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Chapter 67. Violent Crimes Compensation Board.

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Sec. 18.67.010. Purpose. It is the purpose of this chapter to facilitate and permit the payment of compensation to innocent persons injured, to dependents of persons killed, and to certain other persons who by virtue of their relationship to the victim of a crime incur actual and reasonable expense as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. (§ 1 ch 203 SLA 1972; am § 1 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment effective June 5, 1975, deleted "and to certain other persons" and ending "and" preceding "to dependents" and inserted the language beginning "and to certain other persons" and ending "reasonable expense."

Sec. 18.67.020. Criminal injuries compensation board. (a) There is the Violent Crimes Compensation Board in the Department of Public Safety composed of three members to be appointed by the governor. One of the members shall be designated as chairman by the governor. At least one member shall be a medical or osteopathic physician licensed to practice in this state and one member shall be an attorney licensed to practice in this state. (am § 2 ch 132 SLA 1975; am § 1 ch 87 SLA 1978)

Effect of amendments. — The 1975 amendment, effective June 5, 1975, added "and one member shall be an attorney licensed to practice in this state" to the end of the third sentence of subsection (a). The 1978 amendment substituted "Department of Public Safety" for "Department of Health and Social Services" in the first sentence of subsection (a). As the rest of the section was not affected by the amendments, it is not set out.

Sec. 18.67.040. Action on application; hearings. (a) Upon application made under the provisions of this chapter, the board shall consider the application and rule on it. The board may, upon its own motion, order a hearing, specifying the time and place it is to be held; if a hearing is ordered, the board shall give notice to the applicant. If, after consideration without a hearing, the decision is unfavorable to the applicant, in whole or in part, the board shall furnish him a written statement of the reason for the ruling. If, within 30 days after receipt of this statement, the applicant requests a hearing on his application, the board shall specify a time and place for a hearing and shall give

notice to specified

Effect of amendment, subsection (a)

Sec. 18. order ent attorney amount awarded a compensa addition to the applica charge, de by the boo this section fee award SLA 1975)

Effect of amendment, substituted "in the first \$1,000" and per cent" and

Sec. 18. a person is chapter, or of offense payment of chapter: (1) to or (2) in the responsible victim who of the injur (3) in the more of the (am § 5 ch

Effect of amendment, inserted "or d been responsi subsection (a)

notice to the applicant. If no request for a hearing is made within the specified time, the decision of the board is final. (am § 3 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, rewrote subsection (a). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.050. Attorney fees. The board may, as part of an order entered under this chapter, determine and allow reasonable attorney fees, which may not exceed 25 per cent of the first \$1,000 amount awarded as compensation, 15 per cent of the next \$9,000 amount awarded as compensation, and 7.5 per cent of the amount awarded as compensation over \$10,000 under § 70 of this chapter, to be paid in addition to the amount of the compensation, to the attorney representing the applicant. It is unlawful for the attorney to ask for, contract for, charge, demand, collect or receive a larger sum than the amount allowed by the board in the award of attorney fees. An attorney who violates this section shall forfeit any fee awarded and shall repay the state the fee awarded under this section. (§ 1 ch 203 SLA 1972; *am.* § 4 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted "25 per cent" for "15 per cent" in the first sentence, and inserted "first \$1,000" and the language beginning "15 per cent" and ending "over \$10,000" in that sentence, deleted "out of but not" following "to be paid" in that sentence, inserted "charge, demand, collect" and "by the board" in the second sentence, added "of attorney fees" to the end of that sentence, and added the third sentence.

Sec. 18.67.080. Awarding compensation. (a) In a case in which a person is injured or killed by an incident specified in § 100(1) of this chapter, or by the act of any other person which is within the description of offenses listed in § 100(2) of this chapter, the board may order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the injured person;
- (2) in the case of personal injury or death of the victim, to a person responsible or who had been responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury or death; or
- (3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(am § 5 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, inserted "or death" twice and "or who had been responsible" once in paragraph (2) of subsection (a). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.090. Recovery from collateral source. (a) Up to the maximum set in § 130(c) of this chapter, the board may award compensation for losses and expenses allowable under § 110 of this chapter for which the applicant is not compensated by the offender or a person on behalf of the offender, or by the United States, a state, or any of its subdivisions or agencies, or a private source or emergency awards under § 120 of this chapter, for injury or death compensable under this chapter.

