

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/24/99

A Bill

Act 1502 of 1999
HOUSE BILL 2117

5 By: Representatives Allison, Bookout, Broadway, Hathorn, J. Jeffress, Creekmore, Davis, Courtway,
6 Teague, Hausam, French, Jacobs, Gillespie, Elliott
7

For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE 16-90-703 TO CHANGE
11 DEFINITIONS PERTAINING TO THE CRIME VICTIMS
12 REPARATIONS ACT; AND FOR OTHER PURPOSES. "
13

Subtitle

14 "TO AMEND ARKANSAS CODE 16-90-703 TO
15 CHANGE DEFINITIONS PERTAINING TO THE
16 CRIME VICTIMS REPARATIONS ACT. "
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code 16-90-703 is amended to read as follows:
23 "16-90-703. Definitions. [As amended by Acts 1997, No. 887].
24

25 As used in this subchapter, unless the context otherwise requires:

26 (1) 'Board' means the Crime Victims Reparations Board created by
27 § 16-90-705;

28 (2) 'Victim' means a person who suffers personal injury or death
29 as a result of criminally injurious conduct committed either within the State
30 of Arkansas or against any Arkansas resident who suffers personal injury as
31 the result of criminally injurious conduct which occurs in states presently
32 not having crime victims reparations programs for which the victim is *eligible*
33 *and further includes any Arkansas resident who is injured or killed by an act*
34 *of terrorism committed outside of the United States as defined in § 2331,*
35 *Title 18, United States Code*; ~~and~~ *The term 'victim' shall also include a person*
36 *who:*

1 ~~(i)~~(A) is an immediate family member of a deceased victim, victim
2 of sexual assault, or a child victim; ~~or~~

3 ~~(ii)~~(B) is not an immediate family member, but resided, at the
4 time of the crime, in the same permanent household as a deceased victim; or

5 (C) discovered the body of a victim who dies as the result of
6 criminally injurious conduct;

7 (3) 'Dependent' means a natural person wholly or partially
8 dependent upon the victim for care or support and includes a child of the
9 victim born after the death of the victim where the death occurred as a result
10 of criminally injurious conduct;

11 (4) 'Claimant' means any of the following persons applying for
12 reparations under this subchapter:

13 (A) A victim;

14 (B) A dependent of a victim who has died because of
15 criminally injurious conduct; or

16 (C) A person authorized to act on behalf of any of the
17 persons enumerated in subdivisions (4)(A) and (B) of this section;

18 (D) The term shall not include a service provider.

19 (5) 'Criminally injurious conduct' means an act which occurs or
20 is attempted in this state that results in personal injury or death to a
21 victim, which act is punishable by fine, imprisonment, or death. This term
22 shall include acts of terrorism committed outside of the United States as
23 defined in § 2331, Title 18, United States Code against any Arkansas resident.
24 This term shall not include acts arising out of the operation of motor
25 vehicles, boats, or aircraft unless the acts were committed with the intent to
26 inflict injury or death or unless the acts ~~committed were in violation of the~~
27 ~~Omnibus DWI Act, § 5-65-101 et seq.~~ involve any of the following:

28 (A) Injury or death intentionally inflicted through the use
29 of a motor vehicle, boat or aircraft;

30 (B) A violation of the Omnibus DWI Act, A.C.A. §5-65-101,
31 et seq.;

32 (C) A violation of A.C.A. § 27-53-101.

33 For the purposes of this subchapter, a person shall be deemed to have
34 committed criminally injurious conduct notwithstanding that by reason of age,
35 insanity, drunkenness, or other reason, he was legally incapable of committing
36 a crime;

1 (6) 'Economic loss' means monetary detriment consisting ~~only of~~
 2 allowable expense, and work loss, ~~replacement services loss, and, if injury~~
 3 ~~causes death, replacement services loss of a dependent,~~ but shall not include
 4 noneconomic detriment;

5 (7) 'Allowable expense' means charges incurred for needed
 6 products, services, and accommodations including, but not limited to, medical
 7 care, rehabilitation, rehabilitative occupational training, crime scene
 8 cleanup, and other remedial treatment and care. It also includes a reasonable
 9 and necessary amount for expenses related to funeral, cremation, or burial;

