

Chapter 12
Crime Victim Statutes
(Last Updated: April 2013)

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Chapter 12.A

Crime Victim Statutes Nebraska Crime Victim's Reparations Act (Last Updated: April 2013)

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81-1801. Terms, defined

For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:

- (1) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;
- (2) Committee shall mean the Crime Victim's Reparations Committee;
- (3) Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income at the time of death, including a child of a victim born after a victim's death;
- (4) Executive director shall mean the executive director of the commission;
- (5) Personal injury shall mean actual bodily harm;
- (6) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent; and
- (7) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818.

81-1801.01. Legislative intent

It is the intent of the Legislature that the Nebraska Crime Victim's Reparations Act be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.

81-1801.02. Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee

- (1) A nonprofit organization, to be known as the Community Trust, may be created. After a tragedy, the Community Trust shall accept contributions from the public, manage such funds, and make distributions to help individuals, families, and communities in Nebraska that have suffered from a tragedy of violence or natural disaster. The committee shall oversee the Community Trust. The committee shall require at least annual reports from the Community Trust.
- (2) The Community Trust shall be a qualified organization under section 501(c)(3) of the Internal Revenue Code thereby enabling contributions to the Community Trust to be tax deductible for the donor if the donor itemizes deductions for income tax purposes and distributions to be tax-free to the extent allowed under applicable sections of the Internal Revenue Code.

(3) The Community Trust shall be governed by a board of directors. A director may be represented by the Attorney General in the same manner as a state officer or employee under sections 81-8,239.05 and 81-8,239.06 in any civil action that arises as a result of any alleged act or omission occurring in the course and scope of the director's duties. A director shall also be indemnified for liability in the same manner as a state officer or employee under section 81-8,239.05.

(4) The Community Trust shall create a separate fund for each tragedy and shall begin accepting contributions immediately after a tragedy. The Community Trust shall report the distributions made for each tragedy to the committee, and the Community Trust shall acknowledge all contributions as soon as reasonably possible after receipt.

(5) The Community Trust may use up to ten percent of the contributions received for administrative costs of the Community Trust.

(6) The board of directors of the Community Trust shall establish procedures for receiving contributions and making distributions from the Community Trust. The board of directors shall establish a distribution committee for the tragedy within one week after the tragedy, establish eligible recipient criteria and eligible uses of the fund, and complete all distributions as soon as reasonably possible after the tragedy.

(7) In the event that the Community Trust receives contributions for a tragedy and the volume and size of claims, along with the amount of contributions, make it impractical for the Community Trust to follow its normal procedures for the distribution of the funds, the board of directors, at its sole discretion, may elect to forward such funds, in their entirety, to another nonprofit organization that is also serving individuals who are affected by the tragedy. In such case, the Community Trust shall designate such contributions to be for the specific individuals who are affected by the tragedy.

81-1802. Crime Victim's Reparations Committee; created; members

A Crime Victim's Reparations Committee is hereby created. The committee shall consist of five members of the commission and two public members to be appointed by the Governor subject to approval by the Legislature. One public member shall represent charitable organizations, and one public member shall represent businesses. The members of the committee shall select a chairperson who is a member of the commission.

81-1803. Committee; members; appointment; terms

Members of the committee shall serve for terms of four years, except that of the public members first appointed one shall be appointed for a term of two years and one for a term of four years.

81-1803. Committee; members; appointment; terms

Members of the committee shall serve for terms of four years, except that of the public members first appointed one shall be appointed for a term of two years and one for a term of four years.

81-1805. Committee; members; expenses

Members of the committee shall receive no reimbursement for the performance of their duties as members of the committee, except that such members shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

81-1806. Committee; hearing officers; appointment

The executive director may serve as a hearing officer pursuant to this section and in addition the committee, with the approval of the commission, shall appoint one or more additional hearing officers, who shall be licensed to practice law in the state, to conduct hearings, take testimony in proceedings under the Nebraska Crime Victim's Reparations Act, and make determinations of any matter subject to such act.

