

HB 2676-1
(LC 3072)
2/8/23 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Department of Justice)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2676**

1 On page 1 of the printed bill, delete lines 5 through 24 and delete pages
2 2 through 7 and insert:

3 **“SECTION 1.** ORS 147.005 is amended to read:

4 “147.005. As used in ORS 147.005 to 147.367 unless the context requires
5 otherwise:

6 “(1) ‘Applicant’ means:

7 “(a) Any victim of a compensable crime who applies to the Department
8 of Justice for compensation under ORS 147.005 to 147.367;

9 “(b) Any person who was a dependent of a deceased victim at the time
10 of the death of that victim;

11 “(c) Any person who is a survivor of a deceased victim; or

12 “(d) Any person eligible for compensation under ORS 147.025.

13 “(2) ‘Board’ means the Workers’ Compensation Board.

14 “(3) ‘Child’ means an unmarried person who is under 18 years of age and
15 includes a posthumous child, stepchild or an adopted child.

16 **“(4) ‘Cleaning expenses’ means expenses reasonably related to the**
17 **cleaning of, and the removal of any organic or inorganic matter from,**
18 **a private residence or place of business due to physical injury to or the**
19 **death of a person, or conduct that caused physical injury to or the**
20 **death of a person.**

21 “[~~(4)~~] (5) ‘Compensable crime’ means abuse of corpse in any degree or an

1 intentional, knowing, reckless or criminally negligent act that results in in-
2 jury or death of another person and that, if committed by a person of full
3 legal capacity, would be punishable as a crime in this state.

4 “[5] (6) ‘Counseling’ has the meaning given that term by the department
5 by rule.

6 “[6] (7) ‘Dependent’ means such relatives of a deceased victim who
7 wholly or partially were dependent upon the victim’s income at the time of
8 death or would have been so dependent but for the victim’s incapacity due
9 to the injury from which the death resulted.

10 “[7] (8) ‘Department’ means the Department of Justice.

11 “[8] (9) ‘Funeral expenses’ means expenses of the funeral, burial,
12 cremation, reduction or other chosen method of interment, including plot or
13 tomb and other necessary incidents to the disposition of the remains and also
14 including, in the case of abuse of corpse in any degree, reinterment.

15 “[9] (10) ‘Injury’ means abuse of a corpse, [or] actual bodily harm,
16 **mental or emotional harm** and, with respect to a victim, includes pregn-
17 nancy and mental or nervous shock.

18 “[10] (11) ‘International terrorism’ means activities that:

19 “(a) Involve violent acts or acts dangerous to human life that are a vio-
20 lation of the criminal laws of the United States or any state or that would
21 be a criminal violation if committed within the jurisdiction of the United
22 States or of any state;

23 “(b) Appear to be intended to:

24 “(A) Intimidate or coerce a civilian population;

25 “(B) Influence the policy of a government by intimidation or coercion; or

26 “(C) Affect the conduct of a government by assassination or kidnapping;

27 and

28 “(c) Occur primarily outside the territorial jurisdiction of the United
29 States or transcend national boundaries in terms of the means by which they
30 are accomplished, the persons they appear intended to intimidate or coerce,

1 or the locale in which their perpetrators operate or seek asylum.

2 “[~~(11)~~] (12) ‘Involved in the hearing’ and ‘involved in the oral argument’
3 have the meaning given those terms by the department by rule.

4 “[~~(12)~~] (13) ‘Law enforcement official’ means a sheriff, constable, marshal,
5 municipal police officer or member of the Oregon State Police and such other
6 persons as may be designated by law as a peace officer.

7 “[~~(13)~~] (14) ‘Reduction’ has the meaning given that term in ORS 97.010.

8 “[~~(14)~~] (15) ‘Relative’ means a person related to the victim within the
9 third degree as determined by the common law, a spouse, or an individual
10 related to the spouse within the third degree as so determined and includes
11 an individual in an adoptive relationship.

