

State of Wisconsin



2015 Assembly Bill 643

Date of enactment: **April 11, 2016**
Date of publication*: **April 12, 2016**

2015 WISCONSIN ACT 350

AN ACT to repeal 949.06 (3) (d) and 949.10; **to renumber and amend** 949.06 (1) (e) and 949.06 (2); **to amend** 949.01 (4), 949.01 (5), 949.03 (1) (b), 949.03 (1) (c), 949.04 (2) (b), 949.06 (1) (a), 949.06 (1) (b) (intro.), 949.06 (1) (b) 1., 949.06 (1) (b) 2., 949.06 (1) (bm), 949.06 (1) (d), 949.06 (1m) (a), 949.06 (1m) (b), 949.06 (3) (b), 949.07, 949.08 (1), 949.08 (2) (e) and 949.08 (2) (em); and **to create** 949.01 (4g), 949.03 (1) (bn), 949.06 (1) (b) 4., 949.06 (1) (bg), 949.06 (1) (br), 949.06 (1) (cg), 949.06 (1) (e) 2. and 3. and 949.08 (1m) (b) of the statutes; **relating to:** compensating victims of crime.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 949.01 (4) of the statutes is amended to read:

949.01 (4) "Medical treatment" includes medical, surgical, psychiatric, psychological, dental, optometric, chiropractic, podiatric and hospital care; ~~medicines~~ prescription medications; medical, dental and surgical supplies; crutches; artificial members; appliances and training in the use of artificial members and appliances. "Medical treatment" includes any Christian Science treatment for cure or relief from the effects of injury.

SECTION 2. 949.01 (4g) of the statutes is created to read:

949.01 (4g) "Parent of a victim" means a person who is a parent, guardian, or legal custodian of a child under the age of 18 who is a victim under sub. (6).

SECTION 3. 949.01 (5) of the statutes is amended to read:

949.01 (5) "Personal injury" means actual bodily harm and includes pregnancy and mental or ~~nervous~~ psychological trauma.

SECTION 4. 949.03 (1) (b) of the statutes is amended to read:

949.03 (1) (b) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2), 940.305, 940.31, 940.32, 941.327, 942.09, 943.02, 943.03, 943.04, 943.10, 943.20, 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21 (1), 948.30 or 948.51.

SECTION 5. 949.03 (1) (bn) of the statutes is created to read:

949.03 (1) (bn) The commission or the attempt to commit abuse described in s. 48.02 (1) (g).

SECTION 6. 949.03 (1) (c) of the statutes is amended to read:

949.03 (1) (c) The commission or the attempt to commit the crime specified in s. 346.67 (1) if the victim was a pedestrian, a person riding a bicycle, or a person in a buggy.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 7. 949.04 (2) (b) of the statutes is amended to read:

949.04 (2) (b) The Upon request, the department shall furnish law enforcement agencies with the application forms under par. (a). The law enforcement agency investigating a crime shall provide forms information about the availability of crime victim compensation under this subchapter to each person who may be eligible to file a claim under this subchapter.

SECTION 8. 949.06 (1) (a) of the statutes is amended to read:

949.06 (1) (a) Medical treatment, subject to the limits set forth under par. (bg).

SECTION 9. 949.06 (1) (b) (intro.) of the statutes is amended to read:

949.06 (1) (b) (intro.) Work loss, which shall be of a victim, a parent of a victim, or in the case of a homicide, a family member of a victim, shall be subject to the limits set forth under par. (bg) and shall be determined as follows:

SECTION 10. 949.06 (1) (b) 1. of the statutes is amended to read:

949.06 (1) (b) 1. If the victim or parent of a victim was employed at the time of the injury, loss of actual earnings shall be based upon the victim's his or her net salary income at the time of the injury.

SECTION 11. 949.06 (1) (b) 2. of the statutes is amended to read:

949.06 (1) (b) 2. If the victim was not employed at the time of the injury or, if as a direct result of the injury, the victim suffered a disability causing a loss of potential earnings income, the award may be based upon a sufficient showing by the victim that he or she actually incurred loss of earnings. The amount of income.

3. If a victim is released by a physician to return to work with restrictions but is unable to return to the job he or she was performing at the time the crime was committed, the award shall be 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 the victim was capable of performing, but unreasonably failed to undertake.

SECTION 12. 949.06 (1) (b) 4. of the statutes is created to read:

949.06 (1) (b) 4. The department may award each victim, parent of a victim, or in the case of a homicide, family member of a victim not more than 2 weeks of lost wages without requiring proof of disability from a physician.

SECTION 13. 949.06 (1) (bg) of the statutes is created to read:

949.06 (1) (bg) The department may award each parent of a victim not more than \$3,000 total for reimbursement of expenses under par. (a) related to mental health treatment and for work loss under par. (b).

SECTION 14. 949.06 (1) (bm) of the statutes is amended to read:

949.06 (1) (bm) If the victim is a homemaker at the time of the injury, the victim was a caregiver in his or her home, an amount sufficient to ensure that the duties and responsibilities are continued until the victim is able to resume the performance of the duties, or until the cost of services reaches the maximum allowable under sub. (2) s. 949.08 (1m) (a), whichever is less.

SECTION 15. 949.06 (1) (br) of the statutes is created to read:

949.06 (1) (br) If as a direct result of the personal injury, the victim suffered a protracted disability, reasonable and necessary housing accessibility adaptations, but not to exceed \$5,000.