10 (8) 'Work loss' means loss of income from work the victim or
 11 claimant would have performed if ~~that person~~ the victim had not been injured
 12 or died, reduced by any income from substitute work actually performed by the
 13 victim or claimant, or by income the victim or claimant would have earned in
 14 available appropriate substitute work that he or she was capable of performing
 15 but unreasonably failed to undertake;

16 ~~(9) 'Replacement services loss' means expenses reasonably~~
 17 ~~incurred in obtaining ordinary and necessary services in lieu of those the~~
 18 ~~victim would have performed, not for income, but for the benefit of self or~~
 19 ~~family if the victim had not been injured or died;~~

20 ~~(10) 'Replacement services loss of dependent' means the loss~~
 21 ~~reasonably incurred by dependents after death of the victim in obtaining~~
 22 ~~ordinary and necessary services in lieu of those services the deceased victim~~
 23 ~~would have performed for their benefit had the deceased victim not suffered~~
 24 ~~the fatal injury, loss expenses of the dependent avoided by reason of death of~~
 25 ~~the victim;~~

26 ~~(11)~~(9) 'Noneconomic detriment' means pain, suffering,
 27 inconvenience, physical impairment, and nonpecuniary damage;

28 ~~(12)~~(10) 'Collateral source' means a source of benefits or
 29 advantages for economic loss ~~for which the claimant would otherwise be~~
 30 ~~eligible to receive reparations under this subchapter~~ which the claimant has
 31 received, or which is readily available to the claimant, from any one (1) or
 32 more of the following:

33 (A) The offender;

34 (B) The United States Government or any agency thereof in
 35 the form of benefits, such as social security, medicare, and medicaid, or a
 36 state or any of its political subdivisions, ~~or an instrumentality of two (2)~~

1 ~~or more states, unless the law providing for the benefits or advantages makes~~
2 ~~them in excess of or secondary to benefits under this subchapter;~~

3 (C) State-required temporary nonoccupational disability
4 insurance;

5 (D) Workers' compensation;

6 (E) Wage continuation programs of any employer;

7 (F) Proceeds of a contract of insurance payable to the
8 claimant for loss which the victim sustained because of the criminally
9 injurious conduct; or

10 (G) A contract providing prepaid hospital and other health
11 care services or benefits for disability;

12 ~~(13)(11) 'Immediate family' means the persons who are related a~~
13 ~~person's spouse, children, parents or guardian, siblings, and grandparents~~
14 ~~whether related by blood, adoption, or marriage, within the first degree of~~
15 ~~consanguinity or affinity;~~

16 ~~(14)(12) 'Personal injury' means actual bodily harm, including~~
17 ~~pregnancy, or mental anguish which is the direct result of a violent criminal~~
18 ~~act."~~

19
20 SECTION 2. Arkansas Code 16-90-703 [as amended by Acts 1997, No. 818]
21 is repealed.

22 ~~16-90-703. Definitions. [As amended by Acts 1997, No. 818.]~~

23 ~~As used in this subchapter, unless the context otherwise requires:~~

24 ~~(1) "Board" means the Crime Victims Reparations Board created by~~
25 ~~§ 16-90-705;~~

26 ~~(2) "Victim" means a person who suffers personal injury or death~~
27 ~~as a result of criminally injurious conduct committed either within the State~~
28 ~~of Arkansas or against any Arkansas resident who suffers personal injury as~~
29 ~~the result of criminally injurious conduct which occurs in states presently~~
30 ~~not having crime victims reparations programs for which the victim is eligible~~
31 ~~and further includes any Arkansas resident who is injured or killed by an act~~
32 ~~of terrorism committed outside of the United States as defined in § 2331,~~
33 ~~Title 18, United States Code;~~

34 ~~(3) "Dependent" means a natural person wholly or partially~~
35 ~~dependent upon the victim for care or support and includes a child of the~~
36 ~~victim born after the death of the victim where the death occurred as a result~~

1 ~~of criminally injurious conduct;~~

2 ~~(4) "Claimant" means any of the following persons applying for~~
3 ~~reparations under this subchapter:~~

4 ~~(A) A victim;~~

5 ~~(B) A dependent of a victim who has died because of~~
6 ~~criminally injurious conduct; or~~

7 ~~(C) A person authorized to act on behalf of any of the~~
8 ~~persons enumerated in subdivisions (4)(A) and (B) of this section;~~

