

Senate Bill 187

By: Senator Hill of the 32nd

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to provide for extended time frames for victims of certain crimes to request victim
3 compensation; to clarify terminology used for persons seeking victim compensation; to
4 provide for payment of forensic interviews under certain circumstances; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
9 amended by revising Chapter 15, relating to victim compensation, as follows:

10 "CHAPTER 15

11 17-15-1.

12 The General Assembly recognizes that many innocent persons suffer personal physical
13 injury, serious mental or emotional trauma, severe financial hardship, or death as a result
14 of criminal acts or attempted criminal acts. The General Assembly finds and determines
15 that there is a need for assistance for such victims of ~~crime~~ crimes. Accordingly, it is the
16 General Assembly's intent that under certain circumstances, aid, care, and assistance be
17 provided by the state for such victims of ~~crime~~ crimes.

18 17-15-2.

19 As used in this chapter, the term:

- 20 (1) 'Board' means the Criminal Justice Coordinating Council.
21 (2) 'Claimant' means any person filing a claim pursuant to this chapter.
22 (3) 'Crime' means:

- 23 (A) An act which is committed in this state; in a state which does not have a victims'
 24 compensation program, if the claimant is a resident of this state; or in a state which has
 25 compensated the claimant in an amount less than the claimant would be entitled to
 26 pursuant to this chapter, if the claimant is a resident of this state, and which constitutes:
 27 (i) Hit hit and run as defined in violation of Code Section 40-6-270, ~~homicide;~~
 28 (ii) Homicide by vehicle as defined in violation of Code Section 40-6-393, ~~serious;~~
 29 (iii) Serious injury by vehicle as defined in violation of Code Section 40-6-394, ~~or~~
 30 ~~any act which constitutes a;~~
 31 (iv) A violation of Code Section 16-5-46 ~~or;~~
 32 (v) A violation of Chapter 6 ~~or of Title 16;~~
 33 (vi) A violation of Part 2 of Article 3 of Chapter 12 of Title 16, ~~a;~~
 34 (vii) A violation of Code Section 16-5-70, ~~or a violent crime as defined by state or~~
 35 ~~federal law which results in physical injury, serious mental or emotional trauma, or~~
 36 ~~death to the victim;~~
 37 (viii) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
 38 (ix) An offense that has as an element the use, attempted use, or threatened use of
 39 physical force against the person or property of another; or
 40 (x) Any other offense that is a felony and that, by its nature, involves a substantial
 41 risk that physical force against the person or property of another may be used in the
 42 course of committing the offense;
 43 and which is committed:
 44 (i) ~~In this state;~~
 45 (ii) ~~In a state which does not have a victims' compensation program, if the victim is~~
 46 ~~a resident of this state; or~~
 47 (iii) ~~In a state which has compensated the victim in an amount less than the victim~~
 48 ~~would be entitled to pursuant to this chapter, if the victim is a resident of this state;~~
 49 (B) An act which constitutes international terrorism as defined in 18 U.S.C. Section
 50 2331 ~~which results in physical injury, serious mental or emotional trauma, or death to~~
 51 ~~the victim, if the victim is against~~ a resident of this state ~~and is~~ when such resident was
 52 outside the territorial boundaries of the United States when such act is was committed;
 53 or
 54 (C) An act of mass violence ~~which results in physical injury, serious mental or~~
 55 ~~emotional trauma, or death to the victim, if the victim is~~ involving a resident of this
 56 state ~~and is~~ when such resident was outside the territorial boundaries of the United
 57 States when such act is was committed.
 58 (4) 'Direct service provider' means a public or nonprofit entity which provides aid, care,
 59 and assistance ~~to a victim.~~

