

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Crime Victims Compensation Commission
Rule No. 262-x-1-.01
Rule Title: General Information and Definitions.
_____ New _____ x _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the
state's police power and the protection of the
public health, safety, or welfare? Yes

Is there another, less restrictive method of
regulation available that could adequately protect
the public? No

Does the propounded rule have the effect of directly
or indirectly increasing the costs of any goods or
services involved, and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the
Public than the harm that might result from the
absence of the proposed rule? No

Are all facets of the rulemaking process designed
Solely for the purpose of, and so they have, as
Their primary effect, the protection of the public? Yes

.....

Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is
Required to be accompanied by a fiscal note prepared in accordance with
Subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full
Compliance with the requirements of Chapter 22, Title 41, Code of Alabama
1975, and that it conforms to all applicable filing requirements of the
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.
Date 5/12/17

(DATE FILED)
(STAMP)

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-1-.01, General Information and Definitions.

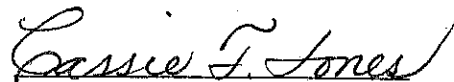
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the existing rule to clarify the definition of dependent spouse and dependent child and to include statutory language in work loss definition.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on July 6, 2017. All comments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.



Cassie T. Jones, Ed.D.
Executive Director

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))

Control No. _____ Department or Agency _____

Rule No: 262-X-1-.01

Rule Title: General Information and Definitions

 New Amend Repeal Adopt by Reference

 This rule has no economic impact.

 This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This amendment to the rule will further provide for compensation of dependent spouses and children of homicide victims.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

This rule will better serve victims of violent crime by lessening the financial burden victimization has placed upon them.

3. EFFECT OF THIS RULE ON COMPETITION:

No effect.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect on employment, it is only designed to assist victims of violent crime.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Court-ordered fines, fees and restitution. Federal grant money will also be used in the implementation of this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

It will positively impact victims by defraying more of the expenses they have incurred. Only non-general fund money will be used for this increase.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No uncertainties are foreseen or anticipated.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

Improves the public health by offering crime victims greater assistance with financial needs.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

It could affect access to compensation benefits by dependents of homicide victims.

**Additional pages may be used if needed.

262-X-1-.01 General Information and Definitions:

(1) Purpose: It is the intent of the Legislature and the purpose of the Alabama Crime Victims' Compensation Commission (ACVCC) to provide financial and other assistance for victims of violent crime for the allowable expenses that are incurred as a direct result of victimization. Applicants must not have contributed to their victimization or have been convicted of felonies or acts of violence against others after making application for compensation. Other eligibility Eligibility requirements that must be met are listed in the following sections:

(2) Program Description: ACVCC provides financial assistance for allowable expenses to victims of violent crime who have suffered personal injury, psychological injury or death. Compensation may be reduced or denied based on contribution to one's own victimization as defined in the following sections. The program provides compensation for a number of services, which are listed in the following sections. ACVCC does not award compensation for expenses which are paid by a collateral source. The program also has a statutory entitlement to subrogation in instances in which when a claimant has received recovery from a collateral source after having been paid by ACVCC.

(a) The maximum amount of compensation that may be awarded in any one claim is \$15,000. Other limitations for specific categories are addressed in the following chapters. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum amount of compensation that may be awarded in any one claim is (\$20,000).

(3) The public may obtain information about the Commission by visiting its website at www.acvcc.alabama.gov or calling the Commission at 334.290.4420. Submissions to the agency should be mailed to PO Box 231267; Montgomery, AL 36123-1267 or emailed to info@acvcc.alabama.gov. Requests for public records should be directed to the Commission's Access Officer. Public records will be provided at the Commission's cost.

(4) The Commission will maintain a Departmental Forms Index. The Departmental Forms Index (Appendix A) contains a listing of all forms a claimant/victim may be required to complete and submit in order to receive compensation benefits.

- (a) The Index will be updated when forms are added or removed.
- (b) A copy of forms may be obtained by following the guidelines in 262-X-1-.01(3).
- (c) A list of internal forms excluded from the Departmental Forms Index may be obtained by following the guidelines in 262-X-1-.01(3).

(5) Definitions: As used in these rules the following words shall include, but are not limited to, the following meanings unless the context clearly requires a different meaning:

(a) Commission. The Alabama Crime Victims' Compensation Commission as described in Chapter 262-X-2 of these rules.