12 “[~~(15)~~] (16) ‘Survivor’ means any spouse, parent, grandparent, guardian,
13 sibling, child or other immediate family member or household member of a
14 deceased victim, **or a person to whom a deceased victim was engaged**
15 **to be married when the compensable crime occurred.**

16 “[~~(16)~~] (17) ‘Victim’ means:

17 “(a) A person:

18 “(A) Killed or injured in this state as a result of a compensable crime
19 perpetrated or attempted against that person;

20 “(B) Killed or injured in this state while attempting to assist a person
21 against whom a compensable crime is being perpetrated or attempted, if that
22 attempt of assistance would be expected of a reasonable person under the
23 circumstances;

24 “(C) Killed or injured in this state while assisting a law enforcement of-
25 ficial to apprehend a person who has perpetrated a crime or to prevent the
26 perpetration of any such crime, if that assistance was in response to the
27 express request of the law enforcement official;

28 “(D) Killed or injured in another state as a result of a criminal episode
29 that began in this state;

30 “(E) Who is an Oregon resident killed or injured as a result of a

1 compensable crime perpetrated or attempted against the person in a state,
2 within the United States, without a reciprocal crime victims' compensation
3 program; or

4 “(F) Who is an Oregon resident killed or injured by an act of interna-
5 tional terrorism committed outside the United States; or

6 “(b) In the case of abuse of corpse in any degree, the corpse or a relative
7 of the corpse.

8 **“SECTION 2.** ORS 147.015 is amended to read:

9 “147.015. (1) A person is eligible for an award of compensation under ORS
10 147.005 to 147.367 if:

11 “(a) The person is a victim, or is a survivor or dependent of a deceased
12 victim, of a compensable crime that has resulted in or may result in a
13 compensable loss;

14 “(b) The appropriate law enforcement officials were notified of the per-
15 petration of the crime allegedly causing the death or injury to the victim,
16 unless the Department of Justice finds *[good cause exists for the failure of*
17 *notification]* **that, notwithstanding the failure of notification, the ap-**
18 **plicant acted reasonably under the circumstances;**

19 “[*(c) The notification described in paragraph (b) of this subsection occurred*
20 *within 72 hours after the perpetration of the crime, unless the Department of*
21 *Justice finds good cause exists for the failure of notification within 72*
22 *hours;*]

23 “[*(d) The applicant cooperated with law enforcement officials in the appre-*
24 *hension and prosecution of the assailant or the department has found that the*
25 *applicant’s failure to cooperate was for good cause;*]

26 “[*(e)*] **(c)** The application for compensation is not the result of collusion
27 between the applicant and the assailant of the victim;

28 “[*(f)*] **(d) The department determines that the victim acted reason-**
29 **ably with respect to the incident causing** the death or injury to the
30 victim, [*was not substantially attributable to the wrongful act of the victim]*

1 **taking into account the specific situation of the victim and what a**
2 **reasonable action would be for a person in the victim’s**
3 **circumstances; and**

4 “[g] (e) The application for an award of compensation under ORS 147.005
5 to 147.367 is filed with the department:

6 “(A) Within one year of the date of the injury to the victim; or

7 “(B) Within such further extension of time as the department, for good
8 cause shown, allows.

9 “[2)(a) *The fact that a victim was subjected to sexual exploitation as de-*
10 *finied in ORS 419B.005, domestic violence as defined in ORS 135.230, sexual*
11 *abuse as defined in ORS 163.760 or stalking as defined in ORS 163.732 is*
12 *prima facie evidence of good cause for the victim’s failure to notify law*
13 *enforcement in a timely manner under subsection (1)(c) of this section, or for*
14 *failure to cooperate with law enforcement under subsection (1)(d) of this sec-*
15 *tion.]*

16 “[b] (2) The requirement under subsection (1)(b) of this section to notify
17 the appropriate law enforcement officials of the perpetration of the crime is
18 satisfied if[,]:

19 “(a) As a result of the compensable crime for which the victim or appli-
20 cant is applying for compensation, the victim or applicant obtained:

21 “(A) A temporary or permanent stalking protective order under ORS
22 30.866 or 163.730 to 163.750;

23 “(B) A sexual abuse restraining order under ORS 163.760 to 163.777;

24 “(C) An abuse prevention order under ORS 107.700 to 107.735 or 124.005
25 to 124.040; [or]

26 “(D) **Any other abuse prevention order or no contact order issued**
27 **by a state, local, tribal or federal court; or**