9 ~~(5) "Criminally injurious conduct" means an act which occurs or~~
10 ~~is attempted in this state that results in personal injury or death to a~~
11 ~~victim, which act is punishable by fine, imprisonment, or death. This term~~
12 ~~shall include acts of terrorism committed outside of the United States as~~
13 ~~defined in § 2331, Title 18, United States Code against any Arkansas resident.~~
14 ~~This term shall not include acts arising out of the operation of motor~~
15 ~~vehicles, boats, or aircraft unless the acts were committed with the intent to~~
16 ~~inflict injury or death or unless the acts committed were in violation of the~~
17 ~~Omnibus DWI Act, § 5-65-101 et seq. For the purposes of this subchapter, a~~
18 ~~person shall be deemed to have committed criminally injurious conduct~~
19 ~~notwithstanding that by reason of age, insanity, drunkenness, or other reason,~~
20 ~~he was legally incapable of committing a crime;~~

21 ~~(6) "Economic loss" means monetary detriment consisting only of~~
22 ~~allowable expense, work loss, replacement services loss, and, if injury causes~~
23 ~~death, replacement services loss of a dependent, but shall not include~~
24 ~~noneconomic detriment;~~

25 ~~(7) "Allowable expense" means charges incurred for needed~~
26 ~~products, services, and accommodations including, but not limited to, medical~~
27 ~~care, rehabilitation, rehabilitative occupational training, and other remedial~~
28 ~~treatment and care. It also includes a reasonable and necessary amount for~~
29 ~~expenses related to funeral, cremation, or burial;~~

30 ~~(8) "Work loss" means loss of income from work the victim would~~
31 ~~have performed if that person had not been injured or died, reduced by any~~
32 ~~income from substitute work actually performed by the victim, or by income the~~
33 ~~victim would have earned in available appropriate substitute work that he or~~
34 ~~she was capable of performing but unreasonably failed to undertake;~~

35 ~~(9) "Replacement services loss" means expenses reasonably~~
36 ~~incurred in obtaining ordinary and necessary services in lieu of those the~~

1 ~~victim would have performed, not for income, but for the benefit of self or~~
 2 ~~family if the victim had not been injured or died;~~

3 ~~(10) "Replacement services loss of dependent" means the loss~~
 4 ~~reasonably incurred by dependents after death of the victim in obtaining~~
 5 ~~ordinary and necessary services in lieu of those services the deceased victim~~
 6 ~~would have performed for their benefit had the deceased victim not suffered~~
 7 ~~the fatal injury, less expenses of the dependent avoided by reason of death of~~
 8 ~~the victim;~~

9 ~~(11) "Noneconomic detriment" means pain, suffering,~~
 10 ~~inconvenience, physical impairment, and nonpecuniary damage;~~

11 ~~(12) "Collateral source" means a source of benefits or advantages~~
 12 ~~for economic loss for which the claimant would otherwise be eligible to~~
 13 ~~receive reparations under this subchapter which the claimant has received, or~~
 14 ~~which is readily available to the claimant, from any one or more of the~~
 15 ~~following:~~

16 ~~(A) The offender;~~

17 ~~(B) The United States Government or any agency thereof in~~
 18 ~~the form of benefits, such as social security, medicare, and medicaid, a state~~
 19 ~~or any of its political subdivisions, or an instrumentality of two (2) or more~~
 20 ~~states, unless the law providing for the benefits or advantages makes them in~~
 21 ~~excess of or secondary to benefits under this subchapter;~~

22 ~~(C) State-required temporary nonoccupational disability~~
 23 ~~insurance;~~

24 ~~(D) Workers' compensation;~~

25 ~~(E) Wage continuation programs of any employer;~~

26 ~~(F) Proceeds of a contract of insurance payable to the~~
 27 ~~claimant for loss which the victim sustained because of the criminally~~
 28 ~~injurious conduct; or~~

29 ~~(G) A contract providing prepaid hospital and other health~~
 30 ~~care services or benefits for disability.~~

31 SECTION 3. All provisions of this act of a general and permanent nature
 32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 33 Revision Commission shall incorporate the same in the Code.

35 SECTION 4. If any provision of this act or the application thereof to
 36 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 5. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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/s/ Allison, et al

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APPROVED: 4/15/1999

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