- 60 (5) 'Director' means the director of the Criminal Justice Coordinating Council.
- 61 (6) 'Forensic medical examination' means an examination provided to a person pursuant
62 to subsection (c) of Code Section 16-6-1 or subsection (c) of Code Section 16-6-2 by
63 trained medical personnel in order to gather evidence. Such examination shall include,
64 but shall not be limited to:
- 65 (A) An examination for physical trauma;
 - 66 (B) A determination as to the nature and extent of the physical trauma;
 - 67 (C) A patient interview;
 - 68 (D) Collection and evaluation of the evidence collected; and
 - 69 (E) Any additional testing deemed necessary by the examiner in order to collect
70 evidence and provide treatment.
- 71 (7) 'Fund' means the Georgia Crime Victims Emergency Fund.
- 72 (8) 'Investigator' means an investigator of the board.
- 73 (9) 'Serious mental or emotional trauma' means a nonphysical injury which has been
74 documented by a licensed mental health professional and which meets the specifications
75 promulgated by the board's rules and regulations relating to this type of trauma.
- 76 ~~(10) 'Victim' means a person who:~~
- 77 ~~(A) Is injured physically, who dies, or who suffers financial hardship as a result of~~
78 ~~being injured physically as a direct result of a crime;~~
 - 79 ~~(B) Suffers a serious mental or emotional trauma as a result of being threatened with~~
80 ~~a crime which could result in physical injury or death;~~
 - 81 ~~(C) Suffers a serious mental or emotional trauma as a result of being present during the~~
82 ~~commission of a crime; or~~
 - 83 ~~(D) Suffers a serious mental or emotional trauma as a result of being trafficked for~~
84 ~~labor or sexual servitude as defined in Code Section 16-5-46.~~
- 85 17-15-3.
- 86 ~~(a) The five-member Georgia Crime Victims Compensation Board in existence on June~~
87 ~~30, 1992, is abolished.~~
- 88 ~~(b)~~ There is created the Georgia Crime Victims Compensation Board. The Criminal
89 Justice Coordinating Council created under Chapter 6A of Title 35 shall serve as the
90 Georgia Crime Victims Compensation Board.
- 91 ~~(c)~~(b) The Governor shall appoint the director of the Criminal Justice Coordinating
92 Council to carry out the provisions of this chapter.
- 93 17-15-4.
- 94 (a) The board shall have the following powers and duties:

- 95 (1) To promulgate suitable rules and regulations to carry out the provisions and purposes
 96 of this chapter;
- 97 (2) To request from the Attorney General, the Department of Public Safety, the Georgia
 98 Bureau of Investigation, district attorneys, solicitors-general, judges, county and
 99 municipal law enforcement agencies, and any other agency or department such assistance
 100 and data as will enable the board to determine the needs state wide for victim
 101 compensation and whether, and the extent to which, a claimant qualifies for an award.
 102 Any person, agency, or department listed in this paragraph is authorized to provide the
 103 board with the information requested upon receipt of a request from the board. Any
 104 provision of law providing for confidentiality of records ~~does~~ shall not apply to a request
 105 of the board pursuant to this Code section; provided, however, that the board shall
 106 preserve the confidentiality of any such records received;
- 107 (3) To hear and determine all appeals of denied claims for awards filed with the board
 108 pursuant to this chapter and to reinvestigate or reopen cases as the board deems
 109 necessary, including circumstances when it appears a claim may be time barred;
- 110 (4) To apply for funds from, and to submit all necessary forms to, any federal agency
 111 participating in a cooperative program to compensate victims of ~~crime~~ crimes and to
 112 receive and administer federal funds for the purposes of this chapter;
- 113 (5) To render awards to victims of crimes or to those other persons entitled to receive
 114 awards in the manner authorized by this chapter. Victim compensation payments may
 115 be made directly to direct service providers who are not the recipients of local, state,
 116 federal, or private grant funds awarded for purposes of providing direct services to ~~crime~~
 117 victims of crimes. A victim or claimant may be paid directly in the case of lost wages,
 118 loss of support, and instances where the victim or claimant has paid the direct service
 119 provider and is filing for reimbursement. In all cases where the victim has incurred
 120 out-of-pocket expenses, such as lost wages or loss of support, or in cases where the
 121 victim or claimant has paid the direct service provider directly and is filing for
 122 reimbursement, the victim or claimant shall be paid first before any third party;
- 123 (6) To carry out programs designed to inform the public of the purposes of this chapter;
 124 and
- 125 (7) To render each year to the Governor and to the General Assembly a written report
 126 of its activities pursuant to this chapter.
- 127 (b) The board shall assist applicants with their claims for compensation through
 128 educational programs and administrative assistance.