28 “[D] (E) A medical assessment, as defined in ORS 147.395, for sexual
29 assault[.], **or any other forensic exam or medical assessment;**

30 “(b) **A tribal health provider, student health provider or community**

1 **mental health provider certifies that the victim reported the crime to**
2 **the provider; or**

3 **“(c) The victim provides to the department documentation that**
4 **qualifies as law enforcement notification under the rules of the de-**
5 **partment.**

6 “(3) The department shall adopt rules establishing:

7 “(a) A limited [*domestic violence*] counseling award for victims [*of domes-*
8 *tic violence*] who apply for an award of compensation but who do not other-
9 wise qualify under the eligibility requirements of this section.

10 “[*b*] A limited sexual assault counseling award for victims of sexual as-
11 sault who apply for an award of compensation but who do not otherwise
12 qualify under the eligibility requirements of this section.]

13 **“(b) The types of documentation that qualify as notification to the**
14 **appropriate law enforcement officials of the perpetration of the crime**
15 **as described in subsection (2)(c) of this section.**

16 **“SECTION 3.** ORS 147.025 is amended to read:

17 “147.025. (1) Notwithstanding that a person is not a victim or a dependent
18 of a deceased victim under ORS 147.015 (1)(a), the person is eligible for
19 compensation for reasonable medical expenses for the victim and for rea-
20 sonable funeral expenses of the deceased victim if the person:

21 “(a) Paid or incurred such expenses; and

22 “(b) Files a claim in the manner provided in ORS 147.105 and the condi-
23 tions in ORS 147.015 (1)(b) to [(g)] (e) are met.

24 “(2) Notwithstanding that a person is not a survivor or dependent of a
25 deceased victim under ORS 147.015 (1)(a), the person is eligible for compen-
26 sation for reasonable counseling expenses up to a maximum amount of
27 [\$500] **\$5,000** if the person:

28 “(a) Paid or incurred such expenses;

29 “[*b*] Was a friend or acquaintance of the victim;]

30 “[*c*] Was the first person to discover the corpse of the victim; and]

1 “(b)(A) Was the first person to discover the corpse of the victim;
2 or

3 “(B) Was a witness to the crime resulting in the death of a victim;
4 and

5 “[*d*] (c) Files a claim in the manner provided in ORS 147.105 and the
6 conditions in ORS 147.015 (1)(b) to [*g*] (e) are met.

7 “(3) Notwithstanding that a person is not a victim or a survivor or de-
8 pendent of a deceased victim under ORS 147.015 (1)(a), the person is eligible
9 for the compensation described in ORS 147.035 (7) [*and* (8)] if:

10 “(a) The person is the personal representative, as defined by the Depart-
11 ment of Justice by rule, of a victim or of a survivor or dependent of a de-
12 ceased victim;

13 “(b) The person is involved in the [*hearing or oral argument*] **proceeding**
14 in lieu of the victim, survivor or dependent; and

15 “(c) The person files a claim in the manner provided in ORS 147.105 and
16 the conditions in ORS 147.015 (1)(b) to [*g*] (e) are met.

17 “(4) The Department of Justice may pay directly to the provider of the
18 services compensation for medical, funeral or counseling expenses incurred
19 by the person.

20 “**SECTION 4.** ORS 147.035 is amended to read:

21 “147.035. (1)(a) Except as otherwise provided in ORS 147.025 and 147.390,
22 compensation may be awarded under ORS 147.005 to 147.367 only for losses
23 described in this section.

24 “(b) The maximum amount of compensation that may be awarded, in ag-
25 gregate, to the victim and the survivors and dependents of a deceased victim
26 is \$47,000.

27 “(c) When a compensable crime results in:

28 “(A) Injury to a victim, the losses described in subsections (2), (4)[,] **and**
29 (7) [*and* (8)] of this section are compensable.

30 “(B) Death to a victim, the losses described in subsections (3), (4), (6)[,]

1 **and** (7) [*and* (8)] of this section are compensable.

