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**FAIR TREATMENT  
FOR  
VICTIMS AND WITNESSES  
OF CRIME:  
AN ACTION STRATEGY  
FOR PENNSYLVANIA**



Pennsylvania Commission on Crime and Delinquency

Victim Services Advisory Committee

April 1985

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**U.S. Department of Justice  
National Institute of Justice**

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## PREFACE

The Commission on Crime and Delinquency's Victim Services Advisory Committee was created in December, 1983 in response to a gubernatorial mandate to "examine the Commonwealth's current efforts to meet the needs of crime victims and propose ways to improve those efforts." As part of its mission, the Committee has developed the comprehensive victim/witness service standards contained in this brochure. The standards are intended to guide local judgements regarding the types of services that victims and witnesses should receive and to promote a uniformity of services statewide. They were developed utilizing the expertise of the Advisory Committee members drawing upon the national recommendations of the President's Task Force on Victims of Crime, the National Conference of the Judiciary on the Rights of Victims of Crime, the American Bar Association and the experience of other states. They have further been refined to incorporate the advice of a broad contingent of Pennsylvania criminal justice professionals who responded to a call for comments on the proposed draft.

The standards were formally adopted by the Commission on Crime and Delinquency on June 5, 1984. Since then the legislature has enacted a Bill of Rights for Crime Victims and established a grant and technical assistance program under the Commission to encourage victim services at the local level (See Appendix 1 — Act 96 of 1984).

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ACQUISITIONS

While the grant program offers a financial incentive toward the development of victim services, many of the service standards are attainable at little or no cost. The Commission provides technical assistance in the development of the service standards upon request. For further information, please call the PCCD Victim Services Program at 800-692-7292 (in state) or directly at 717-787-8559. You may also visit or write to us at the following address:

Victim Services  
Pennsylvania Commission on Crime  
and Delinquency  
4th Floor Executive House  
Second and Chestnut Streets  
P. O. Box 1167, Federal Square Station  
Harrisburg, Pennsylvania 17108

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## PREAMBLE

The criminal justice system traditionally has dealt with protections for the accused. While the rights guaranteed by the Constitution must be safeguarded, there recently has been a growing recognition of the need to identify and protect the rights of crime victims. When a person becomes a victim, the criminal justice process can be as traumatic as the crime itself. In many counties victim-defendant contact occurs in common waiting rooms; hearings are scheduled and re-scheduled without regard for the victim; and key decisions frequently are made without the benefit of victim input. Often, the result of such treatment is that the victim decides not to report criminal activity in the future.

Within the last decade, a national reform movement has enjoyed steadily increasing momentum. The Victim Rights Movement not only has caught the attention of political leaders, but has provided a platform from which Congress and a number of state legislatures have enacted important initiatives.

This movement slowly is reversing the trend of insensitivity to crime victims by identifying victim rights and encouraging their adoption on a state and national scale. Specific enumerated rights have included:

- 1) The right to be treated with dignity and compassion during the course of criminal proceedings;
  - 2) The right to protection from intimidation and harm;
  - 3) The right to be informed concerning the criminal justice process;
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- 4) The right to reparations for economic loss; and
- 5) The right to recognition in criminal court proceedings including the right to provide input to key decisions.

The victim rights movement is fully justified. The victim should not be forced to undergo a second victimization at the hands of the system which was created to exact justice. Also, the victim's testimony usually is essential to a successful prosecution. If the victim decides not to cooperate in a criminal case, the offender likely will not be convicted.

Although most of the services encouraged by these Standards apply to victims who report crimes, the Standards, particularly with respect to the basic/emergency services, are intended for all victims regardless of whether the crime is reported to police. Such broad-based intervention on behalf of victims should positively affect the victim's willingness to cooperate with authorities.

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## GENERAL

Each county should establish a victim/witness services coordinating committee. The composition of the committee should be drawn from the following entities:

- county administration
- victim/witness program
- rape crisis center
- domestic violence program
- judiciary
- prosecution
- juvenile probation
- law enforcement
- adult probation and parole
- mental health/crisis intervention
- children and youth services
- area agency on aging

The determination as to which entities should be represented and by whom is left to local discretion. Each county should seek the size and structure which offers the best potential for the development of the victim service standards in a coordinated and cost-effective fashion. Consistent with this objective, the committee should first examine victim/witness services existing within its county and proceed to evaluate what additional services are required.