(b) If compensation is awarded under this chapter and the person receiving it also receives a collateral sum under (a) of this section which has not been deducted from it, the board may require that he refund either the amount of the collateral sum or the amount of compensation paid to him under this chapter, whichever is less.

(c) Notwithstanding the provisions of (a) and (b) of this section, in the case of the death of a victim, the value of a life insurance policy may not be considered a collateral sum that may be deducted under this section. (§ 1 ch 203 SLA 1972; am § 6 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted the language beginning "Up to the maximum set in § 130(c)" and ending "is not compensated by" for "The board shall deduct from compensation awarded under this chapter the payments received from" at the beginning of subsection (a), substituted "by" for "from" preceding "the

United States" and deleted "from" preceding "a person on behalf of the offender" in that subsection, substituted "the board may require that he refund either the amount of the collateral sum" for "he shall refund to the board the lesser of the sums" in subsection (b), added "whichever is less" to the end of that subsection, and added subsection (c).

Sec. 18.67.110. Nature of the compensation. The board may order the payment of compensation under this chapter for

(2) loss of earning power as a result of total or partial incapacity of the victim, and reasonable expenses of job retraining of or similar employment-oriented rehabilitative services for the victim; (am § 7 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, added the language beginning "and reasonable expenses" to the end of paragraph (2).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.120. Emergency compensation. It it appears to the board that, prior to taking action on an application, the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the board may make an emergency award of compensation to the applicant pending a final decision in the case. However,

(1) the amount of the emergency compensation may not exceed \$1,500; (am § 8 ch 132 SLA 1975)

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Effect of amendment. — The 1975 amendment, effective June 5, 1975, substituted "\$1,500" for "\$500" at the end of paragraph (1). As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.130. Limitations on awarding compensation.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is, at the time of the personal injury or at the time of the injury which results in the death of the victim living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender or with a member of the offender's family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

(c) No compensation may be awarded under this chapter in an amount in excess of \$25,000 per victim per incident. However, in the case of the death of a victim who has more than one dependent eligible for compensation, the total compensation which may be awarded as a result of that death may not exceed \$40,000. The board may prorate the total awarded among those dependents according to relative need. All payments shall be made in a lump sum.

(am §§ 9, 10 ch 132 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 5, 1975, in subsection (b), inserted "at the time of the injury which results in the" in paragraph (2), substituted "the same" and "the offender's" for "his" and "offender" for "person" in that paragraph, substituted "injure or kill" for "run" in paragraph (4), and deleted "down" following "victim" at the end of that paragraph. The amendment also, in subsection (c), divided the former first sentence into the present first and fourth sentences by adding "\$25,000 per victim per incident" to the end of the present first sentence, adding the present second and third sentences, and substituting "All" for "\$10,000 and all" at the beginning of the present fourth sentence. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.67.165. Distribution of money received as a result of the commission of crime. (a) Every person contracting with a person, or the representative or assignee of a person, accused of a crime in this state, with respect to the reenactment of that crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of that person's thoughts, feelings, opinions or emotions regarding the crime, shall pay to the board any money which would otherwise, by terms of the contract, be owing to the person accused or his representatives. The board shall deposit the money in an escrow account for the benefit of any victim of a crime committed by the person and payable to a victim, provided that

the person accused is convicted of the crime and the victim, within five years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against the person accused or his representatives.

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

(c) If an escrow account is established under this section, no otherwise applicable statute of limitation on the time within which civil action may be brought bars action by a victim of a crime committed by the person accused or convicted of the crime as to a claim resulting from the crime until five years have elapsed from the time the escrow account was established.