2 “(2) When a claim for compensation is filed in a case of injury, compen-
3 sation may be awarded for:

4 “(a) The victim’s reasonable medical and hospital expenses, including
5 counseling expenses **and the cost of any prescription medications**, up to
6 a maximum amount of \$20,000;

7 “(b) Loss of the victim’s earnings, at a maximum rate of \$600 per week,
8 up to a maximum amount of \$20,000;

9 “(c) The victim’s rehabilitation expenses, up to a maximum amount of
10 \$4,000; [*and*]

11 “(d) **Reasonable cleaning expenses, up to a maximum of \$2,500;**

12 “(e) **The costs of obtaining forensic evidence, using an evidence
13 collection kit, during a medical assessment related to strangulation;**

14 “(f) **For a parent or legal guardian of a minor victim, lost wages
15 due to providing care for the victim, within the terms and up to a
16 maximum amount determined by the department by rule; and**

17 “[*d*] (g) Expenses related to transportation for the victim’s medical care
18 or counseling, at a rate determined by the Department of Justice, up to a
19 maximum amount of \$3,000, when:

20 “(A) The medical care or counseling is compensable under this section;

21 “(B) The medical care or counseling is provided more than 30 miles away
22 from the victim’s residence; and

23 “(C) Adequate medical care or counseling is not available in closer prox-
24 imity to the victim’s residence.

25 “(3) When a claim for compensation is filed in a case of death, compen-
26 sation may be awarded for:

27 “(a) Reasonable funeral expenses, up to a maximum amount of \$5,000,
28 **with an additional amount awarded at the discretion of the depart-
29 ment;**

30 “(b) **Reasonable cleaning expenses, up to a maximum of \$2,500;**

1 “[(b)] (c) The victim’s reasonable medical and hospital expenses, up to a
2 maximum amount of \$20,000;

3 “[(c)] (d) Loss of support to the dependents of the victim, at a maximum
4 rate of [\$600] **\$800** per week, up to a maximum amount of \$20,000, less any
5 amounts awarded for loss of earnings under subsection (2)(b) of this section;

6 “[(d)] (e) Reasonable counseling expenses for the survivors of a deceased
7 victim **or witnesses to the crime resulting in the death of the victim**,
8 up to a maximum amount of \$20,000 for each deceased victim and including
9 [up to \$1,500 for each survivor for] **the cost of any** prescription medications
10 prescribed in conjunction with the counseling; and

11 “[(e)] (f) Expenses related to transportation for a survivor’s or a
12 dependent’s counseling, at a rate determined by the department, up to a
13 maximum amount of \$3,000, when:

14 “(A) The counseling is compensable under this section;

15 “(B) The counseling is provided more than 30 miles away from the
16 survivor’s or dependent’s residence; and

17 “(C) Adequate counseling is not available in closer proximity to the
18 survivor’s or dependent’s residence.

19 “(4) When a claim for compensation is filed in a case of:

20 “(a) Rape of a child, child sexual abuse or sexual exploitation, as those
21 terms are described in ORS 419B.005 (1)(a)(C), (D) and (E), counseling ex-
22 penses of the victim’s family, **including the cost of any prescription**
23 **medications prescribed in conjunction with the counseling**, are
24 compensable up to a maximum amount of \$20,000, less any amounts awarded
25 for the victim’s medical or hospital expenses under subsection (2)(a) of this
26 section.

27 “(b) Domestic violence as defined in ORS 135.230, the counseling expenses
28 of children who witnessed the domestic violence, **including the cost of any**
29 **prescription medications prescribed in conjunction with the coun-**
30 **seling**, are compensable up to a maximum amount of \$10,000.

1 “(c) International terrorism, the counseling expenses of a relative of the
2 victim, **including the cost of any prescription medications prescribed**
3 **in conjunction with the counseling**, are compensable up to a maximum
4 amount of \$1,000.

5 “(5) Compensation may not be awarded under ORS 147.005 to 147.367 for
6 pain and suffering or property damage.

7 “(6) Notwithstanding subsections (2) to (5) of this section, when a claim
8 for compensation is filed in a case of abuse of corpse in the first degree as
9 defined in ORS 166.087 or abuse of corpse in the second degree as defined in
10 ORS 166.085, compensation may be awarded for one or both of the following:

11 “(a) Reasonable funeral expenses, up to a maximum amount of \$5,000,
12 **with an additional amount awarded at the discretion of the depart-**
13 **ment.**

14 “(b) Reasonable counseling expenses for emotional distress, **including the**
15 **cost of any prescription medications prescribed in conjunction with**
16 **the counseling**, up to a maximum amount of \$5,000 for each incident.