81-1807. Victim; compensation; application

Any person who may be eligible for compensation under the Nebraska Crime Victim's Reparations Act may make application to the committee on forms provided by the committee. If the person entitled to make application is a minor or mentally incompetent, the application may be made on his or her behalf by his or her parent, guardian, or any other individual authorized to administer his or her estate. Residents and nonresidents of Nebraska who are victims of crimes committed in Nebraska shall be treated similarly in determining compensation awards under the act. A resident of Nebraska who is the victim of a crime committed in another state shall be eligible for compensation if (1) the crime would be compensable had it occurred in Nebraska and (2) the crime occurred in a state which does not have a crime victim compensation program for which the person is eligible.

81-1808. Victim; compensation; submit medical reports; hearing officer; order

In order to be eligible for compensation the applicant shall, prior to any hearing on an application, submit available reports from any physician or surgeon who has treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the hearing officer or the committee, reports on the previous medical history of the victim, a report on the examination of the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the hearing officer or the committee shall order the reports and examination.

81-1809. Application; hearing officer; decision; hearing; procedure; review

- (1) A hearing officer shall consider and rule upon any application made under the Nebraska Crime Victim's Reparations Act within one hundred eighty days after receipt of all required information related to the crime.
- (2) If the hearing officer denies an award of compensation or awards an amount less than or equal to the amount requested by the applicant, the hearing officer shall furnish the

applicant with a written statement of the reason for the ruling. The applicant may request a hearing on his or her application within thirty days after receipt of the statement. If the applicant requests a hearing, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for the findings and conclusions. The committee shall specify a time and place for a hearing and shall give written notice to the applicant. The hearing shall be held within one hundred twenty days after receipt of the request for a hearing. If no request for a hearing is made within the specified time, the decision of the hearing officer shall be final.

(3) If the hearing officer awards an amount to the applicant greater than the amount requested by the applicant, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for granting the applicant more than he or she requested. The committee shall review the decision of the hearing officer taking into consideration the availability of funds appropriated for the purposes of the act and other standards formulated pursuant to section 81-1814. The committee may approve the same amount awarded by the hearing officer, may increase or decrease the amount, or may deny an award of compensation.

81-1810. Committee or hearing officer; proceedings; powers; applicants; rights

(1) The committee or a hearing officer may hold hearings, sit and act at the times and places and take the testimony that the committee or the hearing officer considers advisable, and administer oaths or affirmations to witnesses. The hearing officer or the committee shall have full powers by subpoena to compel the appearance of witnesses and the production of any relevant evidence, but no subpoena shall be issued unless signed by a member of the committee. Application to a court for aid in enforcing the subpoena may be made in the name of the committee by any committee member.

(2) The applicant and any other person having a substantial interest in the proceeding may appear and be heard, produce evidence, and cross-examine witnesses in person or by an attorney. The committee or a hearing officer may hear other persons who in its or his or her judgment may have relevant evidence to submit.

(3) The committee or a hearing officer shall have access to criminal history record information, as defined in section 29-3506, and investigative information of the law enforcement agency which handled the offense which is the basis for the victim's application for compensation.

81-1811. Offense; proof of conviction; how treated

If a person has been convicted of an offense on which a claim under the Nebraska Crime Victim's Reparations Act is based, proof of that conviction shall be taken as conclusive evidence that the offense occurred and that such person committed the offense, unless an appeal or a proceeding with regard to it is pending.

81-1812. Hearing officer or committee; order; determine and allow attorney's fees

The hearing officer or the committee may, as part of an order entered under the Nebraska Crime Victim's Reparations Act, determine and allow reasonable attorney's fees not to exceed five percent of any compensation awarded. If the decision of a hearing officer or the committee is appealed, the court shall determine reasonable attorney's fees.

81-1813. Committee; adopt rules and regulations; forms and materials; provide

The committee may, subject to the approval of the commission, adopt and promulgate rules and regulations prescribing the procedures to be followed in the filing of applications and proceedings under the Nebraska Crime Victim's Reparations Act and any other matters the committee considers appropriate, including special circumstances, such as when expenses of job retraining or similar employment-related rehabilitative services are involved, under which an award from the Victim's Compensation Fund may exceed ten thousand dollars. The committee shall make available all forms and educational materials necessary to promote the existence of the programs to persons throughout the state.

