

ACT 57

S.B. No. 2426

A Bill for an Act Relating to Crime Victim Compensation.

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

SECTION 1. During the past decade communities across the nation have experienced the horrifying impact of crimes of mass violence. The World Trade Center bombing, Olympic park shooting, Columbine High School shooting, and the Xerox shooting horrified the nation and left surviving family members, witnesses, other individuals present at the crime scene, and the community emotionally traumatized. In response to these tragedies, the federal Office for Victims of Crime has developed the Reserve Fund. The program makes federal funding available to state crime victim compensation programs to pay for mental health counseling for victims of mass violence.

Hawaii was unable to accept federal Office for Victims of Crime Reserve Fund funds after the recent Xerox incident because there is no statutory authorization of compensation for mental health counseling for surviving family members, witnesses, or individuals who were present at the scene of an incident of mass violence.

The legislature finds that survivors of mass violence need access to mental health services. The legislature further finds that, in order to qualify for federal Office for Victims of Crime Reserve Fund funding, it is necessary to amend chapter 351, Hawaii Revised Statutes, to allow compensation for mental health counseling to survivors of mass violence.

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

“‘‘Mass casualty incident’’ means an incident with multiple victims killed during a continuous course of criminal conduct;’’

SECTION 3. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of ‘‘relative’’ to read as follows:

“‘‘Relative’’ means a victim’s spouse or reciprocal beneficiary, parent, grandparent, stepparent, child, grandchild, stepchild, brother, sister, half brother, half sister, stepbrother, stepsister, [or] spouse’s or reciprocal beneficiary’s parents[;], niece, nephew, or person residing in the same dwelling unit as the victim;’’

SECTION 4. 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, which act or omission is within

the description of the crimes enumerated in section 351-32, or any resident of this State who is injured or killed by an act of terrorism occurring outside the United States, as defined in Title 18 United States Code section 2331, the commission 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;
- (2) To any person responsible for the maintenance of the victim, [where] if that person has suffered pecuniary loss or incurred expenses as a result of the victim's injury or death;
- (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 any person who has incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the deceased victim's injury and death[.]; or
- (5) In cases involving a mass casualty incident, for mental health services to or for the benefit of:
 - (A) A relative of the deceased victim;
 - (B) A witness to the mass casualty; or
 - (C) An individual engaged in business or educational activities at the scene of the mass casualty incident;

provided that compensation to a victim shall have priority over compensation to a relative, a witness, or another individual under this paragraph, and provided further that this paragraph shall not apply to a member of a public or private agency responding to or providing services as a result of a mass casualty incident."

SECTION 5. Section 351-33, Hawaii Revised Statutes, is amended to read as follows:

“**§351-33 Award of compensation.** The commission may order the payment of compensation under this part for:

- (1) Expenses actually and reasonably incurred during the period of the injury or death of the victim;
- (2) Loss to the victim of earning power as a result of total or partial incapacity;
- (3) Pecuniary loss to the dependents of the deceased victim;
- (4) Pain and suffering to the victim; [and]
- (5) Any other pecuniary loss directly resulting from the injury or death of the victim [which] that the commission determines to be reasonable and proper[.]; and
- (6) Expenses actually and reasonably incurred for mental health services in the case of a mass casualty incident."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 26, 2000.)