129 17-15-5.

130 (a) A claim may be filed by a person eligible to receive an award, as provided in Code
 131 Section 17-15-7, or, if such person is a minor, by his or her parent or guardian. In any case
 132 in which the person entitled to make a claim is mentally incompetent, the claim may be
 133 filed on his or her behalf by his or her guardian ~~or such other~~. In any case in which the
 134 person entitled to make a claim is deceased, the claim may be filed on his or her behalf by
 135 an individual authorized to administer his or her estate.

136 (b)(1) A claim ~~must~~ shall be filed by ~~the claimant~~ a victim not later than ~~one year~~ three
 137 years after the occurrence of the crime upon which such claim is based or not later than
 138 ~~one year~~ three years after the death of the victim; provided, however, that if such victim
 139 was a minor at the time of the commission of the crime, he or she shall have until three
 140 years after his or her eighteenth birthday to file such claim; and provided, further, that
 141 upon good cause shown, the board may extend that the time for filing a claim for a period
 142 not exceeding three years after such occurrence.

143 (2) Claims shall be filed in the office of the board in person or by mail.

144 (c) The claim shall be verified and shall contain the following:

145 (1) A description of the date, nature, and circumstances of the crime;

146 (2) A complete financial statement, including, but not limited to, the cost of medical care
 147 or burial expense, the loss of wages or support the ~~victim~~ claimant has incurred or will
 148 incur, any other emergency expenses incurred by the ~~victim~~ claimant, and the extent to
 149 which the ~~victim~~ claimant has been or may be indemnified for these expenses from any
 150 source;

151 (3) When appropriate, a statement indicating the extent of ~~any~~ a victim's disability
 152 resulting from the injury or serious mental or emotional trauma incurred;

153 (4) An authorization permitting the board to verify the contents of the application; and

154 (5) Such other information as the board may require.

155 17-15-6.

156 (a) A claim, once accepted for filing and completed, shall be assigned to an investigator.
 157 The investigator shall examine the papers filed in support of the claim and cause an
 158 investigation to be conducted into the validity of the claim. The investigation shall include,
 159 but shall not be limited to, an examination of law enforcement, court, and official records
 160 and reports concerning the crime and an examination of medical, psychiatric, counseling,
 161 financial, and hospital reports relating to the injury, serious mental or emotional trauma,
 162 or loss upon which the claim is based. All claims arising from the death of an individual
 163 as a direct result of a crime ~~must~~ shall be considered together by a single investigator.

164 (b) Claims ~~must~~ shall be investigated and determined regardless of whether ~~the alleged~~
 165 ~~criminal~~ a perpetrator has been apprehended, prosecuted, or convicted of any crime based
 166 upon the same incident or whether the alleged ~~criminal~~ perpetrator has been acquitted or
 167 found not guilty of the crime in question.

168 (c) The investigator conducting the investigation shall file with the director a written report
 169 setting forth a recommendation and the investigator's reason therefor. The director shall
 170 render a decision and furnish the ~~victim or~~ claimant with a copy of the report if so
 171 requested. In cases where an investigative report is provided, information deemed
 172 confidential in nature shall be excluded.

173 (d) The claimant may, within 30 days after receipt of the report of the decision of the
 174 director, make an application in writing to the director for review of the decision.

175 (e) Upon receipt of an application for review pursuant to subsection (d) of this Code
 176 section, the director shall forward all relevant documents and information to the board.
 177 The board shall review the records and shall affirm or modify the decision of the director.
 178 If considered necessary by the board or if requested by the claimant, the board shall order
 179 a hearing prior to rendering a decision. At the hearing, any relevant evidence not legally
 180 privileged ~~is~~ shall be admissible. The board shall render a decision within 90 days after
 181 completion of the investigation. If the director receives no application for review pursuant
 182 to subsection (d) of this Code section, the director's decision ~~becomes~~ shall become final.

183 (f) The board, for purposes of this chapter, may subpoena witnesses, administer or cause
 184 to be administered oaths, and examine such parts of the books and records of the parties
 185 to proceedings as relate to questions in dispute.