81-1814. Compensation; committee; formulate standards for uniform application

For the purpose of determining the amount of compensation payable under the Nebraska Crime Victim's Reparations Act, the committee shall formulate standards for uniform application of the act and take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States and the availability of funds appropriated for the purposes of the act. Victims of crimes subject to federal jurisdiction shall be awarded compensation on the same basis as victims of all other compensable crimes.

81-1815. Compensation; to whom paid

In a case in which a person is injured or killed as a result of conduct specified in the Nebraska Crime Victim's Reparations Act, or by any act of any other person which is within the description of offenses listed in such act, the committee or a hearing officer may order the payment of compensation:

- (1) To or for the benefit of the injured person;
- (2) In the case of personal injury or death of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury; or
- (3) In the case of death of the victim, to or for the benefit of any one or more of the dependents of the victim.

81-1816. Committee or hearing officer; order; considerations; suspend proceedings; when

- (1) In determining whether to make an order under the Nebraska Crime Victim's Reparations Act, the committee or hearing officer shall consider all circumstances determined to be relevant, including, but not limited to, provocation, consent, or any

other behavior of the victim which directly or indirectly contributed to his or her injury or death.

(2) An order may be made under the Nebraska Crime Victim's Reparations Act whether or not any person is prosecuted for or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the committee may suspend proceedings under the Nebraska Crime Victim's Reparations Act for such period as it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent.

81-1817. Compensation awarded; collateral compensation; how treated

(1) The committee or a hearing officer may award compensation for losses and expenses allowable under the Nebraska Crime Victim's Reparations Act for which the applicant is not compensated by the offender or a person on behalf of the offender, by the United States, by a state or any of its subdivisions or agencies, or by a private source of emergency awards under section 81-1820, for injury or death compensable under such act. Life insurance proceeds and social security payments shall not be treated as forms of such collateral compensation.

(2) If compensation is awarded under the act and the person receiving it also receives a collateral sum under the act which has not been deducted from it, he or she shall refund to the committee either the amount of the collateral sum or the amount of compensation paid to him or her under the act, whichever is less.

81-1818. Personal injury or death; situations for which compensation is permitted

The committee or hearing officer may order

the payment of compensation from the Victim's Compensation Fund for personal injury or death which resulted from:

(1) An attempt on the part of the applicant to prevent the commission of crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his or her duties, or to aid a victim of a crime; or

(2) The commission or attempt on the part of one other than the applicant of an unlawful criminal act committed or attempted in the State of Nebraska.

81-1819. Payment of compensation; order; losses covered

The committee or hearing officer may order the payment of compensation to victims of crime and survivors of victims of crime for:

- (1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim, including expenses for mental health counseling and care;
- (2) Loss of wages and future earning capacity as a result of total or partial incapacity of the victim and reasonable expenses of job retraining or similar employment-oriented rehabilitative services for the victim;
- (3) Pecuniary loss to the dependents of the deceased victim;
- (4) Funeral and burial expenses actually and reasonably incurred as a result of the death of the victim; and
- (5) Any other loss resulting from the personal injury or death of the victim which the committee determines to be reasonable.

81-1820. Hearing officer; emergency award of compensation; when; conditions; review

- (1) Prior to the hearing officer taking action on an application for compensation from the Victim's Compensation Fund, the applicant may request that a hearing officer make an emergency award of compensation to the applicant. If it appears to the hearing officer that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the hearing officer may make an emergency award of compensation to the applicant pending a final decision in the case, except that:
 - (a) The amount of the emergency compensation shall not exceed five hundred dollars;
 - (b) The amount of the emergency compensation shall be deducted from the final compensation made to the applicant; and
 - (c) The excess amount of the emergency compensation over the final amount shall be repaid by the applicant to the committee.
- (2) If the hearing officer refuses to make an emergency award of compensation to the applicant, the applicant may request an emergency hearing before the committee which may be conducted by means of teleconference. The committee shall forthwith specify a time and place for an emergency hearing and shall give written notice to the applicant. If it appears to the committee that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the committee may make an emergency award of compensation to the applicant pending a final decision in the case, subject to the conditions and limitations stated in subsection (1) of this section.