(d) The board shall make payments from an escrow account to any person accused of crime upon a court order after a showing by that person that

(1) the money will be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against that person, including the appeals process; and

(2) the person has insufficient assets, other than funds in the escrow account and assets which could be claimed as exempt from execution under state law, to provide for payment of expenses of legal representation.

(e) Any action taken by a person convicted of a crime to defeat the purpose of this section is void as against the public policy of this state. (§ 2 ch 87 SLA 1978)

Sec. 18.67.170. Reports. The board shall prepare and transmit to the governor and legislature annually a report of its activities under this chapter including a brief description of the facts in each case and the amount of compensation awarded. (§ 1 ch 203 SLA 1972; am § 1 ch 1 SLA 1977)

Effect of amendment. — The 1977 amendment deleted "the name of each applicant" following "under this chapter including" and deleted a comma following "facts in each case."

Legislative committee report. — For report on ch. 1, SLA 1977 (HB 64), see 1977 House Journal, p. 60.

Sec. 18.67.175. Duty to display information. (a) Every hospital licensed by this state shall display prominently in its emergency room, main entrance, and business office posters notifying the public of the existence and general provisions of this chapter. The board may set standards for the location of this display and shall provide posters and general information regarding the provisions of this chapter to each hospital and to each physician licensed to practice medicine in the state.

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(b) Every law enforcement agency in the state shall inform victims of violent crimes, or their surviving dependents, of the provisions of this chapter and shall provide application forms to the victims, or their dependents, who desire to seek compensation under this chapter. The board shall provide application forms, all other documents and general information which law enforcement agencies may require to comply with this subsection. (§ 11 ch 132 SLA 1975)

Effective date. — Section 12, ch. 132, June 5, 1975, in accordance with AS SLA 1975, makes this section effective on 01.10.07(c).

Chapter 70. Fire Protection.

Article 1. Prevention and Investigation.

Section	Section
75. Authority of municipal fire department officers and their personnel	90. Enforcement of regulations
	95. Smoke detection devices

Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection.

Common-law duty to take action concerning fire hazards after inspection. — Whether or not the state had a statutory duty to take action concerning hazards discovered at a hotel, where the state fire officials undertook to inspect a hotel for fire hazards, and in doing so they discovered a series of conditions constituting an "extreme life hazard," and there was evidence that they discussed some of these hazards with the manager of the hotel, promised him a more formal notification of fire code violations, and took no further action, the state fire officials had a duty to proceed further with regard to the recognized hazards, since the state assumed a common-law duty, owed to the victims of the fire, by its affirmative conduct. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Where the state had not undertaken to inspect a hotel and eliminate the fire

hazards, it did not assume any common-law duty. *State v. Jennings*, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

Duty to exercise reasonable care in conducting inspections. — Once an inspection has been undertaken the state has a further duty to exercise reasonable care in conducting fire safety inspections, and liability will attach where there is a negligent failure to discover fire hazards which would be brought to light by an inspection conducted with ordinary care. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

What constitutes reasonable care will vary with the circumstances and hazards involved. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.020. Duties of Department of Public Safety.

Common-law duty to take action concerning fire hazards after inspection. Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).
— See note to AS 18.70.010. *Adams v. State*,

Sec. 18.70.050. Power of department to inspect buildings.

Purpose of fire inspection is to protect life and property from fire. *Adams v. State*, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

exclusion shall have no effect on eligibility to receive or expend federal or state grants. (§ 1 ch 178 SLA 1972)

Sec. 18.65.290. Definitions. In §§ 130 — 290 of this chapter

(1) "council" means the Alaska Police Standards Council;

(2) "police officer" means a full-time employee of a police department which is a part of or administered by the state or a political subdivision of the state participating in a program established under §§ 130 — 290 of this chapter, who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of this state. (§ 1 ch 178 SLA 1972)

Article 3. Identification Cards.

Section

310. Identification cards

Sec. 18.65.310. Identification cards. (a) Upon payment of a \$5 fee, the Department of Public Safety shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.080, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only.