186 (g) The director shall, within ten days after receipt of the board's final decision, make a
 187 report to the claimant, including a copy of the final decision and the reasons why the
 188 decision was made.

189 17-15-7.

190 (a) Except as otherwise provided in this Code section, the following persons ~~are~~ shall be
 191 eligible for awards pursuant to this chapter:

192 (1) A ~~victim~~ person who:

193 (A) Is injured physically, who dies, or who suffers financial hardship as a result of
 194 being injured physically as a direct result of a crime;

195 (B) Suffers a serious mental or emotional trauma as a result of being threatened with
 196 a crime which could result in physical injury or death;

197 (C) Suffers a serious mental or emotional trauma as a result of being present during the
 198 commission of a crime;

199 (D) Suffers a serious mental or emotional trauma as a result of being trafficked for
 200 labor servitude or sexual servitude as defined in Code Section 16-5-46; or
 201 (E) Is a dependent spouse or child of a person who is injured physically, who dies, or
 202 who suffers financial hardship as a result of being injured physically as a direct result
 203 of a crime;

204 (2) ~~A dependent spouse or child of a victim;~~
 205 ~~(2.1)~~ For purposes of an award under subsection (k) of Code Section 17-15-8, any
 206 member of the immediate family of a victim of homicide by vehicle caused by a violation
 207 of Code Section 40-6-391;

208 (3) Any person who goes to the aid of another and suffers physical injury, serious mental
 209 or emotional trauma, or death as a direct result of acting, not recklessly, to prevent the
 210 commission of a crime, to apprehend lawfully a person reasonably suspected of having
 211 committed a crime, or to aid the victim of a crime or any person who is injured,
 212 traumatized, or killed while aiding or attempting to aid a law enforcement officer in the
 213 prevention of a crime or apprehension of a criminal at the officer's request;

214 (4) Any person who is a victim of family violence as defined by Code Section 19-13-1
 215 and anyone who is a victim as a result of a violation of Code Section 40-6-391; or

216 (5) Any person who is not a direct service provider and who assumes the cost of an
 217 eligible expense of a victim regardless of such person's relationship to the victim or
 218 whether such person is a dependent of the victim.

219 (b)(1) Victims may be legal residents or nonresidents of this state. A surviving spouse,
 220 parent, or child who is legally dependent for his or her principal support upon a deceased
 221 victim ~~is~~ shall be entitled to file a claim under this chapter if the deceased victim would
 222 have been so entitled, regardless of the residence or nationality of the surviving spouse,
 223 parent, or child.

224 (2) Victims of crimes occurring within this state who are subject to federal jurisdiction
 225 shall be compensated on the same basis as resident victims of ~~crime~~ crimes.

226 (c) No award of any kind shall be made under this chapter to a victim injured while
 227 confined in any federal, state, county, or municipal jail, prison, or other correctional
 228 facility.

229 (d) No award of any kind shall be made under this chapter to a victim of a crime which
 230 occurred prior to July 1, 1989.

231 (e) A person who is criminally responsible for the crime upon which a claim is based or
 232 is an accomplice of such person shall not be eligible to receive an award with respect to
 233 such claim; provided, however, that such ineligibility shall not apply if the ~~claimant is a~~
 234 ~~victim person is~~ as defined in subparagraph (a)(1)(D) of paragraph (10) of Code Section
 235 17-15-2 this Code section.

236 (f) There shall be no denial of compensation to a victim claimant based on that victim's or
 237 claimant's familial relationship with the person who is criminally responsible for the crime.
 238 (g) No award of any kind shall be made under this chapter to a victim of a crime for loss
 239 of property.
 240 (h) A victim or claimant who has been convicted of a felony involving criminally injurious
 241 conduct and who is currently serving a sentence therefor shall not be considered eligible
 242 to receive an award under this chapter. For purposes of this subsection, 'criminally
 243 injurious conduct' means ~~an act~~ a crime which occurs or is attempted in this state that
 244 results in physical injury, serious mental or emotional trauma, or death to a victim, which
 245 act is punishable by fine, imprisonment, or death. Such term shall not include acts arising
 246 out of the operation of motor vehicles, boats, or aircraft unless the acts were committed
 247 with the intent to inflict injury, trauma, or death or unless the acts committed were in
 248 violation of Code Section 40-6-391. For the purposes of this subsection, a person shall be
 249 deemed to have committed criminally injurious conduct notwithstanding that by reason of
 250 age, insanity, drunkenness, or other reason, he or she was legally incapable of committing
 251 a crime.

