

A Bill for an Act Relating to the Criminal Injuries Compensation Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 351-13, Hawaii Revised Statutes, is amended to read:

“Sec. 351-13 Powers and procedures of commission. Upon an application made to the criminal injuries compensation commission under this chapter, the commission shall fix a time and place for a hearing on such application and shall cause notice thereof to be given to the applicant. The commission may hold such hearings, sit and act at such times and places, and take such testimony as the commission may deem advisable. Any two members shall constitute a quorum; but in such case the concurring vote of the two members shall be necessary to take any action. Any member of the commission may administer oaths or affirmations to witnesses appearing before the commission. The commission shall have such powers of subpoena and compulsion of attendance of witnesses and production of documents and of examination of witnesses as are conferred upon a circuit court. Subpoenas shall be issued under the signature of the chairman. The circuit court of any circuit in which a subpoena is issued or served or in which the attendance or production is required may, upon the application of the commission, enforce the attendance and testimony of any witness and the production of any document so subpoenaed. Subpoena and witness fees and mileage shall be the same as in criminal cases in the circuit courts, and shall be payable from funds appropriated for expenses of administration.”

SECTION 2. Section 351-31, Hawaii Revised Statutes, is amended to read:

“Sec. 351-31 Eligibility for compensation. (a) In the event any person is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after June 6, 1967, which act or omission is within the description of the crimes enumerated in section 351-32, the criminal injuries compensation commission may, in its discretion, upon an application, order the payment of compensation in accordance with this chapter:

- (1) To or for the benefit of the victim; or
 - (2) To any person responsible for the maintenance of the victim, where that person has suffered pecuniary loss or incurred expenses as a result of the victim's injury or death; or
 - (3) In the case of the death of the victim, to or for the benefit of any one or more of the dependents of the deceased victim; or
 - (4) To a parent of an adult deceased victim, or to an adult son or daughter of a deceased victim, where the parent, or adult son or daughter, has incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the victim's injury and death.
- (b) For the purposes of this chapter, a person shall be deemed to have

intentionally committed an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the commission shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

(d) An order may be made under this section whether or not any person is prosecuted for or convicted of a crime arising out of an act or omission described in subsection (a), provided an arrest has been made or such act or omission has been reported to the police without undue delay. No order may be made under this section unless the commission finds that:

(1) The act or omission did occur; and

(2) The injury or death of the victim resulted from the act or omission.

Upon application from either the prosecuting attorney or the chief of police of the appropriate county, the commission may suspend proceedings under this chapter for such period as it deems desirable on the ground that a prosecution for a crime arising out of the act or omission has been commenced or is imminent, or that release of the investigation report would be detrimental to the public interest.

SECTION 3. Section 351-32, Hawaii Revised Statutes, is amended to read:

“Sec. 351-32 **Violent crimes.** (a) The crimes to which part III of this chapter applies are the following and no other:

- (1) Murder (Hawaii Penal Code, sec. 707-701),
- (2) Manslaughter (Hawaii Penal Code, sec. 707-702),
- (3) Assault in the first degree (Hawaii Penal Code, sec. 707-710),
- (4) Assault in the second degree (Hawaii Penal Code, sec. 707-711),
- (5) Assault in the third degree (Hawaii Penal Code, sec. 707-712),
- (6) Kidnapping (Hawaii Penal Code, sec. 707-720),
- (7) Rape in the first degree (Hawaii Penal Code, sec. 707-730),
- (8) Rape in the second degree (Hawaii Penal Code, sec. 707-731),
- (9) Rape in the third degree (Hawaii Penal Code, sec. 707-732),
- (10) Sodomy in the first degree (Hawaii Penal Code, sec. 707-733),
- (11) Sodomy in the second degree (Hawaii Penal Code, sec. 707-734),
- (12) Sodomy in the third degree (Hawaii Penal Code, sec. 707-735),
- (13) Sexual abuse in the first degree (Hawaii Penal Code, sec. 707-736),
and
- (14) Sexual abuse in the second degree (Hawaii Penal Code, sec. 707-737).

(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime, unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.”

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SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1975.)

*Edited accordingly.