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the department. (§ 1 ch 37 SLA 1973)

Revisor's note (1973). — In ch. 37, SLA designated AS 18.65.130, and Article 3 1973, AS 18.65.310 was incorrectly designated Article 2.

Chapter 67. Violent Crimes Compensation Board.

Section

- 10. Purpose
- 20. Criminal injuries compensation board
- 30. Application for compensation
- 40. Hearings
- 50. Attorney fees
- 60. Regulations
- 70. Standards for compensation
- 80. Awarding compensation
- 90. Recovery from collateral source
- 100. Incidents and offenses to which chapter applies

Section

- 110. Nature of the compensation
- 120. Emergency compensation
- 130. Limitations on awarding compensation.
- 140. Recovery from offender
- 150. False claim
- 160. Survival and abatement
- 170. Reports
- 180. Definitions

Revisor's note (1972). — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140.

Legislative committee report. — For report on ch. 203, SLA 1972 (SB 28 am), see 1972 House Journal, p. 343.

Sec. 18.67.010. Purpose. It is the purpose of this chapter to facilitate and permit the payment of compensation to innocent persons

injured and to dependents of persons killed as a result of certain serious crimes or in attempts to prevent the commission of crime or to apprehend suspected criminals. (§ 1 ch 203 SLA 1972)

Sec. 18.67.020. Crimi. injuries compensation board. (a) There is the Violent Crimes Compensation Board in the Department of Health and Social Services composed of three members to be appointed by the governor. One of the members shall be designated as chairman by the governor. At least one member shall be a medical or osteopathic physician licensed to practice in this state.

(b) The term of office of each member of the board is three years, except that of the members first appointed one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year. All vacancies, except through the expiration of term, shall be filled for the unexpired term only.

(c) Each member of the board is eligible for reappointment and serves at the pleasure of the governor.

(d) Each member of the board is eligible for reappointment and any member of the board may be removed by the governor for inefficiency, neglect of duty or malfeasance in office after due notice and hearing.

(e) Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards.

(f) The board may appoint one or more hearing officers, who must be licensed to practice law in the state, to conduct hearings and take testimony in proceedings under this chapter, but final determinations of any matter shall be only by the board. A hearing officer acting under this section shall report his findings of fact and conclusions of law to the board, together with the reasons for the findings and conclusions. The board shall act only after consideration of the report and other evidence that it considers appropriate.

(g) The board may appoint and fix the duties of personnel necessary for carrying out its functions under this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.030. Application for compensation. (a) A person who may be eligible for compensation under this chapter may make application to the board. In a case in which the person entitled to make application is a minor, the application may be made on his behalf by his parent or guardian. In a case in which the person entitled to make application is mentally incompetent, the application may be made on his behalf by his parent, guardian or other individual authorized to administer his estate.

(b) In order to be eligible for compensation under this chapter, the applicant shall, before a hearing on an application under this chapter, submit reports, if reasonably available, from all physicians or surgeons who have treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the board, reports on the previous medical history of the victim, a report on the examination of

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the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the board shall order the reports and examination. (§ 1 ch 203 SLA 1972)

Sec. 18.67.040. Hearings. (a) Upon application made under the provisions of this chapter, the board shall fix a time and place for a hearing and shall give notice to the applicant.

(b) For the purpose of carrying out the provisions of this chapter, the board or its hearing officer may hold the hearings, sit and act at the times and places, and take the testimony that it or he considers advisable. The board or its hearing officer may administer oaths or affirmations to witnesses. The board has full powers of subpoena and compulsion of attendance of witnesses and production of documents, but no subpoena shall be issued except under the signature of a member of the board. Application to a court for aid in enforcing the subpoena may be made in the name of the board only by a board member. Subpoenas are served by any person designated by the board.

(c) The applicant and any other person having a substantial interest in a proceeding may appear and be heard, produce evidence and cross-examine witnesses in person or by his attorney. The board or its hearing officer also may hear other persons who in its or his judgment may have relevant evidence to submit.

