

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

5/13/83

Date: 6/23/83

Mr. Speaker:

The Committee on FINANCE has had CSSB 86 (Fin)

"An Act relating to compensation for victims of violent crimes."

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[X] replace with CS for CSSB (Jud) [X] same title
[] new title
and recommends Do Pass

[X] AND attaches a "Letter of Intent" [X] ~~New~~ Fiscal Note
[] Zero Fiscal Note Attached

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

CHAIRMAN

Offered: 5/13/83
Referred: Finance

Original sponsors: Kerttula, V.Fischer,
Ray and Ziegler

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 86 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to compensation for victims of
7 violent crimes."

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

9 * Section 1. AS 18.67.080(a) is amended by adding a new paragraph to
10 read:

11 (4) to the provider of a service under AS 18.67.110(b).

12 * Sec. 2. AS 18.67.110 is amended by adding a new subsection to read:

13 (b) The board may order that compensation under (a) of this sec-
14 tion for a service provided as a result of the personal injury or
15 death of the victim be paid directly to the provider of the service.

16 * Sec. 3. AS 18.67.130(a) is amended to read:

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

19 (1) the application has been made within two years after
20 the date of the personal injury or death; [, AND]

21 (2) the personal injury or death was the result of an inci-
22 dent or offense listed in AS 18.67.101 that [WHICH] had been reported
23 to the police within five days of its occurrence or, if the incident
24 or offense could not reasonably have been reported within that period,
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26 made; and

27 (3) in the discretion of the board, the applicant has coop-
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1 by the offender to the applicant and injury to persons in the care of-
2 the applicant who are exposed to possible injury by the offender.

3 * Sec. 4. AS 18.67.130(c) is amended to read:

4 (c) No compensation may be awarded under this chapter in an
5 amount in excess of \$25,000 per victim per incident. However, in the
6 case of the death of a victim who has more than one dependent eligi-
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8 awarded as a result of that death may not exceed \$40,000. The board
9 may prorate the total awarded among those dependents according to
10 relative need. [ALL PAYMENTS SHALL BE MADE IN A LUMP SUM.]

11 * Sec. 5. AS 18.67 is amended by adding a new section to read:

12 Sec. 18.67.162. CRIME VICTIM COMPENSATION FUND. There is
13 created a crime victim compensation fund which shall be administered
14 by the Violent Crimes Compensation Board. The fund consists of money
15 appropriated to it by the legislature. The fund shall be administered
16 in accordance with the provisions of this chapter. Money distributed
17 from the fund shall be in addition to other sources of compensation
18 provided in this chapter.

19 * Sec. 6. AS 18.67.130(b)(1) and (2) are repealed.

STATE OF ALASKA
FISCAL NOTE

Revision Date 1986

(Page 1 of 2)

I. REQUEST

Bill/Resolution No.: CSSB 86(FIN)
 Title: "Act Relating to Compensation for
 Sponsor: Sen. Kertulla
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime ID
 "Victims" BRU, Program of Subprogram(s) Affected:
Violent Crimes Compensation Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		26.6	28.2	29.9	31.7	33.5
200 TRAVEL		7.9	8.4	8.9	9.4	10.0
300 CONTRACTUAL		17.1	9.1	9.7	10.3	10.9
400 COMMODITIES						
500 EQUIPMENT		2.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		287.0	304.2	322.5	341.9	362.4
TOTAL OPERATING		341.1	349.9	371.0	393.3	416.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		341.1	349.9	371.0	393.3	416.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis See Attached

Prepared By: Nola K. Capp Phone: 465-3040
 Division: Violent Crimes Compensation Board Date: 5-6-83

Approved by Commissioner: [Signature] Date: 5/9/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

ANALYSIS

CSSB 86(Fin). (Page 2 of 2)

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded; 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$800 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the State.

The following individuals may testify on SB 86:

A representative of Senator Kerttula

A representative of the Department of Public Safety

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 19__

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Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Kerttula
FROM: Elizabeth J. Hickerson
RE: Violent Crimes Compensation Board Revisions
DATE: January 25, 1983

State compensation for victims of violent crimes was a response to the growing concern that while an offender's rights were protected the rights of the victim were often overlooked. California was the first state to address this issue and in 1965 enacted a Victim Compensation Program. As of January 1, 1983, thirty-four states plus the District of Columbia had established similar programs.