81-1821. Application; statute of limitations

No order for the payment of compensation shall be entered under the Nebraska Crime Victim's Reparations Act unless the application has been submitted to the committee within two years after the date of the personal injury or death and the personal injury or death was the result of an incident or offense which had been reported to the police within three days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within three days of the time when a report could reasonably have been made.

81-1822. Compensation; situations when not awarded

No compensation shall be awarded from the Victim's Compensation Fund:

- (1) If the victim aided or abetted the offender in the commission of the unlawful act;
- (2) If the offender will receive economic benefit or unjust enrichment from the compensation;
- (3) If the victim violated a criminal law of the state, which violation caused or contributed to his or her injuries or death;
- (4) If the victim is injured as a result of the operation of a motor vehicle, boat, or airplane (a) unless the vehicle was used in a deliberate attempt to injure or kill the victim, (b) unless the operator is charged with a violation of section 60-6,196 or [60-6,197](#) or a city or village ordinance enacted in conformance with either of such sections, or (c) unless any chemical test of the operator's breath or blood indicates an alcohol concentration equal to or in excess of the limits prescribed in section 60-6,196; or
- (5) If the victim incurs an economic loss which does not exceed ten percent of his or her net financial resources. For purposes of this subdivision, a victim's net financial resources shall not include the present value of future earnings and shall be determined by the committee by deducting from the victim's total financial resources:
 - (a) One year's earnings;
 - (b) The victim's equity in his or her home, not exceeding thirty thousand dollars;
 - (c) One motor vehicle; and
 - (d) Any other property which would be exempt from execution under section 25-1552 or 40-101.

Nothing in this section shall limit payments to a victim by an offender which are made as full or partial restitution of the victim's actual pecuniary loss.

81-1823. Award; limitations; how paid

Except as provided in section 81-1813, no compensation shall be awarded under the Nebraska Crime Victim's Reparations Act from the Victim's Compensation Fund in an amount in excess of ten thousand dollars for each applicant per incident unless expenses for job retraining or similar employment-related rehabilitative services for the victim are deemed necessary. In such case, amounts in excess of ten thousand dollars shall be used only for such purposes. Each award shall be paid in installments unless the hearing officer or committee decides otherwise.

81-1824. Excluded incidents

No order for payment of compensation under the Nebraska Crime Victim's Reparations Act shall be made for injuries or death resulting from incidents or offenses occurring prior to January 1, 1979, or outside the state.

81-1825. Committee; subrogation rights

When an order for the payment of compensation for personal injury or death is made from the Victim's Compensation Fund, the committee shall be subrogated to the cause of action of the applicant against the person responsible for the injury or death and shall be entitled to bring an action against such person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the committee shall pay the balance to the applicant.

81-1826. Department of Correctional Services; confined persons; provide for employment

The Department of Correctional Services shall, as far as possible, provide for the employment, eight hours per day, of confined persons by private businesses. The employment may be provided under section 81-1827, 83-183, or 83-184.

81-1827. Business enterprise; employment of persons committed to the department

(1) The Director of Correctional Services may enter into such contracts as may be necessary to fully implement the Nebraska Crime Victim's Reparations Act. Such contractual arrangements may include, but not be limited to, rental or lease agreements for such buildings or portions thereof on the grounds of any Department of Correctional Services facilities, together with the real estate needed for reasonable access to and egress from the leased buildings, with a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of goods, wares, or merchandise or any other business or commercial enterprise deemed by the director to be consistent with the proper training and rehabilitation of persons committed to the department.

(2) Nothing in this section shall operate to limit the director's authority to enter into contractual arrangements as may be provided elsewhere in law.

(3) Any corporation operating a factory or other business or commercial enterprise under this section may employ offenders committed to the Department of Correctional Services and persons conditionally released subject to the provisions of section 83-184.

81-1828. Repealed.

81-1829. Department of Correctional Services; establish and maintain farms

The Department of Correctional Services may establish and maintain farms to provide food for the institutions under the jurisdiction of the department and also to provide opportunity for all inmates to work eight hours per day.