(d) Admissibility of evidence is governed by the Administrative Procedure Act (AS 44.62).

(e) If a person has been convicted of an offense with respect to an act on which a claim under this chapter is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or a proceeding with regard to it is pending.

(f) Orders and decisions of the board shall be final. (§ 1 ch 203 SLA 1972)

Sec. 18.67.050. Attorney fees. The board may, as part of an order entered under this chapter, determine and allow reasonable attorney fees, which may not exceed 15 per cent of the amount awarded as compensation under § 70 of this chapter, to be paid out of but not in addition to the amount of the compensation, to the attorney representing the applicant. It is unlawful for the attorney to ask for, contract for, or receive a larger sum than the amount allowed in the award. (§ 1 ch 203 SLA 1972)

Sec. 18.67.060. Regulations. In the performance of its functions, the board is authorized to make, rescind and amend regulations prescribing the procedures to be followed in the filing of applications and in proceedings under this chapter, and relating to other matters the board considers appropriate. (§ 1 ch 203 SLA 1972)

Sec. 18.67.070. Standards for compensation. For the purpose of determining the amount of compensation payable under this chapter, the board shall, insofar as practicable, formulate standards for uniform application of this chapter and take into consideration rates and amounts of compensation payable for injuries and death under other laws of the state and of the United States and the availability of funds appropriated for the purposes of this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.080. Awarding compensation. (a) In a case in which a person is injured or killed by an incident specified in § 100(1) of this chapter, or by the act of any other person which is within the description of offenses listed in § 100(2) of this chapter, the board may order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the injured person;
- (2) in the case of personal injury of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury; or
- (3) in the case of death of the victim, to or for the benefit of one or more of the dependents of the victim.

(b) For the purposes of this chapter, a person is considered to have intended an act notwithstanding that by reason of age, insanity, drunkenness, or otherwise, he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the board shall consider all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, his need for financial aid, and any other relevant matters.

(d) An order may be made under this section whether or not a person is prosecuted or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this chapter for a period it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent. (§ 1 ch 203 SLA 1972)

Sec. 18.67.090. Recovery from collateral source. (a) The board shall deduct from compensation awarded under this chapter the payments received from the offender or from a person on behalf of the offender, or from the United States, a state, or any of its subdivisions or agencies, or a private source or emergency awards under § 120 of this chapter, for injury or death compensable under this chapter.

(b) If compensation is awarded under this chapter and the person receiving it also receives a collateral sum under (a) of this section

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which has not been deducted from it, he shall refund to the board the lesser of the sums or the amount of compensation paid to him under this chapter. (§ 1 ch 203 SLA 1972)

Revisor's note (1972). — In ch. 203, SLA 1972, AS 18.67.090 — 18.67.180 were designated 18.67.085 — 18.67.140.

Sec. 18.67.100. Incidents and offenses to which chapter applies. The board may order the payment of compensation in accordance with the provisions of this chapter for personal injury or death which resulted from

(1) an attempt on the part of the applicant to prevent the commission of crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police officer to do so, or aiding a victim of a crime, or

(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: mayhem; indecent act with children; kidnapping; murder; manslaughter; rape; assault with intent to kill, rob, rape, or poison; assault with intent to maim; assault with a dangerous weapon; threats to do bodily harm; or lewd, indecent, or obscene acts. (§ 1 ch 203 SLA 1972)

Sec. 18.67.110. Nature of the compensation. The board may order the payment of compensation under this chapter for

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

(2) loss of earning power as a result of total or partial incapacity of the victim;

(3) pecuniary loss to the dependents of the deceased victim; and

(4) any other loss resulting from the personal injury or death of the victim which the board determines to be reasonable. (§ 1 ch 203 SLA 1972)

Sec. 18.67.120. Emergency compensation. If it appears to the board that, prior to taking action on an application, the claim is one for which compensation is probable, and undue hardship will result to the applicant if immediate payment is not made, the board may make an emergency award of compensation to the applicant pending a final decision in the case. However,