252 17-15-8.

253 (a) No award may be made unless the board or director finds that:
 254 (1) A crime was committed;
 255 (2) The crime directly resulted in the victim's physical injury, serious mental or
 256 emotional trauma, or financial hardship as a result of the victim's physical injury, serious
 257 mental or emotional trauma, or the victim's death;
 258 (3) Police records, records of an investigating agency, or records created pursuant to a
 259 mandatory reporting requirement show that the crime was promptly reported to the proper
 260 authorities. In no case may an award be made where the police records, records of an
 261 investigating agency, or records created pursuant to a mandatory reporting requirement
 262 show that such report was made more than 72 hours after the occurrence of such crime
 263 unless the board, for good cause shown, finds the delay to have been justified and
 264 provided, further, that good cause shall be presumed if the ~~claimant is a victim as defined~~
 265 in person is eligible for awards pursuant to this chapter corresponding to subparagraph
 266 (a)(1)(D) of paragraph (10) of Code Section ~~17-15-2~~ 17-15-7; and
 267 (4) The applicant has pursued restitution rights against any person who committed the
 268 crime unless the board or director determines that such action would not be feasible.
 269 (a.1) The board, upon finding that any claimant or award recipient has not fully cooperated
 270 with all law enforcement agencies, may deny, reduce, or withdraw any award.

271 (b) Any award made pursuant to this chapter ~~may~~ shall be in an amount not exceeding
 272 actual expenses, including indebtedness reasonably incurred for medical expenses, loss of
 273 wages, funeral expenses, mental health counseling, or support for dependents of a deceased
 274 victim necessary as a direct result of the injury or hardship upon which the claim is based.

275 (c)(1) Notwithstanding any other provisions of this chapter, no award made under the
 276 provisions of this chapter shall exceed \$1,000.00 in the aggregate; provided, however,
 277 that with respect to any claim filed with the board as a result of a crime occurring on or
 278 after July 1, 1994, no award made under the provisions of this chapter payable to a ~~victim~~
 279 ~~and to all other claimants~~ claimant sustaining economic loss because of injury to or death
 280 of ~~such~~ a victim shall exceed \$5,000.00 in the aggregate; provided, further, that with
 281 respect to any claim filed with the board as a result of a crime occurring on or after July
 282 1, 1995, no award made under the provisions of this chapter payable to a ~~victim and to~~
 283 ~~all other claimants~~ claimant sustaining economic loss because of injury to or death of
 284 ~~such~~ a victim shall exceed \$10,000.00 in the aggregate; provided, further, that with
 285 respect to any claim filed with the board as a result of a crime occurring on or after July
 286 1, 2002, no award made under the provisions of this chapter payable to a ~~victim and to~~
 287 ~~all other claimants~~ claimant sustaining economic loss because of injury to or death of
 288 ~~such~~ a victim shall exceed \$25,000.00 in the aggregate; provided, further, that with
 289 respect to any claim filed with the board for serious mental or emotional trauma, no
 290 award shall be made for a crime occurring before July 1, 2009.

291 (2) No award under this chapter for the following losses shall exceed the maximum
 292 amount authorized:

<u>Category</u>	<u>Maximum Award</u>
293 Lost wages	\$10,000.00
294 Funeral expenses	3,000.00
295 Financial hardship or loss of support	10,000.00
296 Medical	15,000.00
297 Counseling	3,000.00
298 Crime scene sanitization	1,500.00

300 (d) In determining the amount of an award, the director and board shall determine whether
 301 because of his or her conduct the victim ~~of such crime~~ contributed to the infliction of his
 302 or her injury, serious mental or emotional trauma, or financial hardship, and the director
 303 and board may reduce the amount of the award or reject the claim altogether in accordance
 304 with such determination.