The committee initially should meet on a regular basis. Subsequent meetings should be held as necessary to monitor service levels and ensure the continuing commitment of relevant service agencies.

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# **COMPREHENSIVE VICTIM SERVICE AGENCY**

Each county should initiate, or combine with other counties to establish, a victim service agency capable of providing basic services to victims of crime. Each victim service agency should strive to recruit sufficient paid and non-paid staff to offer, at a minimum, the first three services enumerated below and as many of the additional services as resources allow.

- 1. Victim service agencies should establish a well-publicized telephone number that is available to crime victims 24 hours a day. The purpose of the "hot line" is to provide immediate crisis intervention counseling and referral.**
- 2. Each victim service agency should offer information regarding the financial assistance available through the Crime Victim's Compensation Program.**
- 3. Each victim service agency should maintain accurate records which reflect the types and extent of services offered to victims.**
- 4. Each victim service agency should recruit sufficient volunteers to establish a support network capable of providing victim accompaniment to any medical, police or criminal justice facility.**
- 5. The victim service agency should develop the capacity to provide translation services as needed.**



6. The victim service agency should provide information as to the availability of such emergency assistance as food, clothing and shelter.
  7. All victims and their families should have access to follow-up counseling that is necessitated as the result of a crime.
  8. The victim service agency should assist those victims who qualify for state compensation with the process for filing a claim with the Crime Victim's Compensation Board.
  9. The victim service agency should promote victim advocacy through community education programs.
  10. The victim service agency should work to facilitate the judicial process for victims and witnesses through employer intercession, transportation and child care services. If transportation cannot be provided, the agency should provide information on available public transportation.
  11. The victim service agency should coordinate the provision of professional training on sensitivity to victim trauma for service providers and criminal justice personnel. At a minimum, such training should be directed at emergency room personnel, the police, the district attorney and the judiciary.
  12. The victim service agency should work with the media and criminal justice agencies to establish reporting policies which recognize the potential for harm. Further, the agency should provide information to victims which outlines existing policies and facilitates victim/media relations.
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# LAW ENFORCEMENT

1. The Municipal Police Officers' Training Commission should develop a training program emphasizing sensitivity to the plight of victims as part of its basic curriculum. Local police departments and the State Police, as part of their in-service training, should periodically reemphasize this need for sensitivity.

2. Law enforcement personnel should provide, as required by law, written notice of the Crime Victim's Compensation Program<sup>1</sup> to all victims who might qualify for coverage. Brochures developed by the Crime Victim's Compensation Board should be made available. Victims should also be advised of the individual or agency in the county most capable of answering further questions.

3. Police departments should take the address and phone number of victims and provide reasonable notification of the progress of the police investigation, including the recovery of property and the arrest of the suspect.

4. Law enforcement personnel should receive training on and know the provisions of the Commonwealth's Victim/Witness Intimidation Statute<sup>2</sup> and the Rule of Criminal Procedure regarding the conditions of bail<sup>3</sup>.

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<sup>1</sup>1 Pa. C.S.A. Sec. 180-7 *et seq.*

<sup>2</sup>18 Pa. C.S.A. Sec. 4951 *et seq.*

<sup>3</sup>Pa. R. Crim. P., Rule 4013, 42 Pa. C.S.A.

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**5. Law enforcement administrators should cooperate with the district attorney in devising procedures for the expeditious return to the victim of property which has been seized as evidence or recovered during the course of an investigation. The victim should receive notice of the availability of that evidence or an explanation when recovered property cannot be returned until later in the court proceedings.**

**6. All law enforcement administrators in large departments should consider the utility of a court liaison officer who would be used to coordinate the court appearances of its subpoenaed police officers.**

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## MINOR JUDICIARY

1. As a part of the bail setting process, district justices should consider potential intimidation of the victim or witness by the defendant. Where warranted, restrictions concerning contact between the defendant and the victim or witness should be imposed as a condition of bail.
  2. District justices should establish procedures to ensure that the names and addresses of victims/witnesses are not contained in hearing notices delivered to the defendant.
  3. Whenever possible, district justices should develop an "on call" system designed to permit civilian witnesses and police officers to be summoned by telephone when needed to testify. Such system should provide the witness or police officer at least one hour advance notice.
  4. District justices should consider the potential inconvenience to victims and witnesses in determining whether to reschedule a hearing.
  5. District justices should be sensitive to the possibility of intimidation during hearings and, when necessary, exercise powers to restrain and/or remove from the proceeding those individuals who attempt to intimidate the witness.
  6. In appropriate summary offenses, district justices should carefully consider ordering restitution to the victim. A payment plan should provide for the expeditious restoration of the victim's loss consistent with the offender's capacity to pay.
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# PROSECUTION