(1) the amount of the emergency compensation may not exceed \$500;

(2) the amount of the emergency compensation shall be deducted from the final compensation made to the applicant;

(3) the excess of the amount of the emergency compensation over the final amount shall be repaid by the applicant to the board. (§ 1 ch 203 SLA 1972)

Sec. 18.67.130. Limitations on awarding compensation. (a) No order for the payment of compensation may be made under § 80 of this chapter unless the application has been made within two years after

the date of the personal injury or death, and the personal injury or death was the result of an incident or offense listed in § 100 of this chapter which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(b) No compensation may be awarded if the victim

(1) is a relative of the offender;

(2) is at the time of the personal injury or death of the victim living with the offender as a member of his family or household, or maintaining a sexual relationship, whether illicit or not, with the person or with a member of his family;

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to run the victim down.

(c) No compensation may be awarded under this chapter in an amount in excess of \$10,000 and all payments shall be made in a lump sum.

(d) Orders for payment of compensation under this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1971. (§ 1 ch 203 SLA 1972)

Sec. 18.67.140. Recovery from offender. When an order for the payment of compensation for personal injury or death is made under this chapter, the board, upon payment of the amount of the order, is subrogated to the cause of action of the applicant against the person responsible for the injury or death and is entitled to bring an action against the person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the board shall pay the balance to the applicant. (§ 1 ch 203 SLA 1972)

Sec. 18.67.150. False claim. A person who knowingly makes a false claim under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$500, or by imprisonment for not more than one year, or by both, and shall forfeit any benefit received and shall repay the state for payment of compensation made under this chapter. (§ 1 ch 203 SLA 1972)

Sec. 18.67.160. Survival and abatement. The rights to compensation created under this chapter are personal and do not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application for compensation has been filed with the Violent Crimes Compensation Board, the proceeding does not abate, but may be continued by the legal representative of the decedent's estate. (§ 1 ch 203 SLA 1972)

Sec. 18.67.170. Reports. The board shall prepare and transmit to the governor and legislature annually a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case, and the amount of compensation awarded. (§ 1 ch 203 SLA 1972)

Sec. 18.67.180. Definitions. In this chapter

- (1) "board" means the Violent Crimes Compensation Board;
- (2) "dependent" means a relative of a deceased victim, who was dependent upon the victim's income at the time of his death; children of a victim born after a victim's death are included;
- (3) "personal injury" means actual bodily harm;
- (4) "relative" means spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parents;
- (5) "victim" means a person who is injured or killed by an incident specified in § 100 of this chapter. (§ 1 ch 203 SLA 1972)

Chapter 70. Fire Protection.

Article

- 1. Prevention and Investigation (§§ 18.70.010 — 18.70.100)
- 2. Fire Escapes (Repealed)
- 3. Mutual Fire Aid Agreements (§§ 18.70.150 — 18.70.160)
- 4. General Provisions (§ 18.70.300)

Article 1. Prevention and Investigation.

Section

- 10. General function of Department of Public Safety with respect to fire protection
- 20. Duties of Department of Public Safety
- 30. Investigation of fires resulting from crime
- 40. Cooperation with fire insurance companies
- 50. Power of department to inspect buildings

Section

- 60. Removal of property from fire
- 70. Abatement of fire hazards
- 80. Regulations
- 82. Remote housing facilities
- 84. Standard fire hose and hydrant threads required
- 85. Sale of nonstandard equipment
- 90. Enforcement of regulations
- 100. Violation

Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection. The Department of Public Safety shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic. (§ 1 ch 66 SLA 1955)

Legislative intent. — The legislature did not by enacting this section and AS 18.70.020, AS 18.70.050, AS 18.70.070, and AS 18.70.080 intend to impose a duty on state personnel in connection with enforcement of regulations promulgated pursuant thereto in favor of those injured

by preventable violations. *Adams v. Big Land Dev. Corp.*, Superior Court, 3rd Jud. Dist., C.A. No. 70-326 (1973).

