

VICTIMS OF CRIME COMPENSATION CLAIMS

Kevin R. Sanislo, Esq.
Corzin, Sanislo & Ufholz LLC
304 N. Cleveland-Massillon Road
Akron, Ohio 44333
Telephone: 330-670-0770
Facsimile: 330-670-0297
kevinsanislo@sanislolaw.com

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- I. Everything you need to know, almost, is contained within ORC 2743.51.
- II. But also see, ORC 2743.52, ORC 2743.55, ORC 2743.56, ORC 2743.60, and ORC 2743.68.
- III. Criminally injurious conduct
 - A. Any conduct that occurs or is attempted which possess a substantial threat of personal injury or death and is punishable by fine, imprisonment, or death, or is an act of terrorism ORC 2743.51(C)(1),(2), and (3).
- IV. Types of criminally injurious conduct.
 - A. Non-vehicular ORC 2743.51(C)(1) and (2)
 - B. Vehicular ORC 2743.51(C)(1)(a)(b)(c)(d)(e),(C)(2)(a)(b)(c)(d)(e)
 - C. OVI ORC 2743.51(C)(1)(c) and (C)(2)(c)
- V. Recoverable economic loss ORC 2743.51(F) and ORC 2743.51(G)
 - A. Medical expenses
 - B. Prescriptions eyeglasses
 - C. {cut and paste ORC 2743.51(F)(1)}
 - D. Hand controlled vehicles
 - E. Home modifications
 - F. Housing at battered women's shelters
 - G. Relocation expenses
 - H. Privacy fence
 - I. Counseling expenses
 - J. Travel expenses to attend medical treatment
 - K. Security expenses
 - L. Attorney fees to obtain restraining order, custody order, or other order to physically separate a victim from an offender
 - M. Work loss
 - N. Loss of job expectation
 - O. Future work loss
 - P. Replacement services ORC 2743.51(H)
 - Q. Unemployment benefits loss ORC 2743.51(O)
 - R. Crime scene cleanup ORC 2743.51(T)(1)(2)
 - S. Dependents economic loss ORC 2743.51(I)
 - T. Dependents replacement services loss ORC 2743.51(J)
 - U. Funeral expense ORC 2743.51(N)(1)(2)
- VI. Collateral sources ORC 2743.51(B).
 - A. Maximum award is \$50,000.00 ORC 2743.60(I)
- VII. Disqualifying factors
 - A. No report to law enforcement ORC 2743.60(A)

- B. Claimant is offender ORC 2743.60(B)(1)
- C. Under the influence – knowledge ORC 2743.60(B)(1)(b)(c)
- D. Failure to cooperate with law enforcement ORC 2743.60(C)
- E. Felony conviction; felonious conduct ORC 2743.56(E)(1)(a)(b)

VIII. Contributory misconduct ORC 2743.51(M)

IX. Attorney Fees ORC 2743.65

- A. Fee petition submitted to the Attorney General's Office
- B. Paid at the rate of \$60.00 per hour
- C. Maximum of \$750.00 resolved without the necessity of filing an appeal
- D. Maximum of \$1,020.00 for claims in which an appeal is filed with the Court of Claims, plus \$30.00 per hour for travel time to attend the hearing if the attorney's office is not located in Franklin, Delaware, Licking, Fairfield, Pickaway, Madison, or Union Counties
- E. Maximum of \$1,320.00 for claims in which an appeal is filed with the Court of Claims
- F. Maximum of \$750.00 for filing a Supplemental Reparations Application
- G. Maximum of \$200.00 if the claim is denied on the basis of claimant's or victim's conviction for a felony prior to the filing of the claim unless the claimant or victim committed a felony during the pendency of the claim, the \$200.00 fee limitation does not apply
- H. Attorney fees are paid regardless of the outcome of the applicant's claim, unless the claim or appeal were frivolous

X. Supplemental Reparations Application ORC 2743.68

- A. Must be filed within five years after the last decision either by the Attorney General or the Court
 - 1. Court may use its equitable power to grant an award when the Supplemental Compensation Application was filed after the five-year time period had expired

§ 2743.51. Reparation award to victim of crime definitions.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.51. Reparation award to victim of crime definitions

As used in sections 2743.51 to 2743.72 of the Revised Code:

- (A) "Claimant" means both of the following categories of persons:
- (1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:
 - (a) A victim who was one of the following at the time of the criminally injurious conduct:
 - (i) A resident of the United States;
 - (ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.
 - (b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;
 - (c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;
 - (d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;
 - (e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.
 - (2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

- (a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:
- (i) Had a permanent place of employment in this state;
 - (ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;
 - (iii) Was retired and receiving social security or any other retirement income;
 - (iv) Was sixty years of age or older;
 - (v) Was temporarily in another state for the purpose of receiving medical treatment;
 - (vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;
 - (vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;
 - (viii) Was a full-time student at an academic institution, college, or university located in another state;
 - (ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.
- (b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;
- (c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(3) Social security, medicare, and medicaid;

(4) State-required, temporary, nonoccupational disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability;

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;

(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of

personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

- (a) The person engaging in the conduct intended to cause personal injury or death;
- (b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;
- (c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;
- (d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code;
- (e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of section 4549.02 or 4549.021 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

- (a) The person engaging in the conduct intended to cause personal injury or death;
- (b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;
- (c) The person engaging in the conduct was using the vehicle in a manner that

constitutes an OVI violation;

- (d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code;
 - (e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to section 4549.02 or 4549.021 of the Revised Code.
- (3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.
- (D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.
- (E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.
- (F) (1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for hearing aids; dentures, retainers, and other dental appliances; canes, walkers, and other mobility tools; and eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.
- (2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally

injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application. The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type and seven thousand five hundred dollars in the aggregate for all immediate family members of a victim of that type.

- (3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.
- (4)
 - (a) "Allowable expense" includes reasonable expenses and fees necessary to obtain a guardian's bond pursuant to section 2109.04 of the Revised Code when the bond is required to pay an award to a fiduciary on behalf of a minor or other incompetent.
 - (b) "Allowable expense" includes attorney's fees not exceeding one thousand dollars, at a rate not exceeding one hundred dollars per hour, incurred to successfully obtain a restraining order, custody order, or other order to physically separate a victim from an offender. Attorney's fees for the services described in this division may include an amount for reasonable travel time incurred to attend court hearings, not exceeding three hours round-trip for each court hearing, assessed at a rate not exceeding thirty dollars per hour.
- (G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.
- (H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.
- (I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have

received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's death.

- (J) "Dependent's replacement services loss" means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.
- (K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.
- (L) "Victim" means a person who suffers personal injury or death as a result of any of the following:
 - (1) Criminally injurious conduct;
 - (2) The good faith effort of any person to prevent criminally injurious conduct;
 - (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.
- (M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.
- (N)
 - (1) "Funeral expense" means any reasonable charges that are not in excess of seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.
 - (2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred

dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United

States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

- (3) The activity appears to be intended to do any of the following:
 - (a) Intimidate or coerce a civilian population;
 - (b) Influence the policy of any government by intimidation or coercion;
 - (c) Affect the conduct of any government by assassination or kidnapping.
- (4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.
- (S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.
- (T) "Cost of crime scene cleanup" means any of the following:
 - (1) The replacement cost for items of clothing removed from a victim in order to make an assessment of possible physical harm or to treat physical harm;
 - (2) Reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.
- (U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.
- (V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.
- (W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to the victim by affinity or consanguinity.
- (X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Cite as R.C. § 2743.51

History. Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 01-01-2004; 08-17-2006; 04-04-2007

§ 2743.52. Awards of reparations for economic loss arising from criminally injurious conduct.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.52. Awards of reparations for economic loss arising from criminally injurious conduct

- (A) The attorney general shall make awards of reparations for economic loss arising from criminally injurious conduct, if satisfied by a preponderance of the evidence that the requirements for an award of reparations have been met.
- (B) The court of claims has appellate jurisdiction to order awards of reparations for economic loss arising from criminally injurious conduct, if satisfied by a preponderance of the evidence that the requirements for an award of reparations have been met.
- (C) A decision of the attorney general or judgment of the court of claims concerning an OVI violation shall not be used as the basis for any civil or criminal action and shall not be admissible as evidence in any civil or criminal proceeding.

Cite as R.C. § 2743.52

History. Amended by 130th General Assembly File No. TBD, HB 261, §1, eff. 7/10/2014.

Effective Date: 01-01-2004

§ 2743.55. Determination of claims for an award of reparations.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.55. Determination of claims for an award of reparations

The attorney general or the court of claims shall determine all matters relating to claims for an award of reparations. The attorney general or the court of claims may order law enforcement officers to provide copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable the attorney general or the court of claims to determine whether, and the extent to which, a claimant qualifies for an award of reparations.