SECTION 16. 949.06 (1) (cg) of the statutes is created to read:

949.06 (1) (cg) Reasonable replacement value of any computer or mobile telephone that is held for evidentiary purposes, but not to exceed \$200.

SECTION 17. 949.06 (1) (d) of the statutes is amended to read:

949.06 (1) (d) Reasonable funeral and burial expenses, not to exceed \$2,000 \$5,000. The funeral and burial award may not be considered by the department under sub. (2).

SECTION 18. 949.06 (1) (e) of the statutes is renumbered 949.06 (1) (e) (intro.) and amended to read:

949.06 (1) (e) (intro.) Dependent's economic loss, which shall include contributions of things of economic value provided by the victim to dependents but lost as a result of the victim's death. Loss of support, which shall be determined on the basis of the victim's net salary annual income at the time of death, and shall be calculated as an amount equal to 4 times follows:

1. The department shall determine the victim's average net annual earnings income, and shall multiply that amount by 4. Subject to subs. 2. and 3., the loss of support award is this amount.

SECTION 19. 949.06 (1) (e) 2. and 3. of the statutes are created to read:

949.06 (1) (e) 2. The department shall deduct from the amount calculated under subd. 1. an amount equal to benefits the dependents received or are to receive, over the course of 4 years, as a survivor benefit from the federal social security program.

3. The department shall deduct from the amount calculated under subd. 1. the amount of any life insurance proceeds the dependents received as a result of the victim's death.

SECTION 20. 949.06 (1m) (a) of the statutes is amended to read:

949.06 (1m) (a) In this subsection, "family member" means any spouse, domestic partner under ch. 770, parent, grandparent, stepparent, foster parent, child, step-

child, adopted child, grandchild, foster child, brother, sister, half brother, ~~or half sister, aunt, uncle, nephew, niece, or parent or sibling of spouse or of a domestic partner under ch. 770.~~

SECTION 21. 949.06 (1m) (b) of the statutes is amended to read:

949.06 (1m) (b) In accordance with this subchapter, the department shall make awards, as appropriate, to persons who, immediately prior to the crime, lived in the same household with and to family members of a victim of s. 940.01, 940.02, 940.05, 940.06, 940.07, 940.08 or 940.09 for any of the economic losses specified in sub. (1) as a result of the person's or family member's reaction to the death. A dependent may recover both under sub. (1) and this subsection, subject to the limitation under sub. (2) s. 949.08 (1m) (a).

SECTION 22. 949.06 (2) of the statutes is renumbered 949.08 (1m) (a) and amended to read:

949.08 (1m) (a) ~~The~~ Except as provided in par. (b), the department may not make an award of more than \$40,000 for any one injury or death ~~and the department may not make any award for expenses incurred after 4 years from the date of the injury or death.~~

SECTION 23. 949.06 (3) (b) of the statutes is amended to read:

949.06 (3) (b) From insurance payments or program, including worker's compensation and unemployment insurance. The department may reduce an award related to a crime under s. 346.62 (4), 346.63 (2) or (6), 940.09, 940.10, or 940.25, if the victim was not in compliance with s. 344.62 (1) at the time of the crime, by an amount equal to the payment the victim would have received from an insurance program or payment if the victim had been in compliance with s. 344.62 (1). The department may not reduce an award by an amount received or to be received from an insurance payment or program if it has deducted that amount from an award for economic loss under sub. (1) (e) 3.

SECTION 24. 949.06 (3) (d) of the statutes is repealed.

SECTION 25. 949.07 of the statutes is amended to read:

949.07 Manner of payment. ~~The award, combining both the compensation award and the funeral and burial award, if applicable, shall may be paid in a lump sum, except that in the case of death or protracted disability the award may provide for or in periodic payments.~~ The department may pay any portion of an award directly to the provider of any service which is the basis for that portion of the award. No award may be subject to execution, attachment, garnishment or other process, except that an award for allowable expense is not exempt from a claim

of a creditor to the extent that the creditor provided products, services or accommodations the costs of which are included in the award.

SECTION 26. 949.08 (1) of the statutes is amended to read:

949.08 (1) No order for the payment of an award may be made unless the application was made within 1 year after the date of the personal injury or death, and the personal injury or death was the result of an incident or offense which had been reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made. The department may waive the ~~one-year requirement~~ requirements under this subsection in the interest of justice.

SECTION 27. 949.08 (1m) (b) of the statutes is created to read:

949.08 (1m) (b) If an applicant was a child at the time of the injury, the department may consider for payment eligible expenses that the applicant incurred not more than 1 year before he or she submitted an application for an award under this subchapter. The department may not make any award after 4 years have passed since the date the person made the application or after 4 years have passed since the date on which the person incurred the expense prior to submitting the application, whichever occurs first.

SECTION 28. 949.08 (2) (e) of the statutes is amended to read:

949.08 (2) (e) Is an adult passenger in the offender's vehicle, the crime involved is specified in s. 346.63 (2) or 940.25, and the passenger knew the offender was ~~committing that offense~~ under the influence of an intoxicant, a controlled substance, or another drug to a degree that renders him or her incapable of safely driving. This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

SECTION 29. 949.08 (2) (em) of the statutes is amended to read:

949.08 (2) (em) Is an adult passenger in the offender's commercial motor vehicle, the crime involved is specified in s. 346.63 (6) or 940.25, and the passenger knew the offender was ~~committing that offense~~ under the influence of an intoxicant, a controlled substance, or another drug to a degree that renders him or her incapable of safely driving. This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

SECTION 30. 949.10 of the statutes is repealed.