81-1830. False claim; penalty

Any person who knowingly makes a false claim under the Nebraska Crime Victim's Reparations Act shall be guilty of a Class I misdemeanor and shall forfeit any benefit received and shall repay the state for any payment of compensation made under the act.

81-1831. Right of action; abate; exception

The rights to compensation created under the Nebraska Crime Victim's Reparations Act are personal and shall not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application for compensation has been filed with the committee the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate.

81-1832. Appeal; procedure

All determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

81-1833. Committee; report; contents

(1) The committee shall prepare and submit to the commission a biennial report of its activities under the Nebraska Crime Victim's Reparations Act, including the name of each applicant, a brief description of the facts in each case, and the amount of compensation awarded, except that if the applicant was the victim of a sexual assault the victim's name shall not be included in the report, but shall be available to the Governor or a member of the Legislature upon request to the committee. Such report shall be submitted to the Governor and Clerk of the Legislature as part of the commission's report submitted pursuant to section 81-1423.

(2) The committee shall act as the oversight committee for the Community Trust and shall annually report its activities and findings as the oversight committee to the commission, the Governor, and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically. If any questionable or improper actions or inactions on the part of the Community Trust are observed, the committee shall immediately notify the Attorney General who shall investigate the matter.

81-1834. Award; payment

Any award to a claimant and any judgment in favor of a claimant under the Nebraska Crime Victim's Reparations Act from the Victim's Compensation Fund shall be certified by the committee to the Director of Administrative Services who shall promptly issue a warrant for payment of such award of judgment out of the fund if sufficient money is available in such fund.

81-1835. Victim's Compensation Fund; created; use; investment

The Victim's Compensation Fund is created. The fund shall be used to pay awards or judgments under the Nebraska Crime Victim's Reparations Act other than distributions from the Community Trust. The fund shall include deposits pursuant to sections 29-2286, 33-157, 81-1836, 83-183.01, and 83-184 and donations or contributions from public or private sources and shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated claims. When the amount of money in the fund is not sufficient to pay any awards or judgments under the act, the Director of Administrative Services shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

81-1836. Person convicted of crime; payments received; deposited in fund

Every person, firm, corporation, partnership, limited liability company, association, or other legal entity contracting with any person or the representative or assignee of any person accused of a crime in this state with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the committee any money which would otherwise, by terms of such contract, be owing to the person so convicted or his or her representatives. The committee shall deposit such money in the Victim's Compensation Fund.

81-1837. Money in Victim's Compensation Fund; returned; when

Upon disposition of charges favorable to any person accused of committing a crime or upon a showing by such person that five years have elapsed from the deposit of money into the Victim's Compensation Fund by the accused pursuant to section 81-1836 and further that no actions are pending against such person pursuant to the Nebraska Crime Victim's Reparations Act, the committee shall immediately pay the money deposited pursuant to such section by the accused to such person.

81-1838. Five-year period; when commenced

Notwithstanding any other provision of law with respect to the timely bringing of an action, the five-year period provided for in section 81-1837 shall not begin to run until the accused has deposited money into the Victim's Compensation Fund.

81-1839. Committee; payments for legal representation; when

Notwithstanding the provisions of sections 81-1836 to 81-1838, the committee shall make payments from the Victim's Compensation Fund to any person accused of crime upon the order of a court of competent jurisdiction after a showing by such person that such money shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

81-1840. Action to defeat purpose of sections; null and void

Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of sections 81-1836 to 81-1839 shall be null and void as against the public policy of this state.

81-1840. Action to defeat purpose of sections; null and void

Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of sections 81-1836 to 81-1839 shall be null and void as against the public policy of this state.

81-1840.01. State or political subdivision; failure to act; effect

Nothing in the Nebraska Crime Victim's Reparations Act or sections 81-1843 to 81-1851 requiring an act by the state or a political subdivision is deemed to create any liability if the state or political subdivision fails to act as required under the Nebraska Crime Victim's Reparations Act or such sections. Such failure to act also shall not invalidate any legal process or proceeding.

81-1841. Act, how cited

Sections 81-1801 to 81-1842 shall be known and may be cited as the Nebraska Crime Victim's Reparations Act.