Cite as R.C. § 2743.55

History. Amended by 130th General Assembly File No. TBD, HB 261, §1, eff. 7/10/2014.

Effective Date: 07-01-2000

§ 2743.56. Application for award of reparations.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.56. Application for award of reparations

- (A) A claim for an award of reparations shall be commenced by filing an application for an award of reparations with the attorney general. The application may be filed by mail. If the application is filed by mail, the post-marked date of the application shall be considered the filing date of the application. The application shall be in a form prescribed by the attorney general and shall include a release authorizing the attorney general and the court of claims to obtain any report, document, or information that relates to the determination of the claim for an award of reparations that is requested in the application.
- (B) All applications for an award of reparations shall be filed as follows:
- (1) If the victim of the criminally injurious conduct was a minor, within two years of the victim's eighteenth birthday or within two years from the date a complaint, indictment, or information is filed against the alleged offender, whichever is later. This division does not require that a complaint, indictment, or information be filed against an alleged offender in order for an application for an award of reparations to be filed pertaining to a victim who was a minor if the application is filed within two years of the victim's eighteenth birthday, and does not affect the provisions of section 2743.64 of the Revised Code.
 - (2) If the victim of the criminally injurious conduct was an adult, at any time after the occurrence of the criminally injurious conduct.

Cite as R.C. § 2743.56

History. Amended by 129th General Assembly File No. 29, HB 86, §1, eff. 9/30/2011.

Effective Date: 07-01-2000; 04-04-2007

§ 2743.60. Denial of claim or reduction of award of reparations.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.60. Denial of claim or reduction of award of reparations

- (A) The attorney general or the court of claims shall not make or order an award of reparations to a claimant if the criminally injurious conduct upon which the claimant bases a claim never was reported to a law enforcement officer or agency.
- (B) (1) The attorney general or the court of claims shall not make or order an award of reparations to a claimant if any of the following apply:
 - (a) The claimant is the offender or an accomplice of the offender who committed the criminally injurious conduct, or the award would unjustly benefit the offender or accomplice.
 - (b) Except as provided in division (B)(2) of this section, both of the following apply:
 - (i) The victim was a passenger in a motor vehicle and knew or reasonably should have known that the driver was under the influence of alcohol, a drug of abuse, or both.
 - (ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.
 - (c) Both of the following apply:
 - (i) The victim was under the influence of alcohol, a drug of abuse, or both and was a passenger in a motor vehicle and, if sober, should have reasonably known that the driver was under the influence of alcohol, a drug of abuse, or both.
 - (ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.
- (2) Division (B)(1)(b) of this section does not apply if on the date of the occurrence of

the criminally injurious conduct, the victim was under sixteen years of age or was at least sixteen years of age but less than eighteen years of age and was riding with a parent, guardian, or care-provider.

- (C) The attorney general or the court of claims, upon a finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny a claim or reconsider and reduce an award of reparations.
- (D) The attorney general or the court of claims shall reduce an award of reparations or deny a claim for an award of reparations that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is recouped from other persons, including collateral sources. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If the award or denial is conditioned upon the recoupment of the claimant's economic loss from a collateral source and it is determined that the claimant did not unreasonably fail to present a timely claim to the collateral source and will not receive all or part of the expected recoupment, the claim may be reopened and an award may be made in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source.

If the claimant recoups all or part of the economic loss upon which the claim is based from any other person or entity, including a collateral source, the attorney general may recover pursuant to section 2743.72 of the Revised Code the part of the award that represents the economic loss for which the claimant received the recoupment from the other person or entity.

- (E) (1) Except as otherwise provided in division (E)(2) of this section, the attorney general or the court of claims shall not make an award to a claimant if any of the following applies:
 - (a) The victim was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.
 - (b) The claimant was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.
 - (c) It is proved by a preponderance of the evidence that the victim or the claimant engaged, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim, in an offense of violence, a violation of section 2925.03 of the Revised Code, or any substantially similar offense that also would constitute a felony under the

laws of this state, another state, or the United States.

- (d) The claimant was convicted of a violation of section 2919.22 or 2919.25 of the Revised Code, or of any state law or municipal ordinance substantially similar to either section, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim.
- (e) It is proved by a preponderance of the evidence that the victim at the time of the criminally injurious conduct that gave rise to the claim engaged in conduct that was a felony violation of section 2925.11 of the Revised Code or engaged in any substantially similar conduct that would constitute a felony under the laws of this state, another state, or the United States.