17 “(7) If the case against the assailant of the victim is under direct or
18 collateral review [*and the victim, survivor or dependent is involved in the*
19 *hearing or oral argument,*] **or the subject of any other post-conviction**
20 **proceeding, or the assailant of the victim has a hearing scheduled be-**
21 **fore the State Board of Parole and Post-Prison Supervision or the**
22 **Psychiatric Security Review Board or has applied for or is being con-**
23 **sidered for clemency or any other relief**, compensation may be awarded
24 for:

25 “(a) The victim’s, survivor’s or dependent’s counseling expenses, **includ-**
26 **ing the cost of any prescription medications prescribed in conjunction**
27 **with the counseling**, up to a maximum amount of [*\$5,000*] **\$10,000**; and

28 “(b) Other expenses related to the [*review*] **proceeding**, including trans-
29 portation, [*and*] lodging **and any other expenses determined by the de-**
30 **partment by rule that are** necessary for the victim, survivor or dependent

1 to be involved in [*hearings and oral arguments*] **the proceeding**, up to a
2 maximum amount [*of \$3,000*] **determined by the department by rule.**

3 “[*(8) If the assailant of the victim has a hearing scheduled before the State*
4 *Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-*
5 *view Board and the victim, survivor or dependent is involved in the hearing,*
6 *compensation may be awarded for:]*]

7 “[*(a) The victim’s, survivor’s or dependent’s counseling expenses up to a*
8 *maximum amount of \$5,000; and]*]

9 “[*(b) Other expenses related to the hearing, including transportation and*
10 *lodging necessary for the victim, survivor or dependent to be involved in the*
11 *hearing, up to a maximum amount of \$3,000.]*]

12 “[*(9)*] **(8)** A claim for compensation expires and no further payments may
13 be made with regard to the claim:

14 “(a) When three years have elapsed from the entry of a determination
15 order under ORS 147.135; or

16 “(b) If the victim, survivor or dependent attains 21 years of age after the
17 date described in paragraph (a) of this subsection, when the victim, survivor
18 or dependent attains 21 years of age.

19 “[*(10)*] **(9)** Notwithstanding subsection [*(9)*] **(8)** of this section:

20 “(a) In cases of homicide, a claim for reasonable counseling expenses for
21 survivors may continue until five years have elapsed from the date of the
22 determination order.

23 “(b) Claims described in subsection (7) of this section may be filed [*each*
24 *time an assailant’s case is under direct or collateral review and expire:]* **at**
25 **any time while an assailant’s case is involved in the post-conviction**
26 **proceeding or the assailant has a hearing scheduled or is being con-**
27 **sidered for release or clemency and do not expire.**

28 “[*(A) If the assailant is released as a result of the direct or collateral re-*
29 *view, when six months have elapsed from the date the assailant is released;*
30 *or]*]

1 “[B] *If the assailant is not released as a result of the direct or collateral*
2 *review, when six months have elapsed from the completion of the review.*]

3 “[c] *Claims described in subsection (8) of this section may be filed each*
4 *time an assailant has a hearing before the State Board of Parole and Post-*
5 *Prison Supervision or the Psychiatric Security Review Board and expire.*]

6 “[A] *If the assailant is denied parole, conditional release or discharge,*
7 *when six months have elapsed from the date of the hearing.*]

8 “[B] *If the assailant is paroled, conditionally released or discharged, when*
9 *six months have elapsed from the date the assailant is paroled, conditionally*
10 *released or discharged.*]

11 “[11] **(10)** Notwithstanding subsections (2) and [(9)] **(8)** of this section,
12 if a victim suffers catastrophic injuries:

13 “(a) A claim for compensation and payments may continue beyond the
14 period described in subsection [(9)] **(8)** of this section; and

15 “(b) The department may award compensation for losses in excess of the
16 individual limitations described in subsection (2) of this section, provided
17 that the aggregate award does not exceed the amount described in subsection
18 (1)(b) of this section.

