

CRIME VICTIMS COMPENSATION FUNDING - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3048 (attached as an [appendix](#)) directs a study of crime victims compensation funding, including a review of other states' efforts, and the receipt of input from victim advocacy groups and medical providers.

BACKGROUND

North Dakota Law Regarding Crime Victims

North Dakota Century Code (NDCC) Chapter 12.1-34 provides for the rights granted to a victim of a crime in North Dakota. Section 12.1-34-02 provides that victims of a crime have certain rights, including the right to receive prompt notice of the inmate's release from custody; to be informed of the parole and pardon process, including notice of any pending review; to submit a written statement to the Parole Board and Pardon Advisory Board concerning the impact of the crime; to be notified of the Parole Board and Pardon Advisory Board's decision; to be notified of protection available in cases of intimidation; and to be informed of appropriate and available community services. Section 12.1-34-03 provides that victims and witnesses have certain responsibilities, such as to aid in the prosecution of crime, including to make a timely report of the crime, to cooperate with law enforcement authorities throughout the investigation, prosecution, and trial; to testify at trial; and to notify law enforcement authorities, prosecuting attorney, custodial authority, Parole Board, pardon clerk, and court of any change of address.

North Dakota Century Code Chapter 12.1-34 establishes that certain entities are responsible for providing victim services and victim information and notification. Under this chapter, the prosecuting attorney is responsible for securing for victims and witnesses of crime the rights and services described in the chapter; law enforcement is responsible for providing information to victims and witnesses regarding investigations and arrests; and custodial authorities are responsible for informing victims and witnesses about the status of a criminal defendant.

In addition to the rights and responsibilities that NDCC Chapter 12.1-34 provides to victims and witnesses, Chapter 12.1-35 addresses certain services and rights that are to be provided to victims and witnesses who are children. Section 12.1-35-02 provides that state's attorneys are encouraged to provide certain additional services to children who are involved in criminal proceedings as victims or witnesses.

CRIME VICTIM PROGRAMMING

The crime victim services program, which is a program within the Field Services Division of the Department of Corrections and Rehabilitation,

manages a comprehensive crime victim delivery system. The program has a victim coordinator who informs victims of inmate status changes and issues. This position also provides victims with crises intervention and referral information. The program works closely with the state Parole Board and Pardon Advisory Board as well as serves to educate law enforcement, prosecutors, judiciary, and the public on victims' rights, needs, and issues.

The other aspect of the crime victim services program is the crime victims compensation fund and assistance programming. In 1993 the responsibility for crime victim compensation was transferred to the Department of Corrections and Rehabilitation from the former Workers' Compensation Bureau. The funding under this program is available to victims who have been physically or emotionally injured in a violent crime in North Dakota; North Dakota residents injured by an act of terrorism in a foreign country; dependents of a homicide victim; and individuals who assume responsibility for funeral and or medical expenses of a homicide victim. This fund serves as a payer of last resort to victims. This secondary source pays only for losses not paid by other sources, such as medical insurance, medical assistance, sick leave, or annual leave paid by the employer, Social Security, workers' compensation, or other disability benefits. This fund can reimburse victims for up to \$25,000 of damages related to medical expenses, forensic expenses, wages lost, and funeral expenses as a result of a violent crime. Wage loss is limited to an award of not more than \$300 per week. Allowable funeral expenses are limited to \$3,000. Recovery is not available under this program for property loss.

The funding for crime victims compensation in the state is derived from federal and special funds. Offender supervision fees are the source of the special funds appropriated for crime victims compensation funding. The crime victim services program is the state's recipient of federal Victim of Crime Act (VOCA) funds. Through this funding, the program provides federal passthrough funds to nearly 40 crime victim service agencies statewide. No general funds have been appropriated for this crime victim compensation. The biennial appropriation for crime victim compensation has been set at \$426,403 since the program was transferred to the Department of Corrections and Rehabilitation. The program manager of the Field Services Division of the Department of Corrections and Rehabilitation, in his testimony on House Concurrent Resolution No. 3048, stated that the federal fund allocation is set on a formula that reflects state effort. The more the state expends using state dollars, the more the federal government provides in the next biennium. According to the testimony, the program ended the 2005-07

biennium with a deficit of approximately \$500,000. The testimony indicated that the program had depleted its funds for the biennium by September 2006.

For the 2005-07 biennium, the crime victim compensation performance data compiled by the Department of Corrections and Rehabilitation included the following information:

1. Number of claims pending at the beginning of the biennium: 10.
2. Number of claims received during the biennium: 552.
3. Number of claims for payment: 451.
4. Number of victims aged 17 and under: 152.
5. Number of victims aged 18 to 64: 295.
6. Number of victims aged 65 and older: 4.
7. Number of claims not approved for payment: 97.
8. Number of claims pending at the end of the biennium: 14.
9. Total expenses paid: \$493,623.83:

Medical, dental, mileage, and prescriptions: \$328,949.33 (66.64 percent).