- (2) The attorney general or the court of claims may make an award to a minor dependent of a deceased victim for dependent's economic loss or for counseling pursuant to division (F)(2) of section 2743.51 of the Revised Code if the minor dependent is not ineligible under division (E)(1) of this section due to the minor dependent's criminal history and if the victim was not killed while engaging in illegal conduct that contributed to the criminally injurious conduct that gave rise to the claim. For purposes of this section, the use of illegal drugs by the deceased victim shall not be deemed to have contributed to the criminally injurious conduct that gave rise to the claim.

- (F) In determining whether to make an award of reparations pursuant to this section, the attorney general or the court of claims shall consider whether there was contributory misconduct by the victim or the claimant. The attorney general or the court of claims shall reduce an award of reparations or deny a claim for an award of reparations to the extent it is determined to be reasonable because of the contributory misconduct of the claimant or the victim.

When the attorney general decides whether a claim should be denied because of an allegation of contributory misconduct, the burden of proof on the issue of that alleged contributory misconduct shall be upon the claimant, if either of the following apply:

- (1) The victim was convicted of a felony more than ten years prior to the criminally injurious conduct that is the subject of the claim or has a record of felony arrests under the laws of this state, another state, or the United States.
 - (2) There is good cause to believe that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim.
- (G) The attorney general or the court of claims shall not make an award of reparations to a claimant if the criminally injurious conduct that caused the injury or death that is the subject of the claim occurred to a victim who was an adult and while the victim, after being

convicted of or pleading guilty to an offense, was serving a sentence of imprisonment in any detention facility, as defined in section 2921.01 of the Revised Code.

- (H) If a claimant unreasonably fails to present a claim timely to a source of benefits or advantages that would have been a collateral source and that would have reimbursed the claimant for all or a portion of a particular expense, the attorney general or the court of claims may reduce an award of reparations or deny a claim for an award of reparations to the extent that it is reasonable to do so.
- (I) Reparations payable to a victim and to all other claimants sustaining economic loss because of injury to or the death of that victim shall not exceed fifty thousand dollars in the aggregate. If the attorney general or the court of claims reduces an award under division (F) of this section, the maximum aggregate amount of reparations payable under this division shall be reduced proportionately to the reduction under division (F) of this section.
- (J) Nothing in this section shall be construed to prohibit an award to a claimant whose claim is based on the claimant's being a victim of a violation of section 2905.32 of the Revised Code if the claimant was less than eighteen years of age when the criminally injurious conduct occurred.

Cite as R.C. § 2743.60

History. Amended by 130th General Assembly File No. TBD, HB 261, §1, eff. 7/10/2014.

Amended by 129th General Assembly File No. 142, HB 262, §1, eff. 6/27/2012.

Amended by 129th General Assembly File No. 29, HB 86, §1, eff. 9/30/2011.

Effective Date: 06-26-2003

§ 2743.65. Attorney fees - witness fees.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.65. Attorney fees - witness fees

- (A) The attorney general shall determine, and the state shall pay, in accordance with this section attorney's fees, commensurate with services rendered, to the attorney representing a claimant under sections 2743.51 to 2743.72 of the Revised Code. The attorney shall submit on an application form an itemized fee bill at the rate of sixty dollars per hour upon receipt of the final decision on the claim. Attorney's fees paid pursuant to this section are subject to the following maximum amounts:
- (1) A maximum of seven hundred twenty dollars for claims resolved without the filing of an appeal to the court of claims;
 - (2) A maximum of one thousand twenty dollars for claims in which an appeal to the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the court of claims at the rate of thirty dollars per hour;
 - (3) A maximum of one thousand three hundred twenty dollars for claims in which an appeal to the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the court at the rate of thirty dollars per hour;
 - (4) A maximum of seven hundred twenty dollars for a supplemental reparations application;
 - (5) A maximum of two hundred dollars if the claim is denied on the basis of a claimant's or victim's conviction of a felony offense prior to the filing of the claim. If the claimant or victim is convicted of a felony offense during the pendency of the claim, the two hundred dollars maximum does not apply. If the attorney had knowledge of the claimant's or victim's felony conviction prior to the filing of the application for the claim, the attorney general may determine that the filing of the

claim was frivolous and may deny attorney's fees.

