

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



# ENROLLED

HOUSE BILL No. 4256

(By ~~THE~~ Del. Rowe & Ditto)



Passed March 10, 1990

In Effect ninty days from Passage

**ENROLLED**  
**H. B. 4256**

(By DELEGATES ROWE AND PITROLO)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections four, fourteen and twenty-six, article two-a, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to imposing costs on persons convicted of driving under the influence, such costs being deposited in the crime victims fund, and to the award of compensation from the crime victims compensation fund to the spouse of, person living in the same household with, parent, child, brother or sister of the offender or his accomplice.

*Be it enacted by the Legislature of West Virginia:*

That sections four, fourteen and twenty-six, article two-a, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended to read as follows:

**ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF  
CRIMES.**

**§14-2A-4. Creation of crime victims compensation fund.**

1 (a) Every person within the state who is convicted of  
2 or pleads guilty to a misdemeanor or felony offense,  
3 other than a traffic offense that is not a moving  
4 violation, shall pay the sum of three dollars as costs in  
5 the case, in addition to any other court costs that the  
6 court is required by law to impose upon such convicted  
7 person. In addition to the three dollar sums required to

8 be collected as costs under the provisions of this  
9 subsection, there shall be collected from every person so  
10 convicted in any magistrate court and circuit court (and  
11 excluding municipal courts) the sum of one dollar which  
12 shall be in addition to any other court cost required by  
13 this section or which may be required by law. In  
14 addition to any other costs previously specified, every  
15 person within the state who is convicted of or pleads  
16 guilty to a violation of section two, article five, chapter  
17 seventeen-c, shall pay the following cost:

- 18 (1) For a first offense, ten dollars;
- 19 (2) For a second offense, twenty-five dollars;
- 20 (3) For a third or subsequent offense, fifty dollars.

21 This shall be in addition to any other court cost  
22 required by this section or which may be required by  
23 law.

24 (b) The clerk of the circuit court, magistrate court or  
25 municipal court wherein such additional costs are  
26 imposed under the provisions of subsection (a) of this  
27 section shall, on or before the last day of each month,  
28 transmit all such costs received under this article to the  
29 state treasurer for deposit in the state treasury to the  
30 credit of a special revenue fund to be known as the  
31 "Crime Victims Compensation Fund," which is hereby  
32 created. All moneys heretofore collected and received  
33 under the prior enactment or reenactments of this  
34 article and deposited or to be deposited in the "Crime  
35 Victims Reparation Fund" are hereby transferred to the  
36 crime victims compensation fund, and the treasurer  
37 shall so deposit such moneys in the state treasury. All  
38 moneys collected and received under this article and  
39 paid into the state treasury and credited to the crime  
40 victims compensation fund in the manner prescribed in  
41 section two, article two, chapter twelve of this code, shall  
42 be kept and maintained for the specific purposes of this  
43 article, and shall not be treated by the auditor and  
44 treasurer as part of the general revenue of the state.

45 (c) Moneys in the crime victims compensation fund  
46 shall be available for the payment of the costs of

47 administration of this article in accordance with the  
48 budget of the court approved therefor: *Provided*, That  
49 the services of the office of the attorney general, as may  
50 be required or authorized by any of the provisions of this  
51 article, shall be rendered without charge to the fund.

**§14-2A-14. Grounds for denial of claim or reduction of  
awards; maximum awards; awards for  
emotional distress; mental anguish, etc.**

1 (a) Except as provided in subsection (b), section ten  
2 of this article, the judge or commissioner shall not  
3 approve an award of compensation to a claimant who  
4 did not file his application for an award of compensation  
5 within two years after the date of the occurrence of the  
6 criminally injurious conduct that caused the injury or  
7 death for which he is seeking an award of compensation.

8 (b) An award of compensation shall not be approved  
9 if the criminally injurious conduct upon which the claim  
10 is based was not reported to a law-enforcement officer  
11 or agency within seventy-two hours after the occurrence  
12 of the conduct, unless it is determined that good cause  
13 existed for the failure to report the conduct within the  
14 seventy-two hour period.