1. District attorneys should ensure that all assistant district attorneys and law enforcement personnel are aware of the Commonwealth's Victim/Witness Intimidation Statute.<sup>4</sup> When the threat of intimidation is evident, the district attorney should encourage such restrictions as are necessary to prevent contact between the defendant and the victim/witness as a condition of bail. Whenever possible, the district attorney should notify the victim of the conditions so imposed. Further, consistent with the Rule of Discovery,<sup>5</sup> the district attorney should limit access to addresses of victims and witnesses when the risk of intimidation is present.

2. In the absence of a county victim/witness unit, district attorneys should develop and disseminate written material which provides for the victim or witness an orientation to the criminal justice process as well as such logistical information as the location of the courthouse and district attorney's office; available parking, transportation and child care services; and the telephone numbers of relevant service agencies.

3. District attorneys should designate a person or unit within the office capable of providing case status information to victims or witnesses who inquire.

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<sup>4</sup>18 Pa. C.S.A. Sec. 4951 *et seq.*

<sup>5</sup>Pa. R. Crim. P., Rule 305, 42 Pa. C.S.A.

4. District attorneys should inform victims of how they can provide input to and receive notification of the key decisions in the criminal justice process. Victims should be advised that the opportunity to provide input and be notified of key decisions is contingent upon the submission of a request accompanied by a valid address and telephone number. The district attorney should establish a format which standardizes the receipt of such information from the victim.

5. District attorneys should extend to victims the opportunity to provide input to any decisions regarding a plea agreement, sentencing or parole. Such input may include a statement of the crime's physical, psychological and financial repercussions on the victim or on the victim's family. With regard to sentencing, this information should be provided to the court either by a written statement or an oral statement by the victim or the victim's representative.

6. All district attorneys should develop an "on call" system designed to permit civilian witnesses and police to be summoned by telephone when needed to testify. Such system should provide the witness at least one hour advance notice of the need to be present at the courthouse. This service should minimize the number of unproductive hours spent in court waiting to testify and reduce the costs associated with witness fees and police overtime.

7. District attorneys should work with the court to establish procedures for the expeditious return of property which is offered into evidence in a criminal trial. Law enforcement personnel should be notified of the established procedures.

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8. The district attorney should notify the victim of the final disposition of the case, including the sentence imposed by the court. If a sentence of incarceration has been imposed in a case involving a serious personal assault, the victim should be advised that he can be notified of an impending parole hearing and be informed of the outcome of such hearing if he makes a written request to the Pennsylvania Board of Probation and Parole (in the case of a state sentence) or the county adult probation department (in the case of a county sentence).

9. The district attorney should notify the police administrator from the department which arrested the defendant of the final disposition of the case including the sentence imposed by the court.

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## THE COURT

1. The court should be sensitive to the potential for victim/witness intimidation. In appropriate cases, access to the addresses of victims and witnesses should be limited consistent with the Rule of Discovery.<sup>6</sup>

2. The court should ensure that all victims and witnesses are afforded separate waiting accommodations from those used by defendants.

3. The court should be sensitive to the potential inconvenience to victims and witnesses in determining whether to reschedule a case. Further, the court should cooperate with efforts to establish and maintain an "on call" system.

4. The court in its discretion should allow a victim advocate to accompany the victim through the critical stages of the judicial process.

5. The court should recognize the victim's desire for the expeditious return of property which has been seized as evidence and should institute procedures to this end.

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<sup>6</sup>Pa. R. Crim. P., Rule 305, 42 Pa. C.S.A.



6. At sentencing, the court should encourage a statement (written or oral) by the victim concerning the crime's physical, psychological and financial repercussions. Victim impact may be presented in one or several ways including:

- (a) written statement prepared by the victim to be included in the probation department's pre-sentence report on the offender;
- (b) written statement prepared by the probation department after consultation with the victim or the victim's representative; and/or
- (c) oral statement by the victim or the victim's representative before the court.

7. When an economic loss has been sustained, the court should order restitution taking into account the amount of the loss and the offender's ability to pay. When the Court fails to order restitution, the rationale should be stated on the record. The court should establish internal procedures which assure that the restitution ordered is in fact paid. Where appropriate, job placement programs allowing the offender to earn restitution should be instituted.