(b) Criminally Injurious Conduct: Criminally injurious conduct includes any of the following acts:

(e) 1. An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed; or

(e) 2. An act occurring or attempted outside the geographical boundaries of this state in another state of the United States of America which is punishable by fine, imprisonment or death and which results in personal injury or death to a citizen of this state; and shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state; provided, however, such a citizen at the time such act was committed had a permanent place of residence in the geographical boundaries of this state, and in addition thereto:

(e) (a) Had a permanent place of employment located within the geographical boundaries of this state; or

(e) (b) Was a member of the regular armed forces of the United States of America; or the United States Coast Guard; or was a full-time member of the Alabama National Guard, Alabama Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, U.S. Air Force Reserve; or

(e) (c) Was retired and receiving Social Security or other retirement income; or

(e) (d) Was 60 years of age or older; or

(e) (e) Was temporarily in another state of the United States of America for the purpose of receiving medical treatment; or

(e) (f) Was temporarily in another state of the United States of America for the purpose of performing employment related duties required by an employer located within the geographical boundaries of this state as an expressed condition of employment or employee benefits; or

(e) (g) Was temporarily in another state of the United States of America for the purpose of receiving occupational, vocational or other job-related training or instruction required by an employer located within the geographical boundaries of this state as an expressed condition of full-time employment or employee benefits; or

(e) (h) Was a full-time student at an academic institution, college or university located in another state of the United States of America; or

(e) (i) Had not departed the geographical boundaries of this state for a period exceeding 30 days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(m) The term 'criminally injurious conduct' shall not mean: An act committed outside the geographical boundaries of this state upon a person who was not at the time such act

was committed a citizen of the State of Alabama or an act committed outside the geographical boundaries of this state upon a person who at the time such act was committed had departed the geographical boundaries of this state for the purpose of becoming a citizen of another state or for the purpose of establishing a permanent place of residence in another state.

(c) (c) Victim. A person who suffered serious personal injury, psychological injury as a result of a direct face-to-face threat of physical injury, or actual physical injury, or death as a result of criminally injurious conduct.

(d) (d) Dependent. A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim when the death occurred as the result of criminally injurious conduct.

(e) (e) Claimant. Any of the following persons applying for compensation under this chapter:

1. A victim;
2. A dependent of a deceased victim, if such victim died as result of criminally injurious conduct; or
3. A person authorized to act on behalf of a victim, or a dependent of a deceased victim if such victim died as a result of criminally injurious conduct.

(f) Dependent spouse. The spouse of a deceased victim, unless it is shown that he/she was voluntarily living apart from the deceased victim for the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death and it is shown that the deceased victim was not in any way contributing support to the spouse.

(g) Dependent child. An unmarried child under the age of nineteen (19) years for whom the deceased victim was a significant source of direct support to the minor child in the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death. A dependent child is also one over the age of nineteen (19) who is physically or mentally incapacitated from earning and it is shown that the deceased victim was a significant source of direct support to the adult child in the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death. A dependent child is also one over the age of nineteen (19), but under the age of twenty-six (26), who is enrolled in college, technical school, or vocational school and it is shown that the deceased victim was a significant source of direct support to the adult child in the twelve (12) months immediately preceding the criminally injurious conduct that caused the victim's death.

(h) Allowance Expense. Charges incurred for needed products, services and accommodations, including but not limited to, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. It also includes a total amount not to exceed \$5,000.00 for expenses related to a funeral, cremation or burial. For incidents of criminally injurious

conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

~~(s)~~ (i) **Work Loss.** Loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work which he or she was capable of performing but unreasonably failed to undertake. Work loss also includes loss of income of an offender charged with domestic violence under Sections 13A-6-130, 13A-6-131, and 13A-6-132 when the victim was residing with the offender at the time of commission of the offense and the offender's income was a significant source of direct support for the victim.

~~(t)~~ (j) **Replacement Services Loss.** Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died.

~~(u)~~ (k) **Economic Loss of a Dependent.** A loss after the death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim.

~~(v)~~ (l) **Replacement Services Loss of Dependent.** The loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those that the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent.

~~(w)~~ (m) **Economic Loss.** Monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of the dependent, but shall not include noneconomic loss, or noneconomic detriment.

~~(x)~~ (n) **Noneconomic Loss or Detriment.** Pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

~~(y)~~ (o) **Collateral Source.** The source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the Compensation Commission which the claimant has received or is entitled to receive or is readily available to the claimant from any or more of the following:

1. The offender;
2. The government of the United States or any agency thereof, in the form of benefits, such as social security, medicare and medicaid, a state or any of its subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to the benefits under this chapter;
3. Any temporary nonoccupational disability insurance;

4. Workman's compensation;
5. Wage continuation programs of any employer;
6. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
7. A contract providing prepaid hospital and other health care services or benefits for disability.

{z} (p) Immediate Family. Immediate family for purposes of determining compensation eligibility shall mean spouse, child, parent/legal guardian, siblings, aunts/uncles, grandparents, and grandchildren. Except when unusually strong personal ties exist, due to the victim or family member having been reared by a person of some relationship other than which is provided for in this definition for a period of twenty-four consecutive months or longer, this relationship may be considered as immediate family at the discretion of the Commission.

Author: Dr. Cassie T. Jones

Statutory Rulemaking Authority: ALA. CODE § 15-23-5(14)

Statutory Authority Implemented: ALA. CODE §§ 15-23-1 – 15-23-23

History: Filed May 12, 2017