AS 18.67, which established a Violent Crimes Compensation Board, was adopted in 1972. The purpose of this legislation is:

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. AS 18.67.010

The Violent Crimes Compensation Board is in the Department of Public Safety. The Board is composed of three members appointed by the Governor. It is the duty of the Board to review and rule on all applications received. Payment of compensation can be ordered if personal injury or death 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: 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, robbery in any degree, contributing to the delinquency of a minor under AS 11.51.130(a)(4), or threats to do bodily harm. AS 18.67.101.

Victim compensation covers reasonable expenses incurred; loss of earning power due to incapacibility; job retraining or employment oriented rehabilitative services; pecuniary loss to the dependents of the deceased victim; and other reasonable loss determined by the board. AS 18.67.110.

Presently compensation is made payable to or for the benefit of the injured person; to a person responsible for the maintenance of the victim; or to the dependents of a deceased victim. AS 67.080. The total amount of compensation is limited to \$25,000 per victim per incident for losses and expenses not covered by collateral sources. Life insurance proceeds are not treated as a collateral source. AS 18.67.090. However in the case of the death of a victim who has more than one eligible dependent compensation may not exceed \$40,000. AS 67.130.

Additional limitations exist under the current state statute. No compensation may be awarded unless an application to the Board for compensation was made within two years after the date of the incident and the incident was reported to the police within five days of its occurrence or within five days of the time when a report could reasonably have been made. AS 18.67.130

Presently 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.

SB86 would revise the statute affecting the Violent Crimes Compensation Board as follows.

- (1) AS 18.67.080 would be amended by adding a new paragraph, which would allow compensation to be paid directly to the provider of the service.

Result: The victim receives necessary services and the provider is ensured of payment with a minimal amount of red tape.

Argument for: In situations where the provider has given services to the victim without charge the Board must make joint payment to the victim or his representative and the provider. Nola Capp, Administrator to the Board, has encountered cases where payment never reached the provider. With the addition of this new paragraph the administrative procedures will be more efficient.

Argument against: The only possible argument against this addition might be the concern that victims who paid for the service would not be reimbursed. This can be countered with the administrative safeguard already in existence. The Board requires receipts of all expenses paid by the victim and also notifies the provider that if payment has already been made then the award of compensation is to be passed on to the victim.

- (2) The bill repeals AS 18.67.130(b) (1) and (2), which deny compensation to the victim if he or she is a relative of the offender, member of the offender's household, maintaining a sexual relationship with the offender or with a member of the offender's family.

Result: The purpose of AS 18.67.10 - AS 18.67.130, "to facilitate and permit the payment of compensation to innocent persons injured" will only be achieved if all "innocent victims" are treated equally.

Arguments for: The relation between the victim and the offender should not work as a financial disadvantage if the victim is innocent, reports the crime and cooperates with the local law enforcement officials. Each case that comes to the Board is investigated completely and a determination is made as to whether or not compensation should be awarded. Thus we already have sufficient safeguards in existence to weed out any fabricated stories. Also, since compensation only covers those reasonable expenses incurred as a result of the personal injury nothing is to be gained. The present restriction primarily denies compensation for victims of domestic violence and incest. Rural Alaskans are often denied compensation due to the fact that the population is sparse, housing is often limited and many people are distantly related. SB86 would correct these problems.

Arguments against: If relatives are allowed to be

compensated for injuries sustained as a result of criminal activity the offender is benefiting from his/her misconduct. Counter: Only reasonable expenses incurred are compensated, thus no financial gain.

Victims of domestic violence will get compensated but might not file charges. Counter: the crime must now be reported under AS 18.67.130, and if this bill passes in its entirety, the victim would be required to aid in the apprehension and conviction of the offender. Once again, the Board carefully scrutinizes each case.

Relatives or members of the same household are more likely to conspire for financial gain. Counter: where is the gain if only expenses incurred are compensated?

- (3) AS 18.67.130 (b) would be amended by adding a new paragraph. No compensation may be awarded if the victim:

refuses to give reasonable cooperation to state or local law-enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in the personal injury, unless good cause for the refusal is shown the board.

Result: Although the victim must presently report the incident within five days of its occurrence, this would strengthen the amount of assistance imposed on the recipient of compensation.