81-1842. Sexual assault victim; records; confidential

The name of any victim of a sexual assault appearing in information or records of the Crime Victim's Reparations Committee when the victim is applying for compensation under the Nebraska Crime Victim's Reparations Act shall not be made public.

Chapter 12.B

Crime Victim Statutes Nebraska Victim's Rights Laws (Last Updated: April 2013)

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81-1851 Legislative intent.

81-1843. Legislative findings

(1) The Legislature finds and declares:

- (a) That there is a need to develop methods to reduce the trauma and discomfort that victims of a crime and witnesses to a crime may experience because often such victims or witnesses are further victimized by the criminal justice system;
- (b) That when crime strikes, the chief concern of the criminal justice system is apprehending and dealing with the criminal and the victim's needs are frequently forgotten;
- (c) That victims often become isolated and receive little practical advice or necessary care;
- (d) That witnesses must make arrangements to appear in court regardless of their own schedules, child care responsibilities, or transportation problems;
- (e) That witnesses often endure long waits before testifying, are subjected to confusing circumstances while testifying, and receive no information as to the ultimate disposition of the case;
- (f) That a large number of victims and witnesses are unaware of both their rights and obligations;
- (g) That unreported crimes occur at a rate that is more than twice the rate of reported crimes and that the reasons people give for not reporting crimes indicate that they are disenchanting with the criminal justice system;
- (h) That the single most important factor determining whether or not a case will be solved is the information that the victim supplies to the responding police officer; and
 - (i) That although the State of Nebraska has the Crime Victim's Reparations Committee and compensation is available for medical expenses, lost earning power, and reasonable rehabilitation costs, the application process is difficult, complex, and time consuming and few victims are aware that the compensation provisions exist.

(2) It is therefor the intent of the Legislature to provide ways of improving the attitudes of victims and witnesses toward the criminal justice system and to provide for faster and more complete recovery by the victim from the effects of the crime through the establishment of pilot project centers for victim and witness assistance.

81-1844. Crime Victim and Witness Assistance Fund; created; administration; use

There is hereby created a fund to be known as the Crime Victim and Witness Assistance Fund. Such fund shall contain such amounts as may be appropriated by the Legislature and shall be used only for the purposes set forth in sections 81-1843 to 81-1851. Such fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice.

81-1844.01. Pamphlet on rights and procedures; distribution

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall create a pamphlet or document that contains the following information:

- (a) A brief statement of the procedural steps of a criminal case;
- (b) The rights and procedures under sections 81-1843 to 81-1851;
- (c) Suggested procedures if the victim or the victim's immediate family is subjected to acts or threats of physical violence or intimidation by the defendant or at the direction of the defendant; and
- (d) The availability of victim's compensation awards and the address of the Crime Victim's Reparations Committee.

(2) Not later than seventy-two hours after arraignment of the defendant for the crime, the county attorney shall distribute to the victim, as defined in section 29-119, the pamphlet or document of victim's rights created by the commission pursuant to this section.

81-1845. Victim and witness assistance center; selection and establishment; Nebraska Commission on Law Enforcement and Criminal Justice; duties; funding

(1) Any public or private nonprofit agency may apply to the Nebraska Commission on Law Enforcement and Criminal Justice for selection and funding as a victim and witness assistance center pursuant to sections 81-1843 to 81-1851.

(2) The commission shall consider the following factors, together with any other factors it deems appropriate, in selecting applicants to receive funds and be designated as a victim and witness assistance center:

- (a) The number of volunteers that the proposed center will utilize;
- (b) The stated goals of the applicant;
- (c) The potential number of people that may be served by the proposed center and the needs of the community for such a center;
- (d) Evidence of community support for the establishment of the proposed center; and

(e) The organizational structure of the agency which will operate the proposed center and provide services to victims and witnesses of crimes.

(3) Upon evaluation of all applicants, the Nebraska Commission on Law Enforcement and Criminal Justice shall select a number of public or private nonprofit agencies which the commission deems qualified for designation to receive funding for the establishment and operation of such centers.

(4) The commission shall, upon the establishment of such centers, conduct appraisals of their performance to determine which of the centers shall receive continuation grants. The commission shall report its finding to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically.

