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Referred: Judiciary and
Finance

1 IN THE HOUSE BY FURNACE, BARNES AND LARSON

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 454

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing compensation for innocent victims
7 who suffer property damage or economic loss as the
8 result of activities of a law enforcement agency."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 18.67.010 is amended to read:

11 Sec. 18.67.010. PURPOSE. It is the purpose of this chapter to
12 facilitate and permit the payment of compensation to innocent persons
13 injured, to dependents of persons killed, and to certain other persons
14 who by virtue of their relationship to the victim of a crime incur
15 actual and reasonable expense as a result of certain serious crimes or
16 in attempts to prevent the commission of crime or to apprehend sus-
17 pected criminals. It is also the purpose of this chapter to facili-
18 tate and permit the payment of compensation to innocent victims who
19 suffer property damage as a result of activities of a law enforcement
20 agency in preventing the commission of crime or apprehending suspected
21 criminals.

22 * Sec. 2. AS 18.67.020(a) is amended to read:

23 (a) There is the Crime Victims [VIOLENT CRIMES] Compensation
24 Board in the Department of Public Safety composed of three members to
25 be appointed by the governor. One of the members shall be designated
26 as chairman by the governor. At least one member shall be a medical
27 or osteopathic physician licensed to practice in this state and one
28 member shall be an attorney licensed to practice in this state.

29 * Sec. 3. AS 18.67.030(b) is amended to read:

1 (b) In order to be eligible for compensation for personal injury
2 or death under this chapter, the applicant shall, before a hearing on
3 an application under this chapter, submit reports, if reasonably
4 available, from all physicians or surgeons who have treated or ex-
5 amined the victim in relation to the injury for which compensation is
6 claimed at the time of or subsequent to the victim's injury or death.
7 If, in the opinion of the board, reports on the previous medical
8 history of the victim, a report on the examination of the injured
9 victim, or a report on the cause of death of the victim by an impar-
10 tial medical expert would be of material aid to its determination, the
11 board shall order the reports and examination.

12 * Sec. 4. AS 18.67.070 is amended to read:

13 Sec. 18.67.070. STANDARDS FOR COMPENSATION. For the purpose of
14 determining the amount of compensation payable under this chapter, the
15 board shall, insofar as practicable, formulate standards for uniform
16 application of this chapter and take into consideration rates and
17 amounts of compensation payable for property damage, injuries, and
18 death under other laws of the state and of the United States and the
19 availability of funds appropriated for the purposes of this chapter.

20 * Sec. 5. AS 18.67.080(a) is amended to read:

21 (a) In a case in which a person is injured or killed by an
22 incident specified in AS 18.67.101(a)(1) [AS 18.67.101(1)], or by the
23 act of any other person which is within the description of offenses
24 listed in AS 18.67.101(a)(2), or in a case in which a person suffers
25 property damage as set out in AS 18.67.101(b) [AS 18.67.101(2)], the
26 board may order the payment of compensation in accordance with the
27 provisions of this chapter:

28 (1) to or for the benefit of the injured person or the
29 person who suffered the property damage;

1 (2) in the case of personal injury or death of the victim,
2 to a person responsible or who had been responsible for the mainte-
3 nance of the victim who has suffered pecuniary loss or incurred ex-
4 penses as a result of the injury or death;

5 (3) in the case of death of the victim, to or for the
6 benefit of one or more of the dependents of the victim; [OR]

7 (4) in a case in which a person who suffers property damage
8 and dies of any cause before being compensated, to the person's
9 estate; or

10 (5) [(4)] to the provider of a service under AS 18.67.-
11 110(b).

12 * Sec. 6. AS 18.67.090(a) is amended to read:

13 (a) Up to the maximum set in AS 18.67.130(c), the board may
14 award compensation for losses and expenses allowable under AS 18.67.-
15 110 for which the applicant is not compensated by the offender or a
16 person on behalf of the offender, or by the United States, a state [,]
17 or any of its subdivisions or agencies, [OR] a private source, or an
18 emergency award [AWARDS] under AS 18.67.120, for property damage,
19 injury or death compensable under this chapter.

20 * Sec. 7. AS 18.67.101 is amended by adding a new subsection to read:

21 (b) The board may order the payment of compensation in accor-
22 dance with the provisions of this chapter for property damage that
23 results from law enforcement agency activities in the prevention of
24 crime or apprehension of suspected criminals.

25 * Sec. 8. AS 18.67.110(a) is amended to read:

26 (a) The board may order the payment of compensation under this
27 chapter for

28 (1) expenses actually and reasonably incurred as a result
29 of the personal injury or death of the victim;

1 (2) loss of earning power as a result of total or partial
2 incapacity of the victim, and reasonable expenses of job retraining of
3 or similar employment-oriented rehabilitative services for the victim;

4 (3) pecuniary loss to the dependents of the deceased vic-
5 tim; [AND]

6 (4) pecuniary loss to the victim as set out in AS 18.67.-
7 101(b); and

8 (5) any other loss resulting from the personal injury or
9 death of the victim which the board determines to be reasonable.