8. In cases of personal assault, the court should consider a victim impact statement at the time of parole on county sentences, especially as it may relate to conditions of release.

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# **CORRECTIONS/ PROBATION AND PAROLE**

**1. In cases of serious personal assault, the Department of Corrections, the Pennsylvania Board of Probation and Parole, or the county probation department should notify the district attorney and the victim (where a request has been made) of an impending pre-release or parole decision. Such notification should allow sufficient time for the submission by the victim of an impact statement which shall be considered in determining what action to take. In such cases, the victim should be notified of the parole decision.**

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# JUVENILE JUSTICE SYSTEM

The victim/witness service standards are intended to apply to all victims regardless of the age of the offender. When the offender is a juvenile, the juvenile probation department is the key contact for the victim. The following standards are recommended for juvenile probation personnel.

## **I. The Administrative Judge of the Juvenile Court and the Chief Juvenile Probation Officer should:**

- 1) prepare a victim/witness assistance brochure to be distributed to all victims and witnesses prior to the Juvenile Court hearing;**
  - a) The brochure should provide an orientation to the juvenile justice system, as well as such information as the location of the courthouse and juvenile probation office; available parking, transportation and child care services; and the telephone numbers of relevant service agencies.**
- 2) develop a scheduling policy which minimizes victim/witness waiting time and eliminates unnecessary appearances;**
- 3) provide separate waiting facilities for victims and witnesses;**
- 4) endeavor to reimburse victims and witnesses for transportation and parking expenses;**

- 5) develop procedures which provide for an initial contact between the probation officer and victim within 14 days after the case is referred to the court to extend the opportunity for input regarding case disposition;
  - 6) develop procedures which afford each victim the opportunity to submit a victim impact statement as part of any predisposition report submitted to the court;
    - a) The victim impact statement should contain information concerning the effect that the crime has had upon the victim, including any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources.
  - 7) designate a contact person within the office capable of providing case status information to victims and witnesses who inquire;
  - 8) provide notice of the final disposition of the case to the victim and the relevant police department; and
  - 9) upon request of the victim of a feloniously assaultive crime\* which resulted in the commitment of a child to a Youth Development Center Secure Unit or a similarly operated secure program, provide notice to the District Attorney or directly to the victim, whenever such child is released from said placement, transferred to a non-secure program, or granted a home visit.
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**II. The Administrative Judge of the Juvenile Court and the Chief Juvenile Probation Officer should develop a restitution program that includes:**

- 1) the submission of the victim's restitution claim to the Court;
- 2) advice on the feasibility of entering a restitution order;
- 3) a plan for the payment of the restitution order; and
- 4) notification to the victim of the amount of restitution ordered, the payment plan and any required adjustments.

**III. The Administrative Judge of the Juvenile Court and the Chief Juvenile Probation Officer should monitor the effectiveness of the Juvenile Court System in meeting the needs of victims.**

\*For the purpose of these standards a "Feloniously Assaultive Crime", as defined in Act 96 of 1984, means any act committed in this Commonwealth which, if it had been committed by a mentally competent, criminally responsible adult, who had no legal exemption or defense, would constitute a felony as defined in and proscribed by Chapter 25, 27, 29, 31, or 37 of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). No act involving the operation of a motor vehicle which results in injury shall constitute a feloniously assaultive crime unless the injury was intentionally inflicted through the use of a motor vehicle.

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# APPENDIX 1

## Act 96 of 1984

(Senate Bill No. 853, P.N. 2243, Session of 1983)

Amending the act of April 9, 1929 (P.L. 177, No. 175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," changing provisions relating to crime victim's compensation; reestablishing and continuing the Crime Victim's Compensation Board; further providing for the Crime Victim's Compensation Fund; changing provisions relating to the rights of victims of crime; making an editorial change; and making an appropriation.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 477 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929, amended December 10, 1976 (P.L. 1305, No. 287) and December 13, 1979 (P.L. 519, No. 114), is amended to read:

Section 477. Definitions — So far as it relates to the crime victim's compensation provisions, the following terms shall be defined as:

“Board” means the Crime Victim's Compensation Board.

“Claimant” means the person filing a claim pursuant to this act.

