled to apply for compensation pursuant to this chapter;

7 (2) "Commission," the South Dakota crime victims' compensation commission as  
8 established by § 23A-28B-3;

9 (3) "Crime," conduct that occurs or is attempted in this State, including that arising from  
10 domestic violence and acts of terrorism, as defined in 18 USC § 2331 as of January 1,  
11 1997, which conduct results in personal injury or death and is punishable as a felony  
12 or misdemeanor, or would be so punishable except that the person engaging in the  
13 conduct lacked the capacity to commit the crime under the laws of this State.  
14 However, the term does not include conduct arising out of the ownership,  
15 maintenance or use of a motor vehicle, boat or aircraft unless the conduct was  
16 intended to cause or did recklessly cause personal injury or death or unless the

1           conduct constitutes a violation of § 32-23-1, 22-16-41, or 22-16-42;

2       (4)    "Department," the Department of Corrections;

3       (5)    "Dependent," any spouse, parent, grandparent, stepparent, child, stepchild, adopted  
4           child, grandchild, brother, sister, half brother, half sister, or parent of the spouse of  
5           a deceased victim who was wholly or partially dependent upon the victim's income at  
6           the time of the victim's death, including any child of the victim born after the victim's  
7           death;

8       (6)    "Economic loss," medical and hospital expenses, loss of earnings, loss of future  
9           earnings, funeral and burial expenses, homicide scene cleanup expenses, limited  
10          personal property losses, and loss of economic benefits or support to dependents,  
11          including home maintenance and child care expenses;

12       (7)    "Fund," the crime victims' compensation fund established by § 23A-28B-41;

13       (8)    "Law enforcement officer," any person as defined in § 22-1-2;

14       (9)    "Medical expense," the cost of all medical and dental services, mental health  
15           counseling, dental and prosthetic devices, eyeglasses or other corrective lenses,  
16           including services rendered in accordance with any method of healing recognized by  
17           the laws of this State or the United States;

18       (10)   "Person," a any natural person;

19       (11)   "Personal injury," actual bodily harm or emotional distress;

20       (12)   "Victim," any person who suffers personal injury or death as a direct result of:

21           (a)   A crime, including a federal crime occurring in this State;

22           (b)   A good faith effort by the person to prevent the commission of a crime; or

23           (c)   A good faith effort by the person to apprehend a person suspected of engaging  
24           in a crime;

25       (13)   "Homicide scene cleanup expenses," the cost of cleaning the scene of a homicide, if

1 the scene is a residence or an automobile, including removing, or attempting to  
2 remove, from the crime scene, blood, dirt, stains, or other debris caused by the crime  
3 or the processing of the crime scene. Compensation may be paid for services provided  
4 by persons who are not members of the immediate family of the victim, including the  
5 victim's spouse, parents, siblings and children, or persons who were not living with  
6 the victim at the time of the crime;

7 (14) "Personal Property losses," the replacement value of property, including clothing and  
8 bedding, used for evidentiary purposes.

9 Section 2. That § 23A-28B-11 be amended to read as follows:

10 23A-28B-11. An application for compensation shall be on a form prescribed by the  
11 department which sets forth:

- 12 (1) The victim's name and address, the claimant's name and address and the relationship  
13 of the claimant to the victim;
- 14 (2) If the victim is deceased, the name and address of each dependent of the victim and  
15 the extent to which each is dependent;
- 16 (3) The date and the nature of the crime underlying the claim;
- 17 (4) The law enforcement agency or officer to whom the crime was reported and the date  
18 of the report;
- 19 (5) The nature and extent of the injuries sustained by the victim, the name and address of  
20 any person who gave medical treatment to the victim, and the name and address of  
21 any hospital where the victim received medical treatment;
- 22 (6) The total amount of economic loss that the victim, a dependent or the claimant  
23 sustained as a result of the crime;
- 24 (7) The amount of benefits or advantages that the victim, a dependent or other claimant  
25 has received or may be entitled to receive from any collateral source for economic

1           loss resulting from the crime, including the name of each collateral source;

2       (8)   Whether the claimant is a spouse, parent, child, brother or sister of the offender or an  
3           accomplice of the offender who committed the crime;

4       (9)   A release authorizing the department to obtain any report, document or other  
5           information relating to the claim; and

6       (10)  Any additional information which the department deems necessary.

7       The applicant shall verify ~~under oath~~, in the presence of a witness, the information contained  
8       in the application.

9       Section 3. That § 23A-28B-20 be amended to read as follows:

10      23A-28B-20. For the purpose of calculating compensation to be awarded pursuant to this  
11      chapter, the department shall establish uniform standards for compensation under this chapter,  
12      taking into consideration the rates and amounts of compensation payable for injuries and for  
13      death under the laws of this State and the United States and availability of funds under this  
14      chapter. Standards for compensation shall be established by rules promulgated by the department  
15      pursuant to chapter 1-26. Loss of earnings, loss of future earnings and loss of support shall be  
16      determined on the basis of the victim's average monthly earnings for the six months immediately  
17      preceding the date of injury, or ~~five hundred dollars per month~~ the monthly minimum wage as  
18      of the date of the crime underlying the claim, whichever is less. The monthly minimum wage shall  
19      be based upon the federal hourly minimum wage in effect as of the date of the crime multiplied  
20      by 173.2 hours per month.