Safety and fire inspectors not liable for failure to enforce law. — Public policy precludes holding public officers such as safety and fire inspectors liable for

Monday, April 9, 1979

Chairman Charlie Parr called the meeting to order at 3:45 with all Committee members present.

The subject of the meeting was Senate Bill 77, Compensation for Criminal Injuries.

Jim McKenzie, drafter of the bill appeared before the committee to explain that the intent of the legislation was to add aggravated assault to the crimes compensable through the violent crimes compensation board. He further stated that some of the language in the bill was added to keep in line with the new criminal code, which will go into effect in January, 1980.

Nola Capp, the administrator of the Violent Crimes Compensation Board appeared before the committee. She explained to the Judiciary members that the board wanted to include aggravated assault among the crimes compensable by the board. Apparently, the board is aware of many cases of persons physically harmed by another person without a weapon. Under current law, the Violent Crimes Compensation Board cannot act unless a weapon is used.

Chairman Parr asked the Committees pleasure. Rep. O'Connell moved the committee adopt the McKenzie Amendment, there being no objection, it was so ordered. Rep. Brown moved the committee report out CS for SB 77, there being no objection, CSSB 77 was reported out of Judiciary Committee.

A M E N D M E N T

Offered in the SENATE

By the Judiciary Committee

TO: SENATE BILL NO. 77

Page 2, lines 4 - 10:

Delete all material and insert the following:

"(2) the commission or attempt on the part of one other than the applicant to commit any of the following offenses: murder in any degree, manslaughter, criminally negligent homicide, assault in the first or second degree, kidnapping, sexual assault in any degree, sexual abuse of a minor, contributing to the delinquency of a minor under AS 11.51.130(a)(4), threats to do bodily harm, or lewd, indecent, or obscene acts."

STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
JUNEAU ALASKA 99801
907-465-3811

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1979

SUBJECT: Proposed amendment to Senate Bill No. 77
TO: Members of the Senate Judiciary Committee
FROM: *JAMc* James A. McKenzie, Legislative Counsel

The purpose of Senate Bill No. 77 is to allow the Violent Crimes Compensation Board to compensate victims of aggravated assault. This is provided for in sec. 1 by adding aggravated assault to the list of offenses for which compensation may be paid. This list of offenses, however, will be obsolete when the new criminal code takes effect on January 1, 1980. Section 2 of the bill is an attempt to translate the list of offenses, including aggravated assault, into the language of the new criminal code. The difficulty is in translating the terms "threats to do bodily harm" and "lewd, indecent, or obscene acts." (Page 2, lines 22-23). Threats to do bodily harm and lewd, indecent, or obscene acts are not, as such, crimes under the present criminal code or under the new criminal code. I had thought it best to eliminate these general terms and replace them with specific crimes under the new criminal code. Upon reviewing the bill, however, I believe that it is better to leave these terms as they are. There are a number of crimes under the new criminal code which could, in some circumstances, involve threats to do bodily harm or lewd, indecent, or obscene acts. For example, harrassment under AS 11.61.120(a)(4) involves anonymous phone calls, obscene phone calls, and phone calls that threaten physical injury. If this were added to the list, it would read, "harrassment under AS 11.61.120(a)(4) which involves an obscene phone call or a phone call that threatens physical injury."

Use of the general terms in the existing law eliminates the complexity and confusion of listing, with appropriate qualifications, every crime which might come under those terms and helps to insure that new crimes coming under those terms will be covered. The proposed amendment translates the specific crimes listed in sec. 1 into their counterparts under the new criminal code and retains the general terms "threats to do bodily harm" and "lewd, indecent, or obscene acts."

JAMcK:nem

SB 77 JUDICIARY BY REQUEST.....RELATING TO COMPENSATION FOR
CRIMINAL INJURIES.