“Crime” means an act committed in Pennsylvania which, if committed by a mentally competent, criminally responsible adult, who had no legal exemption or defense, would constitute a crime as defined in and proscribed by Title 18 of the “Pennsylvania Consolidated Statutes,” (relating to crimes and offenses) or enumerated in the act of April 14, 1972 (P.L. 233, No. 64), known as “The Controlled Substance, Drug, Device and Cosmetic Act”: Provided, however, That no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this act unless such injury was intentionally inflicted through the use of a motor vehicle.

“Family,” when used in reference to a person, shall mean:

- (i) anyone related to such person within the third degree of consanguinity or affinity;
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(ii) anyone maintaining a common-law relationship with such person; or

(iii) anyone residing in the same household with such person.

“Intervenor” shall mean a person who goes to the aid of another and suffers bodily injury or death as a direct result of acting not recklessly to prevent the commission of a crime, or to lawfully apprehend a person reasonably suspected of having committed such crime, or to aid the victim of such crime.

“Local law enforcement agency” means a police department of a city, borough, incorporated town or township.

“Loss of earnings” in addition to its ordinary meaning, shall mean the loss of the cash equivalent of a social security payment where social security is the primary source of the victim’s income and where the victim is deprived of the money as a direct result of a crime.

“Out-of-pocket loss” means the unreimbursed and unreimbursable expenses or indebtedness incurred for medical care, non-medical remedial care and treatment rendered in accordance with a religious method of healing as approved by the board, or other services, including psychological counseling, reasonably necessary as a result of the injury upon which the claim is based and for which the claimant either has paid or is liable, to include expenses for physical examinations and materials used to obtain evidence. In no case shall property damages or compensation for pain and suffering be included.

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“Victim” shall mean a person, other than the alleged offender, who suffers bodily injury, death or the loss of the proceeds of a social security payment which is the primary income of the recipient as a direct result of a crime.

Section 2. Section 477.2 of the act, is amended by adding a subsection to read:

Section 477.2. Powers and Duties of Board — The board shall have the following powers and duties:

\* \* \*

(1) To administer the Crime Victim’s Compensation Fund, created under Section 477.15, for the payment of claims filed under this act and for all reasonable and necessary administrative expenses.

Section 3. Section 477.3 of the act, added July 9, 1976 (P.L. 574, No. 139), is amended to read:

Section 477.3. Persons Eligible for Compensation:

a) Except as provided in subsection (b) of this section, the following persons shall be eligible for compensation:

- 1) A victim.
  - 2) An intervenor.
  - 3) A surviving spouse, parent or child of a deceased victim or intervenor.
  - 4) Any other person dependent for his principal support upon a deceased victim or intervenor.
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5) Any person related to the victim within the third degree of consanguinity or affinity who assumes the obligation or who pays the funeral or burial expense incurred as a direct result of the crime.

b) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person shall not be eligible to receive compensation with respect to such claim. A member of the family of the person who committed the crime shall not be eligible if the offender is living in the same household as the victim and will benefit from the award. The Attorney General may sue the offender or the victim or both to recover the award if the offender at any time benefits from the award.

c) A person who is not a resident of Pennsylvania at the time of occurrence of the crime upon which the claim is based, shall be eligible for compensation only if the law of the state of which he is a resident at the time of occurrence of the crime upon which the claim is based provides for compensation to Pennsylvania residents who are victims of crime in such state.

d) If the victim's state of residence provides payments to its residents injured in Pennsylvania, primary responsibility for payment to the victim shall rest with the victim's state of residence.

Section 4. Section 477.9 of the act, added July 9, 1976 (P.L. 574, No. 139) and amended December 13, 1979 (P.L. 519, No. 114), is amended to read:

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Section 477.9. Awards:

a) No award shall be made unless the board or board member, as the case may be, finds by a preponderance of the evidence that:

- 1) A crime was committed.
- 2) The person injured or killed was a victim or intervenor as defined in section 477.
- 3) Such crime was promptly reported to the proper authorities; and in no case may an award be made where the record shows that such report was made more than seventy-two hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified. The board, upon finding that any claimant, victim or intervenor has not fully cooperated with all law enforcement agencies, may deny or withdraw any award, as the case may be.

b) Any award made pursuant to the provisions of this act shall be in an amount not exceeding out-of-pocket loss, together with loss of past, present or future earnings or support resulting from such injury. In no case shall the total amount of an award exceed thirty-five thousand dollars (\$35,000).

c) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this act, be in an amount equal to the actual loss sustained: Provided, however, That no such award shall exceed the average weekly wage for all persons covered by the act of December 5, 1936 (2nd Sp. Sess., 1937 P.L. 2897, No. 1), known as the

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“Unemployment Compensation Law,” in Pennsylvania as determined annually by the Department of Labor and Industry for each week of lost earnings or support: And, provided further, That the aggregate award for such loss shall not exceed fifteen thousand dollars (\$15,000) except that in the case of death of a victim or intervenor, the aggregate award shall not exceed twenty thousand dollars (\$20,000).

d) If there are two or more persons entitled to an award as a result of the death of a victim or intervenor, the award shall be apportioned among the claimants.

e) Except for any payments or proceeds that are specifically denominated as compensation for dismemberment or loss of an eye, any award made pursuant to this act shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury:

- (i) from or on behalf of the person who committed the crime;
- (ii) under any insurance programs including those mandated by law;
- (iii) under any contract of insurance wherein the claimant is the insured beneficiary;
- (iv) from public funds; or
- (v) as an emergency award pursuant to section 477.8 of this act.

f) In determining the amount of an award, the board or board member, as the case may be, shall determine whether, because of his conduct, the victim or intervenor contributed to the infliction of his injury except where the crime was rape in which case

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the conduct of the victim shall not be considered, and the board or board member shall reduce the amount of the award or deny the claim altogether in accordance with such determination: Provided, however, That the board or board member, as the case may be, may disregard for this purpose the contribution of the intervenor to his own injury where the record shows that such contribution was attributed to efforts by an intervenor as set forth in section 477.

Section 5. The act is amended by adding a section to read:

Section 477.15. Mandatory Costs:

a) Any person who pleads guilty or nolo contendere or who is convicted of any crime, as defined in section 477 shall in addition to costs imposed pursuant to 42 Pa.C.S. §3571(c) (relating to Commonwealth portion of fines, etc.), be sentenced to pay costs of at least fifteen dollars (\$15).

b) Ten dollars (\$10) shall be paid into a special non-lapsing fund, which is hereby established, for use by the Crime Victim's Compensation Board for payment to victims.

c) Five dollars (\$5) shall be paid into a special non-lapsing fund, which is hereby established, for use by the Commission on Crime and Delinquency for victim-witness services grants in accordance with this section.

d) This cost shall be imposed notwithstanding any other provision to this act or other act to the contrary.

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e) The district attorney, the Crime Victim's Compensation Board or any victim of a crime (as defined in section 477) shall have standing to seek a mandamus order requiring the county to collect the costs imposed by this section.

Section 6. Section 477.17 of the act, added December 13, 1979 (P.L. 519, No. 114), is amended to read:

Section 477.17. Responsibilities of Local Law Enforcement Agencies:

a) All local law enforcement agencies shall insure that all of its officers and employees are familiar with crime victim's compensation as provided for in sections 477 through 477.17 of this act. Instruction concerning crime victim's compensation shall be made a part of the training curriculum for all trainee officers.

b) Local law enforcement agencies shall advise the victims of crimes reported to it of the availability of crime victim's compensation as provided by this act. The term "victim" as used in this subsection shall be a victim as defined by this act. The notice required under this subsection shall be in writing and shall include the following paragraph:

"If you have sustained physical injury as a direct result of a crime of violence, or are legally dependent for support upon a person who has sustained physical injury or death as a direct result of a crime of violence, or, in the event of a death caused by a crime of violence, you have legally assumed or voluntarily paid the medical or burial expenses incurred as a direct result thereof, you may qualify for indemnifica-

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tion by the State of Pennsylvania for the out-of-pocket wages, medical or burial expenses which you have incurred as a result of the crime. Claims must be filed with the Crime Victim's Compensation Board for the State of Pennsylvania. For further information regarding this program, please contact:

(Name, business address and telephone number of the local law enforcement agency)

or

Crime Victim's Compensation Board  
Office of General Counsel  
Harrisburg, Pennsylvania

Important: The statute provides that, absent certain extenuating circumstances, a claimant has one year from the date of the crime to file his claim with the Crime Victim's Compensation Board."

c) The written notification provided for in subsection (b) shall be accompanied by one copy of the application form for crime victim's compensation. These forms shall be supplied by the Crime Victim's Compensation Board to all local law enforcement agencies. The record of the date and address of all letters of notification shall be maintained by every local law enforcement agency.

d) Any officer of a local law enforcement agency whose duties include the investigation of crimes may notify victims or their families of the availability of compensation under this act

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by giving them a card or sheet bearing the paragraph as quoted in subsection (b) above. A record of such personal notice shall be maintained by the local law enforcement agency.

e) In municipalities which do not have a local law enforcement agency, the board shall by rule establish procedures whereby it, together with the State Police, shall give the notice to victims of crimes as provided in this section.