81-1846. Victim and witness assistance centers; purposes

The centers shall be designed to:

- (1) Assist criminal justice agencies in giving more consideration and personal attention to victims and witnesses through the delivery of services to victims and witnesses of crimes;
- (2) Provide a model for other community-based efforts to aid victims and witnesses;
- (3) Sensitize law enforcement officials, communications technicians, and supervisors to the needs of victims of crime and encourage a concerned approach to such victims;
- (4) Attempt to decrease the incidence of unreported crimes; and
- (5) Assure that victims and witnesses are informed of the progress of the case in which they are involved.

81-1847. Victim and witness assistance centers; services provided

Services provided by the centers shall include, but not be limited to:

- (1) Providing assistance to victims in preparing claims for submission to the Crime Victim's Reparations Committee;
- (2) Establishing a means for volunteers to work with criminal justice agencies to promote greater sensitivity to the needs of victims and witnesses;
- (3) Providing followup support services to victims of violent crime and their families to insure that they receive necessary assistance through available community resources;
- (4) Providing elderly victims of crime with services appropriate to their special needs;

- (5) Providing liaison and referral systems to special counseling facilities and community service agencies for victims;
- (6) Providing transportation and household assistance to those victims and witnesses participating in the criminal justice process;
- (7) Notifying friends, relatives, and the employer of a victim, if requested;
- (8) Arranging for verification of medical benefits and assistance when applying for compensation from the Crime Victim's Reparations Committee;
- (9) Notifying witnesses prior to their being subpoenaed in criminal cases; and
- (10) Notifying witnesses of changes in the court calendar to avoid unnecessary trips to the court or spending unnecessary time in court.

81-1848. Victims and witnesses of crimes; rights; enumerated

- (1) Victims as defined in section 29-119 shall have the following rights:
 - (a) To examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information;
 - (b) To receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule;
 - (c) To be present throughout the entire trial of the defendant, unless the victim is to be called as a witness or the court finds sequestration of the victim necessary for a fair trial. If the victim is to be called as a witness, the court may order the victim to be sequestered;
 - (d) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the following:
 - (i) The crimes for which the defendant is charged, the defendant's bond, and the time and place of any scheduled court proceedings;
 - (ii) The final disposition of the case;
 - (iii) The crimes for which the defendant was convicted;

(iv) The victim's right to make a written or oral impact statement to be used in the probation officer's preparation of a presentence investigation report concerning the defendant;

(v) The address and telephone number of the probation office which is to prepare the presentence investigation report;

(vi) That a presentence investigation report and any statement by the victim included in such report will be made available to the defendant unless exempted from disclosure by order of the court; and

(vii) The victim's right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement submitted pursuant to subdivision (1)(d)(iv) of this section at the sentencing proceeding;

(e) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity;

(f) To be notified as provided in section 81-1850, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board; and

(g) To submit a written statement for consideration at any conditional release proceedings, Board of Parole proceedings, pardon proceedings, or commutation proceedings. Conditional release proceeding means a proceeding convened pursuant to a Department of Correctional Services' decision to grant a furlough from incarceration for twenty-four hours or longer or a release into community-based programs, including educational release and work release.

(2) Victims and witnesses of crimes shall have the following rights:

(a) To be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee;

(b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court;

(c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available;

(d) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;

(e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

(f) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

(g) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days after being taken;

(h) To be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(i) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter;

(j) To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section 81-1850 whenever the defendant in such case is released from custody; and

(k) To have the family members of all homicide victims afforded all of the rights under subsection (2) of this section and services analogous to those provided under section 81-1847.

81-1848.01. Appeal; notification required

(1) Upon the filing of an appeal by the defendant, the county attorney upon whom notice of appeal was served shall notify the Attorney General in writing of the name and last-known address of any victim as defined in section 29-119.

(2) The Attorney General shall notify the victim of the following:

(a) That the defendant has filed an appeal of the conviction;

- (b) A brief explanation of the appeal process, including possible dispositions;
- (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal;
- (d) The time and place of any appellate proceedings and any changes in the time or place of those proceedings;
- (e) The result of the appeal; and
- (f) The final disposition of the case within thirty days after the final disposition.