305 (e) The director and board may reject an application for an award when the claimant has
 306 failed to cooperate in the verification of the information contained in the application.

307 (f) Any award made pursuant to this chapter may be reduced by or set off by the amount
 308 of any payments received or to be received as a result of the injury, serious mental or
 309 emotional trauma:

310 (1) From or on behalf of the person who committed the crime; and

311 (2) From any other private or public source, including an award of workers'
 312 compensation pursuant to the laws of this state,

313 provided that private sources shall not include contributions received from family members
 314 or persons or private organizations making charitable donations to a ~~victim~~ claimant.

315 (g) No award made pursuant to this chapter ~~is~~ shall be subject to garnishment, execution,
 316 or attachment other than for expenses resulting from the injury or serious mental or
 317 emotional trauma which is the basis for the claim.

318 (h) An award made pursuant to this chapter shall not constitute a payment which is treated
 319 as ordinary income under either the provisions of Chapter 7 of Title 48 or, to the extent
 320 lawful, under the United States Internal Revenue Code.

321 (i) Notwithstanding any other provisions of this chapter to the contrary, no awards from
 322 state funds shall be paid to a claimant for a crime which occurred prior to July 1, 1989.

323 (j) In any case where a crime results in death, the spouse, children, parents, or siblings of
 324 such deceased victim may be considered eligible for an award for the cost of psychological
 325 counseling which is deemed necessary as a direct result of said criminal incident. The
 326 maximum award for said counseling expenses shall not exceed \$3,000.00 for each claimant
 327 identified in this subsection.

328 (k)(1) In addition to any other award authorized by this Code section, in any case where
 329 a deceased was a victim of homicide by vehicle caused by a violation of Code Section
 330 40-6-391 on any road which is part of the state highway system, upon request of the next
 331 of kin of the deceased, an award of compensation in the form of a memorial sign erected
 332 by the Department of Transportation as provided by this subsection shall be paid to an
 333 eligible claimant.

334 (2) The provisions of paragraph (4) of subsection (a) of this Code section shall not apply
 335 for purposes of eligibility for awards made under this subsection, and the value of any
 336 award paid to a claimant under this subsection shall not apply toward or be subject to any
 337 limitation on award amounts paid to any claimant under other provisions of this Code
 338 section.

339 (3) The Department of Transportation, upon receiving payment for the cost of materials
 340 and labor from the board, shall upon request of the next of kin of the deceased erect a
 341 sign memorializing the deceased on the right of way of such public highway at the
 342 location of the accident or as near thereto as safely and reasonably possible and shall
 343 maintain such sign for a period of five years from the date the sign is erected unless its

344 earlier removal is requested in writing by the next of kin. Such sign shall be 24 inches
 345 wide by 36 inches high and depict a map of the State of Georgia, with a dark blue
 346 background and a black outline of the state boundaries. A border of white stars shall be
 347 placed on the inside of the state boundaries, and the sign shall contain the words 'In
 348 Memory of (name), DUI Victim (date of accident).'

349 (4) In the event of multiple such claims arising out of a single motor vehicle accident,
 350 the names of all deceased victims for whom such claims are made and for whom a
 351 request has been made by the next of kin of the deceased may be placed on one such sign
 352 or, if necessary, on one such sign and a plaque beneath of the same color as the sign. In
 353 the event of multiple claims relating to the same deceased victim, no more than one such
 354 sign shall be paid for and erected for such victim.

355 ~~17-15-9:~~

356 ~~Notwithstanding any other provision of this chapter to the contrary, where an award under~~
 357 ~~this chapter has been authorized but there are not sufficient funds in the Georgia Crime~~
 358 ~~Victims Emergency Fund to pay or continue paying the award, then the award or the~~
 359 ~~remaining portion thereof must not be paid unless and until sufficient funds become~~
 360 ~~available from the fund and at such time awards which have not been paid must begin to~~
 361 ~~be paid in chronological order with the oldest award being paid first. In the event an award~~
 362 ~~was to be paid in installments and some remaining installments have not been paid due to~~
 363 ~~a lack of funds, then when funds due become available that award must be paid in full~~
 364 ~~when its appropriate time for payment comes on the chronological list before any other~~
 365 ~~postdated award must be paid. Any award under this chapter is specifically not a claim~~
 366 ~~against the state if it cannot be paid due to a lack of funds in the Georgia Crime Victims~~
 367 ~~Emergency Fund.~~

368 ~~17-15-10:~~ 17-15-9.