Section 7. Section 477.18 of the act, added December 14, 1982 (P.L. 1213, No. 280), is amended to read:

Section 477.18. Distribution of Monies Received as a Result of the Commission of Crime:

a) Every person, contracting with any person or the representative or assignee of any person accused or convicted of a crime in this Commonwealth, with respect to the reenactment of such crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment of any kind, or from the expression of the accused or convicted person's thoughts, feelings, opinions or emotions regarding such crime, shall notify the board of the contractual arrangements and shall pay over to the board any monies which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives. The board shall deposit such monies in an escrow account for the benefit of and payable to any eligible person and provided that such eligible person, within five years of the date of the establishment of such escrow account, brings a civil action for damages on any legal theory in a court of competent jurisdiction and recovers a money judgment against such accused or convicted person or his

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representatives and provided further that in the case of an accused person, such person is eventually convicted. However, the accused or convicted person may voluntarily request that the board make payments to eligible persons who have not recovered money judgements. In the case of an accused making such a voluntary request, no payment shall be made until such person is convicted and, upon conviction, the trial judge presiding over the case shall determine the proportions of available escrow monies payable to each eligible person and shall certify those amounts to the board. In the case of a convicted person making such a voluntary request, the board shall determine the proportion of available escrow monies payable to eligible persons.

- b) 1) As used in this section, the term "eligible person" shall include any of the following persons:
- (i) A victim of the particular crime in question.
  - (ii) An intervenor in such crime.
  - (iii) A surviving spouse, parent or child of a deceased victim of, or intervenor in, such crime.
  - (iv) Any other person dependent for his principal support upon a deceased victim of, or intervenor in, such crime.

No person who is criminally responsible for the crime in question or was an accomplice of the person who is criminally responsible shall be an eligible person.

- 2) As used in this section, the term "convicted" includes conviction by entry of a plea of guilty or nolo contendere, conviction after trial, and a finding of not guilty due to insanity or of guilty but mentally ill.
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c) Upon receiving escrow monies, the board shall notify all eligible persons that the escrow money is available to satisfy money judgements or that the accused or convicted has voluntarily requested that payments be made in the absence of a money judgement. If, after a good faith effort, the board is unable to give personal notice to each such eligible person, the board, at least once every six months for five years from the date it receives such monies, shall cause to have published a legal notice in newspapers of general circulation in each county advising such eligible persons that such escrow monies are available to satisfy money judgements pursuant to this section or that the accused or convicted has voluntarily requested that payments be made in the absence of a money judgement.

(d) Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by such person that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such person pursuant to this section, the board shall immediately pay over any monies in the escrow account to such person.

(e) Notwithstanding any inconsistent provision of law and rules of civil procedure with respect to the timely bringing of an action, the five-year period provided for in subsection (a) shall not begin to run until an escrow account has been established.

(f) No payment to eligible persons shall be made from the escrow account without official certification by the trial judge that the criminal charges have been adjudicated finally, including the disposition of any appeal. However, the board shall make payments

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from an escrow account to an accused person prior to final adjudication of the criminal charges upon the order of a court of competent jurisdiction after a showing by such person that such monies shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process. The amount authorized for attorneys' fees, expert witnesses and other costs of litigation shall be approved and certified to the board by the judge presiding at the trial of the accused.

(g) Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this Commonwealth.

Section 8. The act is amended by adding sections to read:

Section 479. Legislative Intent. — In recognition of the civic and moral duty of victims of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of victim cooperation to State and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this Commonwealth, the General Assembly declares its intent, in this section, to ensure that all victims of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in sections 479.1 through 479.5 to victims of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

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Section 479.1. Definitions. — The following words and phrases when used in sections 479 through 479.5 shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commission” means the Pennsylvania Commission on Crime and Delinquency.

“Crime” means an act committed in this Commonwealth which, if committed by a mentally competent, criminally responsible adult, who had no legal exemption or defense, would constitute a crime as defined in and proscribed by Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or enumerated in the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act. No act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this act unless the injury was intentionally inflicted through the use of a motor vehicle.

