

ACT 177

H.B. NO. 979

A Bill for an Act Relating to Criminal Injuries Compensation.

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

SECTION 1. Section 351-2, Hawaii Revised Statutes, is amended by amending¹ a new definition to be appropriately inserted and to read as follows:

“ “Designated person” means a person who made payments for funeral, burial, and medical expenses on behalf of a victim;”

SECTION 2. Section 351-2, Hawaii Revised Statutes, is amended by adding the definition of “resident” to be appropriately inserted and to read as follows:

“ “Resident” means a person who maintains a permanent abode in this State;”

SECTION 3. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of “victim” to read:

“ “Victim” means a person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State or any resident of the State who is injured or killed by an act or omission of another person in a state not having a crime victim compensation program eligible for federal funding under 42 United States Code §10601, et seq., which act or omission is within the description of any of the crimes specified in section 351-32 [of this chapter].”

SECTION 4. Section 351-11, Hawaii Revised Statutes, is amended to read as follows:

“§351-11 Criminal injuries compensation commission. There shall be a criminal injuries compensation commission [which] that shall be composed of three members to be appointed and be removable in the manner prescribed by section 26-34. One member of the commission shall be an attorney who has been admitted to practice before the supreme court of the State for at least five years. No officer or employee of the State or any political subdivision thereof shall be eligible for appointment to the commission. The commission is placed within the department of corrections for administrative purposes.”

SECTION 5. Section 351-12, Hawaii Revised Statutes, is amended to read as follows:

“§351-12 Tenure and compensation of members. The term of office of each member of the criminal injuries compensation commission shall be four years

or until the member's successor is appointed except that (1) the terms of office of the members first taking office shall expire as designated by the governor at the time of the appointment, one on December 31, 1968, one on December 31, 1969, and one on December 31, 1970; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed for the remainder of the term. Each member of the commission shall be eligible for reappointment, subject to section 26-34. A vacancy in the commission shall not affect its powers. If any member of the commission is unable to act because of absence, illness, or other sufficient cause, the governor may make a temporary appointment, and [such] the appointee shall have all the powers and duties of a regular member of the commission for the period of the appointee's appointment.

Each member of the commission [except the chairman] shall be compensated at the rate of [\$50] \$100 per day for each day's actual attendance to the member's duties, provided such compensation shall not exceed a maximum of \$6,600 per year. [The chairman shall be compensated at the rate of \$55 per day for each day's actual attendance to the chairman's duties, provided such compensation shall not exceed a maximum of \$7,200 per year.] The members of the commission shall be paid their necessary [travelling] traveling and subsistence expenses incurred in the discharge of their duties."

SECTION 6. Section 351-13, Hawaii Revised Statutes, is amended to read as follows:

"§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] the 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] this 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.] chairperson. 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, may 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 7. Section 351-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person aggrieved by an order or decision of the criminal injuries compensation commission on the sole ground that the order or decision was in excess of the commission's authority or jurisdiction, shall have a right of appeal to the [supreme court subject to chapter 602,] circuit court of the circuit in which the person resides; provided the appeal is filed within thirty days after service of an original or a certified copy of [such] the order or decision. Except as otherwise provided in this section, orders and decisions of the commission shall be conclusive and not subject to judicial review."

SECTION 8. Section 351-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In the event any private citizen 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, or any state resident is injured or killed by any act or omission of any other person after July 1, 1989, in another state not having a compensation program eligible for federal funding under 42 United States Code §10601, et seq., under which the state resident may receive compensation, 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, may 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.”

SECTION 9. Section 351-32, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Murder in the first degree ([Hawaii Penal Code,] section 707-701)[,];
- (2) Murder in the second degree (section 707-701.5);
- [(2)] (3) Manslaughter ([Hawaii Penal Code,] section 707-702)[,];
- (4) Negligent homicide in the first degree (section 707-702.5);
- (5) Negligent homicide in the second degree (section 707-703);
- (6) Negligent injury in the first degree (section 707-705);
- (7) Negligent injury in the second degree (section 707-706);
- [(3)] (8) Assault in the first degree ([Hawaii Penal Code,] section 707-710)[,];
- [(4)] (9) Assault in the second degree ([Hawaii Penal Code,] section 707-711)[,];
- [(5)] (10) Assault in the third degree ([Hawaii Penal Code,] section 707-712)[,];
- [(6)] (11) Kidnapping ([Hawaii Penal Code,] section 707-720)[,];
- [(7)] (12) [Rape] Sexual assault in the first degree ([Hawaii Penal Code,] section 707-730)[,];
- [(8)] (13) [Rape] Sexual assault in the second degree ([Hawaii Penal Code,] section 707-731)[,];
- [(9)] (14) [Rape] Sexual assault in the third degree ([Hawaii Penal Code,] section 707-732)[,];
- [(10)] (15) Sodomy in the first degree (Hawaii Penal Code,] Sexual assault in the fourth degree (section 707-733)[,¹
- (11) Sodomy in the second degree [(Hawaii Penal Code,] (section 707-734)[,];

- (12) Sodomy in the third degree [(Hawaii Penal Code,) (section 707-735),
- (13) Sexual abuse in the first degree (Hawaii Penal Code, (section 707-736)[, and];
- (14) Sexual abuse in the second degree (Hawaii Penal Code, (section 707-737)[.]; and
- (15) Abuse of family and household member (section 709-906).

[(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.]”

SECTION 10. Section 351-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No order for the payment of compensation shall be made under this chapter unless the application has been made within eighteen months after the date of injury, death, or property damage[.]; provided that upon a showing of good cause, the commission may consider applications filed beyond this time period.”

SECTION 11. Section 351-34, Hawaii Revised Statutes, is repealed.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 14. This Act shall take effect upon its approval.

(Approved June 7, 1989.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.