10 * Sec. 9. AS 18.67.130(a) is amended to read:

11 (a) No order for the payment of compensation may be made under
12 AS 18.67.080 unless

13 (1) the application has been made within two years after
14 the date of the personal injury, [OR] death or property damage;

15 (2) the personal injury or death was the result of an
16 incident or offense listed in AS 18.67.101(a) [AS 18.67.101] that had
17 been reported to a law enforcement agency [THE POLICE] within five
18 days of its occurrence or, if the incident or offense could not reason-
19 ably have been reported within that period, within five days of the
20 time when a report could reasonably have been made; [AND]

21 (3) the property damage had been reported to a law enforce-
22 ment agency within 30 days of its occurrence or, if the incident or
23 offense could not reasonably have been reported within that period,
24 within 30 days of the time when a report could reasonably have been
25 made; and

26 (4) [(3)] in the discretion of the board, the applicant has
27 cooperated with law enforcement and prosecution officials to further
28 prosecution of the offender if appropriate and to avoid further injury
29 by the offender to the applicant and injury to persons in the care of

1 the applicant who are exposed to possible injury by the offender.

2 * Sec. 10. AS 18.67.130(b) is amended to read:

3 (b) Compensation [NO COMPENSATION] may not be awarded if the
4 victim

5 [(1) Repealed

6 (2) Repealed]

7 (1) [(3)] violated a penal law of the state, which vio-
8 lation caused or contributed to the victim's property damage, [HIS]
9 injuries or death; [OR]

10 (2) [(4)] is injured as a result of the operation of a
11 motor vehicle, boat or airplane unless the vehicle was used by the
12 offender while intoxicated or as a weapon in deliberate attempt to
13 injure or kill the victim or to elude pursuing law enforcement offi-
14 cers; or

15 (3) was the subject of the law enforcement agency activi-
16 ties that resulted in property damage and the law enforcement agency
17 was not negligent in making the victim the subject of its activities.

18 * Sec. 11. AS 18.67.160 is amended to read:

19 Sec. 18.67.160. SURVIVAL AND ABATEMENT. The rights to compensa-
20 tion created under this chapter are personal and do not survive the
21 death of a victim or dependent entitled to them, except that if the
22 death occurs after an application for compensation has been filed with
23 the Crime Victims [VIOLENT CRIMES] Compensation Board, the proceeding
24 does not abate, but may be continued by the legal representative of
25 the decedent's estate.

26 * Sec. 12. AS 18.67.162 is amended to read:

27 Sec. 18.67.162. CRIME VICTIMS [VICTIM] COMPENSATION FUND. There
28 is created a crime victims [VICTIM] compensation fund which shall be
29 administered by the Crime Victims [VIOLENT CRIMES] Compensation Board.

1 The fund consists of money appropriated to it by the legislature. The
2 fund shall be administered in accordance with the provisions of this
3 chapter. Money distributed from the fund shall be in addition to
4 other sources of compensation provided in this chapter.

5 * Sec. 13. AS 18.67.175(b) is amended to read:

6 (b) Every law enforcement agency in the state shall inform
7 victims of violent crimes, or their surviving dependents, and victims
8 who suffer property damage as a result of law enforcement agency
9 activities in the prevention of crime or apprehension of suspected
10 criminals, of the provisions of this chapter and shall provide appli-
11 cation forms to the victims, or their dependents, who desire to seek
12 compensation under this chapter. The board shall provide application
13 forms, all other documents and general information which law enforce-
14 ment agencies may require to comply with this subsection.

15 * Sec. 14. AS 18.67.180(1) is amended to read:

16 (1) "board" means the Crime Victims [VIOLENT CRIMES] Compen-
17 sation Board;

18 * Sec. 15. AS 18.67.180(5) is amended to read:

19 (5) "victim" means a person who is injured or killed by an
20 incident or offense specified in AS 18.67.101(a) or who suffers prop-
21 erty damage as specified in AS 18.67.101(b) [AS 18.67.101].

22 * Sec. 16. AS 09.38.015(a) is amended to read:

23 (a) An individual is entitled to exemption of the following
24 property:

25 (1) a burial plot for the individual and the individual's
26 family;

27 (2) health aids reasonably necessary to enable the indi-
28 vidual or a dependent to work or to sustain health;

29 (3) benefits paid or payable for medical, surgical, or

- 1 hospital care to the extent they are or will be used to pay for the
2 care;
- 3 (4) an award under AS 18.67 (Crime Victims [VIOLENT CRIMES]
4 Compensation Board) or a crime victim's reparations Act of another
5 jurisdiction;
- 6 (5) benefits paid or payable as a longevity bonus under
7 AS 47.45;
- 8 (6) compensation or benefits paid or payable and exempt
9 under federal law;
- 10 (7) liquor licenses granted under AS 04;
- 11 (8) limited entry permits granted under AS 16.43, except as
12 provided in that chapter.