“Family” means when used in reference to a person:

- 1) anyone related to that person within the third degree of consanguinity or affinity;
- 2) anyone maintaining a common-law relationship with that person; or
- 3) anyone residing in the same household with that person.

“Feloniously assaultive crime” means an act committed in this Commonwealth which, if it had been committed by a mentally competent,

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criminally responsible adult, who had no legal exemption or defense, would constitute a felony as defined in and proscribed by Chapter 25, 27, 29, 31 or 37 of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). No act involving the operation of a motor vehicle which results in injury shall constitute a feloniously assaultive crime for the purpose of this act unless the injury was intentionally inflicted through the use of a motor vehicle.

“Victim” means a person against whom a crime is being or has been perpetrated or attempted.

Section 479.2. Eligibility of Victims. — A victim has the rights and is eligible for the services under sections 479.3 and 479.4 only if the victim reported the crime to law enforcement authorities without unreasonable delay after its occurrence or discovery, unless the victim had a reasonable excuse not to do so.

Section 479.3. Basic Bill of Rights for Victims. — Victims of crime have the following rights:

- 1) To have included in any pre-sentence report information concerning the effect that the crime committed by the defendant has had upon the victim, including any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources.
  - 2) To have restitution ordered as a condition of probation whenever feasible.
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- 3) Upon request of the victim of a feloniously assaultive crime, to be promptly informed by the district attorney whenever the assailant is to be released on parole, furlough or any other form of supervised or unsupervised release from full incarceration.

Section 479.4. Establishment of Basic Services for Victims of Crime. — The commission shall provide technical assistance to and make grants to district attorneys and other criminal justice agencies which provide crime victims with the following services:

1) Notification services, including:

- (i) information concerning financial assistance and other social services available as a result of being a victim of crime;
- (ii) notification that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the victim an unnecessary trip to court; and
- (iii) notification of the final disposition of the case.

2) Protection services, including:

- (i) protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts; and
  - (ii) a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.
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- 3) Procedures for the expedited return by law enforcement officials of that personal property of victims which is held for prosecutorial purposes.
- 4) Services related to the rights of victims under section 479.3.
- 5) Other services as defined by the commission.

Section 479.5. Grant Program for Services. —

- a) The commission shall have the authority to make grants to district attorneys and other criminal justice agencies for the provision of the services under section 479.4.
  - b) The commission shall promulgate such guidelines and regulations as are necessary to ensure the cost-effective delivery of victim services or victim and witness services consistent with section 479.4.
  - c) In determining grant awards, the commission shall promote broad-based participation by a maximum number of criminal justice agencies Statewide.
  - d) All agencies which make application for awards under this section shall provide such data in support of their request as the commission shall require. Those agencies which receive awards shall provide the commission with such reports as the commission may determine are necessary to assess the agency's progress in the development of victim services.
  - e) The commission shall submit an annual report to the General Assembly on the progress of services provided for in section 479.4. The report shall include:
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- 1) The number of participating agencies and population served.
- 2) The extent of services provided.
- 3) Any impediments to the progress of the program.
- 4) Recommendations for reform.

Section 9. Sections 1 through 7 of this act shall constitute the legislation required to re-establish and continue an agency pursuant to the requirements and provisions of the act of December 22, 1981 (P.L. 508, No. 142), known as the Sunset Act. The Crime Victim's Compensation Board is hereby re-established and continued until December 31, 1986.

Section 10. The presently confirmed members of the existing board, as of June 30, 1984, shall continue to serve as board members until their present terms expire.

Section 11. Each rule and regulation of the board in effect on June 30, 1984, shall remain in effect after such date until repealed or amended by the board.

Section 12. The sum of \$500,000 is appropriated to the Pennsylvania Commission on Crime and Delinquency for the fiscal year July 1, 1984 to June 30, 1985 to carry out the provisions of section 8 of this act relating to victim services.

Section 13. Section 3571(d) of Title 42 is repealed insofar as it imposes costs in addition to the costs provided for in section 477.15 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.

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Section 14. Section 5 of this act applies to crimes committed after the effective date.

Section 15. The provisions of sections 1 and 4 of this act shall apply to claims arising out of crimes committed on or after the effective date of this act.

Section 16. This act shall take effect immediately.

Approved — June 30, 1984.

Dick Thornburgh

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