- (B) The attorney general may determine that an attorney be reimbursed for fees incurred in the creation of a guardianship if the guardianship is required in order for an individual to receive an award of reparations, and those fees shall be reimbursed at a rate of sixty dollars per hour.
- (C)
 - (1) The attorney general shall forward an application form for attorney's fees to a claimant's attorney before or when the final decision on a claim is rendered. The application form for attorney's fees shall do all of the following:
 - (a) Inform the attorney of the requirements of this section;
 - (b) Require a verification statement comporting with the law prohibiting falsification;
 - (c) Require an itemized fee statement;
 - (d) Require a verification statement that the claimant was served a copy of the completed application form;
 - (e) Include notice that the claimant may oppose the application by notifying the attorney general in writing within ten days.
 - (2) The attorney general shall forward a copy of this section to the attorney with the application form for attorney's fees. The attorney shall file the application form with the attorney general. The attorney general's decision with respect to an award of attorney's fees is final ten days after the attorney general renders the decision and mails a copy of the decision to the attorney at the address provided by the attorney. The attorney may request reconsideration of the decision on grounds that it is insufficient or calculated incorrectly. The attorney general's decision on the request for reconsideration is final.
- (D) The attorney general shall review all application forms for attorney's fees that are submitted by a claimant's attorney and shall issue an order approving the amount of fees to be paid to the attorney within sixty days after receipt of the application form.
- (E) No attorney's fees shall be paid for the following:
 - (1) Estate work or representation of a claimant against a collateral source;
 - (2) Duplication of investigative work required to be performed by the attorney general;
 - (3) Performance of unnecessary criminal investigation of the offense;
 - (4) Presenting or appealing an issue that has been repeatedly ruled upon by the highest appellate authority, unless a unique set of facts or unique issue of law

exists that distinguishes it;

- (5) A fee request that is unreasonable, is not commensurate with services rendered, violates the Ohio code of professional responsibility, or is based upon services that are determined to be frivolous.
- (F)
- (1) The attorney general may reduce or deny the payment of attorney's fees to an attorney who has filed a frivolous claim. Subject to division (A)(5) of this section, the denial of a claim on the basis of a felony conviction, felony conduct, or contributory misconduct does not constitute a frivolous claim.
 - (2) As used in this section, "frivolous claim" means a claim in which there is clearly no legal grounds under the existing laws of this state to support the filing of a claim on behalf of the claimant or victim.
- (G) The attorney general may determine that a lesser number of hours should have been required in a given case. Additional reimbursement may be made where the attorney demonstrates to the attorney general that the nature of the particular claim required the expenditure of an amount in excess of that allowed.
- (H) No attorney shall receive payment under this section for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code if that attorney's fees have been allowed as an expense in accordance with division (F)(4) of section 2743.51 of the Revised Code.
- (I) A contract or other agreement between an attorney and any person that provides for the payment of attorney's fees or other payments in excess of the attorney's fees allowed under this section for representing a claimant under sections 2743.51 to 2743.72 of the Revised Code shall be void and unenforceable.
- (J) Each witness who appears in a hearing on a claim for an award of reparations shall receive compensation in an amount equal to that received by witnesses under section 119.094 of the Revised Code.

Cite as R.C. § 2743.65

History. Amended by 130th General Assembly File No. TBD, HB 261, §1, eff. 7/10/2014.

Effective Date: 06-26-2003; 2008 HB525 07-01-2009

§ 2743.68. Application for supplemental reparations.

Ohio Statutes

Title 27. COURTS - GENERAL PROVISIONS - SPECIAL REMEDIES

Chapter 2743. COURT OF CLAIMS

Current with legislation signed by the Governor and effective as of 2/14/2016

§ 2743.68. Application for supplemental reparations

A claimant may file a supplemental reparations application in a claim if the attorney general or the court of claims, within five years prior to the filing of the supplemental application, has made any of the following determinations:

- (A) That an award, supplemental award, or installment award be granted;
- (B) That an award, supplemental award, or installment award be conditioned or denied because of actual or potential recovery from a collateral source;
- (C) That an award, supplemental award, or installment award be denied because the claimant had not incurred any economic loss at that time.

Cite as R.C. § 2743.68

History. Amended by 130th General Assembly File No. TBD, HB 261, §1, eff. 7/10/2014.

Effective Date: 07-01-2000