369 (a) There is created a fund to be known as the Georgia Crime Victims Emergency Fund.
 370 The custodian of the fund shall be the board. The director shall administer the fund and
 371 may invest the resources of the fund in the same manner and fashion that an insurer
 372 authorized to issue contracts of life insurance is authorized to invest its resources. The
 373 board is shall be specifically authorized to contract with any person or organization, public
 374 or private, to administer the fund, assume the powers of the director, and carry out the
 375 duties of the board relating to the fund.

376 (b)(1) The fund shall consist of all moneys received pursuant to Article 7 of Chapter 21
 377 of Title 15 from the assessment of additional penalties in cases involving a violation of
 378 Code Section 40-6-391, ~~relating to driving under the influence of alcohol or drugs,~~ or a

379 violation of an ordinance of a political subdivision of this state which has adopted by
380 reference Code Section 40-6-391 pursuant to Article 14 of Chapter 6 of Title 40.

381 (2) The funds placed in the fund shall also consist of all moneys appropriated by the
382 General Assembly, if any, for the purpose of compensating claimants under this chapter
383 and money recovered on behalf of the state pursuant to this chapter by subrogation or
384 other action, recovered by court order, received from the federal government, received
385 from additional court costs, received from specific tax proceeds allocated to the fund,
386 received from other assessments or fines, or received from any other public or private
387 source pursuant to this chapter.

388 (c) All funds appropriated to or otherwise paid into the fund shall be presumptively
389 concluded to have been committed to the purpose for which they have been appropriated
390 or paid and shall not lapse.

391 (d) The board ~~is~~ shall be authorized, subject to the limitations contained in this chapter, to
392 pay the appropriate compensation to the persons eligible for compensation under this
393 chapter from the proceeds of the ~~Georgia Crime Victims Emergency Fund~~ fund.

394 (e) After determining that an award should be paid and the method of payment, the board
395 or director, within five days, shall be authorized to draw a warrant or warrants upon the
396 ~~Georgia Crime Victims Emergency Fund~~ fund to pay the amount of the award from such
397 fund.

398 17-15-10.

399 Notwithstanding any other provision of this chapter to the contrary, where an award under
400 this chapter has been authorized but there are not sufficient funds in the fund to pay or
401 continue paying the award, then the award or the remaining portion thereof shall not be
402 paid unless and until sufficient funds become available from the fund, and at such time,
403 awards which have not been paid shall begin to be paid in chronological order with the
404 oldest award being paid first. In the event an award was to be paid in installments and
405 some remaining installments have not been paid due to a lack of funds, then when funds
406 due become available, that award shall be paid in full when its appropriate time for
407 payment comes on the chronological list before any other postdated award shall be paid.
408 Any award under this chapter is specifically not a claim against the state if it cannot be paid
409 due to a lack of funds in the fund.

410 17-15-11.

411 Any person who asserts a false claim under the provisions of this chapter shall be guilty of
412 a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor and
413 shall further forfeit any benefit received and shall reimburse and repay the state for

414 payments received or paid on his or her behalf pursuant to any of the provisions of this
415 chapter.

416 17-15-12.

417 (a) Acceptance of an award made pursuant to this chapter shall subrogate the state, to the
418 extent of such award, to any right or right of action occurring to the claimant ~~or the victim~~
419 to recover payments on account of losses resulting from the crime with respect to which
420 the award is made. The board may waive subrogation when the ~~victim or~~ claimant presents
421 documentation and the board verifies that judgment, settlement, or other sources have not
422 fully reimbursed the ~~victim or~~ claimant for expenses compensable under this chapter.

423 (b) Acceptance of an award made pursuant to this chapter based on damages from a
424 ~~criminal act~~ crime shall constitute an agreement on the part of the recipient reasonably to
425 pursue any and all civil remedies arising from any right of action against the person or
426 persons responsible for or committing the ~~act~~ crime.