Arguments for: This provides the local law enforcement agency with additional support in the apprehension and conviction of offenders. In many ways this is already required because of the reporting requirement. Even a hostile victim/witness can be subpoenaed by the prosecution. More importantly this additional requirement would counter the argument that relatives or members of a household, if eligible for compensation, would conspire to defraud the state through collusion.

Arguments against: Certain victims might argue that this is an unreasonable requirement, particularly if further mental anxiety would occur. However, each case is reviewed individually and the amendment gives the Board the discretion to determine whether "good cause" is shown for noncompliance.

Defense attorneys might use this compensation/cooperation requirement to impeach the credibility of a victim/witness with a "bought" testimony argument. The counter argument is that the victim/witness only is reimbursed for reasonable expenses incurred as a result of the perpetrator's criminal conduct. There is no real financial gain.

Final Note

A victim is a victim and if innocent should be treated as such.

In 1982 the basic provisions of this bill were introduced in the House by Halford and Clocksin (HB 869) and in the Senate, by Bradley (SB 620).

SB 620 restricted compensation if at the time of "application for compensation (the victim) was 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."

This provision only speaks to the time of making application and nothing prevents reconciliation, if that was the point to be made. Because of this I find this provision to be without real merit.

Supporters of the Bill

*Council on Domestic Violence and Sexual Assault

*Caren Robinson, speaking for the Network on Domestic Violence and Sexual Assault

*Nola Capp, Administrator of the Violent Crimes Compensation Board

*Katie Hurley, speaking for the Commission on the Status of Women

SENATE LETTER OF INTENT
ON CSSB 86 (Fin)

The Judiciary Committee has had Senate Bill 86 under consideration. The Committee recommends that SB 86 do pass.

Under existing law, the Violent Crimes Compensation Board, established in 1972, may not award compensation if the victim of a violent crime is, or was at the time of the crime, a relative of the offender, a member of the offender's family or household, or maintaining a sexual relationship with the offender.

SB 86 would eliminate these restrictions or disabilities, and permit the Board to award compensations in all cases which the Board, operating under standards set forth in AS 18.67.080, finds fitting (within the limitations of the legislature's annual appropriation for this purpose).

The need for SB 86 was demonstrated by testimony before the Committee. Under existing law, a minor living in the household of the offender, whose parent is murdered by the offender, may not be compensated even though the minor was economically dependent upon the parent. In that case -- an actual one -- the Violent Crimes Compensation Board was barred by existing law from awarding compensation; a case-by-case analysis by the Board would be preferable.

Concern was expressed lest SB 86 be a basis for awards to a person involved in a sexual relationship with the offender, where the victim explicitly or implicitly consented, as a matter of lifestyle and repeated behavior patterns, to the offender's violent conduct. Since the Violent Crimes Compensation Board has limited resources, and a demand under existing law which is greater than the funds available to the Board, members of the Judiciary Committee felt that the Board should exercise care, if SB 86 becomes law, to avoid having to deny compensation to victims who are strangers to their offenders because of the Board's compensation of newly eligible victims who have consented to violent conduct by offenders with whom the victims have lived.

On this point, the Committee received reassurance from a representative of the Board, who pointed out that SB 86 would require all victims receiving compensation to give "reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the offender for the crime resulting in personal injury." Moreover, existing law (AS 18.67.080 (c)), required the Board to consider "all circumstances determined to be relevant, including provocation, consent or any other behavior of the victim which directly or indirectly contributed to the injury or death", and to consider such factors as the prior case history, or social history, of the victim.

In summary, SB 86 would broaden the discretion of the Violent Crimes Compensation Board to make awards, within the limit of available funds, without the limitations and restrictions of existing law where the victim has been a relative of the offender or a member of the offender's household, or involved in a sexual relationship with the offender. At the same time, the Board could weigh such factors as the victim's conduct, history, or express or implied consent, in determining whether an award should be made.

The committee would expect the Board to consider these factors with care. SB 86 would also require the victim's cooperation with law enforcement agencies' efforts to apprehend and convict the offender.

Adopted by the Senate 3/17/83

Offered: 3/10/83
Referred: Rules

Original sponsors: Kerttula, V.Fischer,
Ray and Ziegler

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 86 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - FIRST SESSION

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A BILL

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For an Act entitled: "An Act relating to compensation for victims of
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