Mental health: \$21,129.70 (5.90 percent).

Lost wages: \$91,881.46 (18.61 percent).

Funeral/burial: \$22,232.16 (4.50 percent).

Forensic: \$21,431.18 (4.34 percent).

SUMMARY OF OTHER STATES' VICTIMS COMPENSATION FUNDING

California - The program receives about half its state income from penalties assessed on fines; the other half is from fines ranging from \$200 to \$10,000 on felonies and \$100 to \$1,000 on misdemeanors, plus income from fines on traffic offenses, infractions, and civil violations. The program receives an annual VOCA compensation grant.

Colorado - Each district is independently funded and is responsible for collecting its fees from cases adjudicated in its courts. Fees are \$125 per felony; \$60 per misdemeanor; \$35 for Class 1 traffic offenses; and \$25 for Class 2 traffic offenses, including driving under the influence. Of these amounts, 12.5 percent goes toward administrative costs--10 percent for the district attorney's compensation program and 2.5 percent for the courts. The VOCA grant to the state is divided among the district programs based on target fund balances.

Iowa - The program receives income from a \$100 civil penalty charged each person convicted of operating a motor vehicle while under the influence, for reinstatement of the person's driver's license. The program also receives 18 percent of the state's 95 percent share of a 30 percent surcharge on all criminal fines. The program receives an annual VOCA grant.

Kansas - The program receives 7.33 percent of all fines, penalties, and forfeitures from the district courts.

Additionally, it garners 5 percent of prison inmate wages earned from the private sector, a \$1 monthly administrative fee from inmates, and a \$2 to \$5 monthly supervision fee from inmates. A VOCA grant is received annually.

Maine - The program receives \$25 for murders and serious crimes (Classes A through C) and \$10 for less serious offenses (Classes D and E). The program also receives an annual VOCA grant.

Minnesota - The program receives funding from a general fund appropriation and inmate wage deductions. The program also receives an annual VOCA grant.

Montana - The program receives an appropriation from the state general fund. The program receives an annual VOCA compensation grant.

New York - The program receives an annual appropriation for victim compensation from the criminal justice improvement account, a special revenue fund that comes in part from mandatory surcharges and crime victim assistance fees. The program also receives an annual VOCA compensation grant. Administrative support is provided through the state general fund.

North Carolina - The program receives an annual appropriation as well as a VOCA grant. It also receives 5 percent of profits from prison enterprises and 5 percent of prison canteen fund, which consists of purchases made by inmates from prison canteens.

South Dakota - The program receives \$2.50 on every criminal conviction, including traffic violations. The program also receives VOCA funding.

Texas - The program receives \$45 for each felony conviction, \$35 for each Class A and Class B misdemeanor, and \$15 for Class C misdemeanors, excluding pedestrian violations. The program receives an annual VOCA grant.

Washington - A fund composed of revenues generated by the state's courts is used by the legislature to fund the compensation program and several other programs. The program receives an annual VOCA grant.

Wyoming - The program's funding comes from a court-ordered minimum assessment of \$100 for each felony or high misdemeanor conviction and \$50 for some other misdemeanors. The program receives an annual VOCA grant.

2007 LEGISLATION

House Bill No. 1219 authorized the Information Technology Department to establish a statewide automated victim information and notification system, which, if established, would be administered by the Department of Corrections and Rehabilitation. The system would permit a victim to be notified by telephone, mail, or e-mail of the status of an offender. The bill also provided for a study of a statewide automated victim information and notification system.

Senate Bill No. 2103 provided that when an acute forensic medical examination is performed on an alleged victim of criminal sexual conduct, the costs

incurred by the health care facility or health care professional for performing the examination may not be charged to the alleged victim.

House Concurrent Resolution No. 3013 directs a study of the statutes and institutional resources relating to the domestic violence protection order process, including criminal cases for alleged violation of protection orders.

SUGGESTED STUDY APPROACH

The committee, in its study of crime victims compensation funding, may wish to approach this study as follows:

- Receive information and testimony from the Department of Corrections and Rehabilitation

regarding the funding needs of the crime victims compensation program;

- Receive information from other interested parties, such as victim advocacy organizations and medical providers, regarding victim issues and needs;
- Review the crime victims compensation programs of other states;
- Consider alternative funding sources; and
- Develop recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:1

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE CONCURRENT RESOLUTION NO. 3048
(Representatives Ekstrom, Pollert, Wieland, Wolf)
(Senators Cook, Krebsbach)

A concurrent resolution directing the Legislative Council to study crime victims compensation funding.

WHEREAS, the Department of Corrections and Rehabilitation's crime victims compensation fund has not received the anticipated level of federal funding; and

WHEREAS, the crime victims compensation fund has been unable to meet its financial obligations in a timely manner; and

WHEREAS, other states have developed different strategies to fund crime victims compensation funds;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council conduct a comprehensive interim study, including a review of other states' efforts, and receive input from victim advocacy groups and medical providers; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-first Legislative Assembly.