427 17-15-13.

428 (a) Any award or payment of benefits ~~to, or on behalf of, a victim or eligible family~~
429 ~~member~~ under this chapter shall create a debt due and owing to the state by any person
430 found in a court of competent jurisdiction of this state to have committed ~~such criminal an~~
431 act resulting in compensation being paid pursuant to this chapter.

432 (b) A court, when placing on probation any person who owes a debt to the state as a
433 consequence of a ~~criminal act~~ crime, may set as a condition of probation the payment of
434 the debt or a portion of the debt to the state. The court may also set the schedule or
435 amounts of payments subject to modification based on change of circumstances.

436 (c) The State Board of Pardons and Paroles shall also have the right to make payment of
437 the debt or a portion of the debt to the state a condition of parole.

438 (d) When a child is adjudicated for committing a delinquent act in a juvenile court
439 proceeding involving a crime upon which a claim under this chapter can be made, the
440 juvenile court in its discretion may order that the child pay the debt to the state as an adult
441 would have to pay had an adult committed the crime. Any assessments so ordered may be
442 made a condition of probation as provided in Code Section 15-11-601.

443 (e) Payments authorized or required under this Code section shall be paid into the ~~Georgia~~
444 ~~Crime Victims Emergency Fund~~ fund. The board shall coordinate the development of
445 policies and procedures for the State Board of Pardons and Paroles and the Administrative
446 Office of the Courts to assure that ~~victim~~ restitution programs are administered in an
447 effective manner to increase payments into the fund.

448 (f) In every case where an individual is serving under active probation supervision and
 449 paying a supervision fee, \$9.00 per month shall be added to any supervision fee collected
 450 by any entity authorized to collect such fees and shall be paid into the ~~Georgia Crime~~
 451 ~~Victims Emergency Fund~~ fund. This subsection shall apply to probationers supervised
 452 under either Code Section 42-8-20 or 42-8-100. The probation supervising entity shall
 453 collect and forward the \$9.00 fee to the ~~Georgia Crime Victims Compensation Board~~ board
 454 by the end of each month.

455 17-15-14.

456 The board shall be authorized to designate and expend not more than 10 percent of the
 457 moneys collected and paid into the fund pursuant to paragraph (1) of subsection (b) of
 458 Code Section ~~17-15-10~~ 17-15-9 and Code Section 17-15-13 to provide funding to victim
 459 service providers for the purpose of disseminating materials regarding the availability of
 460 the compensation for victims of crime program provided in this chapter and public
 461 information purposes regarding the ~~victim~~ compensation program provided in this chapter.

462 17-15-15.

463 When a forensic medical examination is conducted, the cost of such forensic medical
 464 examination shall be paid for by the fund in an amount not to exceed \$1,000.00. The fund
 465 shall be responsible for payment of such cost notwithstanding whether the person receiving
 466 such forensic medical examination has health insurance or any other source of health care
 467 coverage.

468 17-15-16.

469 (a) When a forensic interview is conducted and when funding is available, the cost of such
 470 interview for a person who is less than 18 years of age or developmentally disabled may
 471 be paid for by the fund in an amount to be determined by the board.

472 (b) The board shall develop standards, protocols, and guidelines related to reimbursement
 473 of forensic interview providers.

474 (c) The board shall establish an annual limit of:

475 (1) The amount that may be paid from the fund;

476 (2) The amount that may be reimbursed for each interview; and

477 (3) The limit on the number of interviews that will be reimbursable from the fund.

478 (d) Funding may be used only when:

479 (1) The results of the forensic interview will be for identification of the interviewee's
 480 needs, including social services, personal advocacy, case management, substance abuse
 481 treatment, and mental health services;

482 (2) The forensic interviews are conducted in the context of a multidisciplinary
483 investigation and diagnostic team, or in a specialized setting such as a child advocacy
484 center; and

485 (3) The interviewer is trained to conduct forensic interviews appropriate to the
486 developmental age and abilities of children, or the developmental, cognitive, and physical
487 or communication disabilities presented by adults."

488 **SECTION 2.**

489 All laws and parts of laws in conflict with this Act are repealed.