THE PURPOSE OF THIS BILL IS TO ADD " AGGRAVATED ASSAULT" TO THE
CRIMES WHICH A PERSON MAY APPLY FOR COMPENSATION FROM THE VIOLENT
CRIMES COMPENSATION BOARD.

SECTION 1. Adds "aggravated assault" to the current offenses
under which a person may apply for compensation.

SECTIONS 2-6 These sections have been rewritten and amended in order
to include the new term for aggravated assault and to
conform to internal cross references under the
new criminal code, which will be effective January,
1980.

*NOTE: Only section 1 will take effect immediately, all other
sections will take effect January 1980.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

VIOLENT CRIMES COMPENSATION BOARD

POUCH N
JUNEAU, ALASKA 99811

January 30, 1979

The Honorable Robert H. Ziegler, Sr.
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

The Violent Crimes Compensation Board requests passage of SB 77 amending Section 100 of the statute to include Aggravated Assault.

Five claims were submitted in FY78 which had to be denied because the injuries did not result from a crime encompassed under Section 100. While the number does not seem large, the Board believes innocent victims should be compensated for medical expenses and loss of earnings due to injuries received at the hands of assailants.

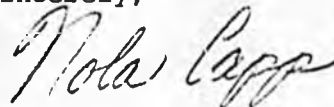
For example, one claimant was at home when two men forced their way into the apartment and beat and kicked the claimant severely. The claimant incurred fractured nasal bones and multiple abrasions and contusions about the head, neck, arms and upper chest. The claimant's medical expenses were \$2,157.00 of which the insurance company paid \$1,561.50, leaving the claimant owing a balance of \$645.50. Since the claimant was in the hospital eight days and unable to work for a period of three weeks total, loss of earnings were incurred in the amount of \$880.55.

As the amount of compensation for each of the claims would be approximately \$2,000.00, the Board does not feel there would be a fiscal impact on the program over and above the appropriated funds.

The Crime of Aggravated Assault appears to be within the intent of the original statute therefore the Violent Crimes Compensation Board supports this bill.

As a Board meeting was previously scheduled in Anchorage on February 1, 1979, it is impossible to personally testify at the hearing. However, your thoughtful consideration will be appreciated.

Sincerely,



(Mrs.) Nola K. Capp
Administrator

NKC:mng

MEMORANDUM

State of Alaska

TO: Jos Mapranath
Budget Analyst
Department of Public Safety

DATE: January 29, 1979

FILE NO:

TELEPHONE NO:

FROM: Nola K. Capp, Administrator *NC*
Violent Crimes Compensation Board

SUBJECT: Senate Bill 77

Based on the historical data at our disposal, we do not feel there will be a fiscal impact over and above the appropriated funds.

The Honorable Robert Ziegler
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

The Violent Crimes Compensation Board, at their November meeting, requested I write asking your assistance with a problem in the statute that has arisen several times during the past year.

Several claims have been submitted where the claimant was kicked and beaten causing severe injuries. The Board has had to deny the claims because Aggravated Assault doesn't qualify as a compensable crime under Section 100 of the statute.

The Board would like your assistance in amending Section 100 of the statute to include Aggravated Assault as a qualifying crime so innocent victims of brutal attacks can be compensated.

The Board does not feel this would have a great fiscal impact on the program as claims of this nature do not request large sums of money so no fiscal note would be required.

Your assistance in this matter and your support of the program is appreciated.

Sincerely,

Nola K. Capp
(Mrs.) Nola K. Capp
Administrator

NKC:mng

I. REQUEST
 Bill/Resolution No. SB77
 Title An act relating to compensation for criminal injuries.....
 Requested by Legislative Finance Date 1-29-79

II. FISCAL DETAIL
 Agency Affected Department of Public Safety
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Violent Crime Compensation Board/Due Process
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Aggravated assault claims usually involve no large sum of money and the program manager estimates no fiscal impact at all.

IV. DATE 1/29/79 PREPARED BY Jos Mapranath, Budget Analyst
 AGENCY Department of Public Safety
 PHONE 465-4368
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)