15 (c) The judge or commissioner shall not approve an  
16 award of compensation to a claimant who is the offender  
17 or an accomplice of the offender who committed the  
18 criminally injurious conduct, nor to any claimant if the  
19 award would unjustly benefit the offender or his  
20 accomplice.

21 (d) A judge or commissioner, upon a finding that the  
22 claimant or victim has not fully cooperated with  
23 appropriate law-enforcement agencies, or the claim  
24 investigator, may deny a claim, reduce an award of  
25 compensation, and may reconsider a claim already  
26 approved.

27 (e) An award of compensation shall not be approved  
28 if the injury occurred while the victim was confined in  
29 any state, county or city jail, prison, private prison or  
30 correctional facility.

31 (f) After reaching a decision to approve an award of

32 compensation, but prior to announcing such approval,  
33 the judge or commissioner shall require the claimant to  
34 submit current information as to collateral sources on  
35 forms prescribed by the clerk of the court of claims. The  
36 judge or commissioner shall reduce an award of  
37 compensation or deny a claim for an award of compen-  
38 sation that is otherwise payable to a claimant to the  
39 extent that the economic loss upon which the claim is  
40 based is or will be recouped from other persons,  
41 including collateral sources, or if such reduction or  
42 denial is determined to be reasonable because of the  
43 contributory misconduct of the claimant or of a victim  
44 through whom he claims. If an award is reduced or a  
45 claim is denied because of the expected recoupment of  
46 all or part of the economic loss of the claimant from a  
47 collateral source, the amount of the award or the denial  
48 of the claim shall be conditioned upon the claimant's  
49 economic loss being recouped by the collateral source:  
50 *Provided*, That if it is thereafter determined that the  
51 claimant will not receive all or part of the expected  
52 recoupment, the claim shall be reopened and an award  
53 shall be approved in an amount equal to the amount of  
54 expected recoupment that it is determined the claimant  
55 will not receive from the collateral source, subject to the  
56 limitation set forth in subsection (g) of this section.

57 (g) Except in the case of death, compensation payable  
58 to a victim and to all other claimants sustaining  
59 economic loss because of injury to that victim shall not  
60 exceed thirty-five thousand dollars in the aggregate.  
61 Compensation payable to a victim of criminally injur-  
62 ious conduct which causes permanent injury may  
63 include, in addition to economic loss, an amount up to  
64 fifteen thousand dollars for emotional distress and pain  
65 and suffering which are proximately caused by such  
66 conduct. Compensation payable to all claimants because  
67 of the death of the victim shall not exceed fifty thousand  
68 dollars in the aggregate, but may include, in addition  
69 to economic loss, compensation to the claimants specified  
70 in paragraph (2), subdivision (a), section three of this  
71 article, for sorrow, mental anguish and solace.

**§14-2A-26. Rules and Regulations.**

1 (a) The court of claims may promulgate legislative  
2 rules in accordance with the provisions of chapter  
3 twenty-nine-a of this code to implement the provisions  
4 of this article.

5 (b) The court of claims shall promulgate legislative  
6 rules in accordance with the provisions of chapter  
7 twenty-nine-a of this code to govern the award of  
8 compensation to the spouse of, person living in the same  
9 household with, parent, child, brother or sister of the  
10 offender or his accomplice in order to avoid an unjust  
11 benefit to or the unjust enrichment of the offender or  
12 his accomplice.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Fredrick L. Perry*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harrell E. Palmer*  
Clerk of the Senate

*Donald L. Hoopp*  
Clerk of the House of Delegates

*Keith Buntline*  
President of the Senate

*Robt. Cole*  
Speaker of the House of Delegates

The within *is approved* this the *26<sup>th</sup>*  
day of *March* 1990.  
*Caston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/90

Time 3:40 pm



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OFFICE OF THE  
SECRETARY OF THE ARMY