(3) In the event the defendant's conviction is reversed and the case is remanded to the trial court for further proceedings, the victim has the same rights as he or she had during the previous proceedings which led to the appeal.

81-1848.02. Escape; notification required

- (1) As provided in subsections (2) and (3) of this section, the victim, as defined in section 29-119, and the prosecuting attorney shall be immediately notified of an escape by a prisoner confined and accused of, convicted of, or sentenced for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice to the victim and the prosecuting attorney.
- (2) If the escape occurs before the sentence is executed or before the prisoner is delivered to the custody of the Department of Correctional Services or the county corrections agency, the chief law enforcement officer of the agency in charge of the prisoner's detention shall notify the victim and the prosecuting attorney of the escape.
- (3) If the prisoner is confined pursuant to a sentence, the chief administrator of the facility where the prisoner was confined shall notify the victim and the prosecuting attorney.

81-1848.03. Victim's rights; waiver

Victim's rights under sections 81-1843 to 81-1851 may be waived by the victim at any time by (1) written consent, in person or by attorney, filed with the clerk of the court or (2) oral consent in open court entered on the journal.

81-1849. Victim; duty

To receive the notices provided for in sections 81-1848 to 81-1848.02, a victim shall keep the county attorney informed of his or her current address and telephone number.

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81-1850. County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; duties; notification of victim

(1) Upon request of the victim and at the time of conviction of the offender, the county attorney of the jurisdiction in which a person is convicted of a felony shall forward to the Board of Parole, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services the name and address of any victim, as defined in section 29-119, of the convicted person. The board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services shall include the name in the file of the convicted person, but the name shall not be part of the public record of any parole hearings of the convicted person. Any victim, including a victim who has waived his or her right to notification at the time of conviction, may request the notification prescribed in this section, as applicable, by sending a written request to the board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the board, the county corrections agency, or the Department of Correctional Services or, if the person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no longer under the jurisdiction of the board, the county corrections agency, or the Department of Correctional Services.

(2) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

- (a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;
- (b) Of any parole hearings or proceedings;
- (c) Of any decision of the Board of Parole;
- (d) When a convicted person who is on parole is returned to custody because of parole violations; and
- (e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

- (a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;
- (b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;
- (c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;
- (d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;
- (e) Of the (i) department's calculation of the earliest parole eligibility date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;
- (f) Of any reduction in the prisoner's minimum sentence; and
- (g) Of the victim's right to submit a statement as provided in section 81-1848.

(4) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:

- (a) When a person convicted of an offense listed in subsection (5) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services;
- (b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;

(c) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is discharged or has a change in disposition from inpatient board-ordered treatment;

(d) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is granted a furlough or release for twenty-four hours or longer; and

(e) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.

(5) Subsection (4) of this section applies to persons convicted of at least one of the following offenses which is also alleged to be the recent act or threat underlying the commitment of such persons as mentally ill and dangerous or as dangerous sex offenders as defined in section 83-174.01:

(a) Murder in the first degree pursuant to section 28-303;

(b) Murder in the second degree pursuant to section 28-304;

(c) Kidnapping pursuant to section 28-313;

(d) Assault in the first degree pursuant to section 28-308;

(e) Assault in the second degree pursuant to section 28-309;

(f) Sexual assault in the first degree pursuant to section 28-319;

(g) Sexual assault in the second degree pursuant to section 28-320;

(h) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(i) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(j) Stalking pursuant to section 28-311.03; or

(k) An attempt, solicitation, or conspiracy to commit an offense listed in subdivisions (a) through (j) of this subsection.

(6) A victim whose name appears in the file of a convicted person shall be notified by the Board of Pardons:

(a) Of any pardon or commutation proceedings; and

(b) If a pardon or commutation has been granted.

(7) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(8) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, or the Board of Parole pursuant to subsection (1) of this section shall be exempt from disclosure under public records laws and federal freedom of information laws, as such laws existed on January 1, 2004.

81-1851. Legislative intent

It is the intent of the Legislature that sections 81-1843 to 81-1851 shall be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.