19 “[12] **(11)** The department shall adopt rules:

20 “**(a) Defining the terms and maximum amount of compensation**
21 **available under subsection (2)(f) of this section.**

22 “**(b) Defining the types of compensable expenses and maximum**
23 **amount of compensation available under subsection (7)(b) of this sec-**
24 **tion.**

25 “[a] **(c)** Defining catastrophic injuries and establishing the length of
26 time that a claim for compensation and payments may continue under sub-
27 section [(11)(a)] **(10)(a)** of this section.

28 “[b] **(d)** For medical fee schedules. The schedules shall represent at least
29 the 75th percentile of the usual and customary fees charged to the public as
30 determined by the department. An applicant or victim may not be charged

1 for the percentile amount reduced by the department.

2 **“SECTION 5.** ORS 147.105 is amended to read:

3 “147.105. (1) An applicant for compensation under ORS 147.005 to 147.367
4 must file an application under oath on a form furnished by the Department
5 of Justice. The application shall include:

6 “(a) The name and address of the victim;

7 “(b) If the victim is deceased, the name and address of the applicant and
8 relationship to the victim, the names and addresses of the victim’s depen-
9 dents and the extent to which each is so dependent;

10 “(c) The date and nature of the crime or attempted crime on which the
11 application for compensation is based;

12 “(d) The date and place where, and the law enforcement officials to whom,
13 notification of the crime was given;

14 “(e) The nature and extent of the injuries sustained by the victim, the
15 names and addresses of those giving medical and hospital treatment to the
16 victim and whether death resulted;

17 “(f) The loss to the applicant and to such other persons as are specified
18 under paragraph (b) of this subsection, resulting from the injury or death;

19 “(g) The amount of benefits, payments or awards, if any, payable from any
20 source, which the applicant or other person, listed under paragraph (b) of
21 this subsection, has received or for which the applicant or other person is
22 eligible as a result of the injury or death;

23 “(h) Releases authorizing the surrender to the department of reports,
24 documents and other information relating to the matters specified under this
25 subsection; and

26 “(i) Such other information as the department determines is necessary.

27 “(2) The department may require that the applicants submit with the ap-
28 plication materials substantiating the facts stated in the application.

29 “(3) If the department finds that an application does not contain the re-
30 quired information or that the facts stated therein have not been substanti-

1 ated, it shall notify the applicant in writing of the specific additional items
2 of information or materials required [*and that the applicant has 30 days from*
3 *the date of mailing in which to furnish those items to the department. Unless*
4 *an applicant requests and is granted an extension of time by the department,*
5 *the department shall reject with prejudice the claim of the applicant for failure*
6 *to file the additional information or materials within the specified time].*

7 “(4) An applicant may file an amended application or additional substan-
8 tiating materials to correct inadvertent errors or omissions at any time be-
9 fore the department has completed its consideration of the original
10 application.

11 “(5) The filing of additional information or the amendment of the appli-
12 cation pursuant to subsection (3) or (4) of this section shall be considered for
13 the purposes of ORS 147.005 to 147.367 to have been filed at the same time
14 as the original application.

15 “[*(6) Unless the department finds good cause exists for the applicant’s*
16 *failure to satisfy a financial obligation or unless the interest of justice requires*
17 *otherwise, the department shall not process an application filed by or on behalf*
18 *of a victim who owes a financial obligation ordered or imposed as a result of*
19 *a previous criminal conviction until the department receives information or*
20 *materials establishing to the satisfaction of the department that the financial*
21 *obligation has been satisfied. If the department does not receive the informa-*
22 *tion or materials within one year after the department notifies the applicant*
23 *of the need to fulfill this requirement, the application is void.]*

24 “[*(7)(a)*] **(6)** If at the time of application, the applicant is incarcerated as
25 a result of a conviction of a crime, the **department shall process the ap-**
26 **plication** [*shall be refused and returned to the applicant. The applicant is el-*
27 *igible to refile the application within six months after the applicant is released*
28 *from incarceration*] **in the normal course. The claim shall remain open**
29 **but the applicant is not eligible for compensation until the applicant**
30 **is released from custody.**

1 “[*(b) At the time the application is refused and returned, the department*
2 *shall notify the applicant of the right to refile the claim within six months of*
3 *release from incarceration.*]”.

4 On page 8, delete lines 1 through 42.

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