

2018 Kansas Statutes

74-7301. Definitions. As used in this act:

(a) "Allowance expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care and for the replacement of items of clothing or bedding which were seized for evidence. Such term includes a total charge not in excess of \$5,000 for expenses in any way related to funeral, cremation or burial; but such term shall not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless other accommodations are medically required. Such term includes a total charge not in excess of \$1,000 for expenses in any way related to crime scene cleanup.

(b) "Board" means the crime victims compensation board established under K.S.A. 74-7303, and amendments thereto.

(c) "Claimant" means any of the following persons claiming compensation under this act: A victim; a dependent of a deceased victim; a third person other than a collateral source; or an authorized person acting on behalf of any of them.

(d) "Collateral source" means the net financial benefit, after deduction of taxes, legal fees, costs, expenses of litigation, liens, offsets, credits or other deductions, from a source of benefits or advantages for economic loss otherwise reparable under this act which the victim or claimant has received, or which is readily available to the victim or claimant, from:

(1) The offender;

(2) the government of the United States or any agency thereof, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this act;

(3) social security, medicare and medicaid;

(4) state-required temporary nonoccupational disability insurance;

(5) workers' compensation;

(6) wage continuation programs of any employer;

(7) proceeds of a contract of insurance payable to the victim for loss which the victim sustained because of the criminally injurious conduct;

(8) a contract providing prepaid hospital and other health care services or benefits for disability; or

(9) damages awarded in a tort action.

(e) "Criminally injurious conduct" means conduct that: (1) (A) Occurs or is attempted in this state or occurs to a person whose domicile is in Kansas who is the victim of a violent crime which occurs in another state, possession, or territory of the United States of America may make an application for compensation if:

(i) The crimes would be compensable had it occurred in the state of Kansas; and

(ii) the places the crimes occurred are states, possessions or territories of the United States of America not having eligible crime victim compensation programs;

(B) poses a substantial threat or personal injury or death; and

(C) either is punishable by fine, imprisonment or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or

(2) is an act of terrorism, as defined in 18 U.S.C. § 2331, or a violent crime that posed a substantial threat or caused personal injury or death, committed outside of the United States against a person whose domicile is in Kansas, except that criminally injurious conduct does not include any conduct resulting in injury or death sustained as a member of the United States armed forces while serving on active duty.

Such term shall not include conduct arising out of the ownership, maintenance or use of a motor vehicle, except for violations of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or violations of municipal ordinances or county resolutions prohibiting the acts prohibited by those statutes, or violations of K.S.A. 8-1602, and amendments thereto, K.S.A. 21-3404, 21-3405 and 21-3414, prior to their repeal, or K.S.A. 2018 Supp. 21-5405, 21-5406 and K.S.A. 2018 Supp. 21-5413(b), and amendments thereto, or when such conduct was intended to cause personal injury or death.

(f) "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the victim's death.

(g) "Dependent's economic loss" means loss after decedent's death of contributions of things of economic value to the decedent's dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death.

(h) "Dependent's replacement services loss" means loss reasonably incurred by dependents after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death and not subtracted in calculating dependent's economic loss.

(i) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(j) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

(k) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of self or family, if such person had not been injured.

(l) "Work loss" means loss of income from work the injured person would have performed if such person had not been injured, and expenses reasonably incurred by such person in obtaining services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by such person or by income such person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(m) "Victim" means a person who suffers personal injury or death as a result of: (1) Criminally injurious conduct; (2) the good faith effort of any person to prevent criminally injurious conduct; or (3) the good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(n) "Crime scene cleanup" means removal of blood, stains, odors or other debris caused by the crime or the processing of the crime scene.

History: L. 1978, ch. 130, § 1; L. 1986, ch. 306, § 1; L. 1989, ch. 239, § 9; L. 1995, ch. 243, § 2; L. 1997, ch. 177, § 1; L. 1998, ch. 51, § 1; L. 2004, ch. 98, § 1; L. 2007, ch. 93, § 1; L. 2011, ch. 105, § 32; L. 2018, ch. 79, § 9; May

17.

Section was also amended by L. 2011, ch. 30, § 255, but that version was repealed by L. 2011, ch. 105, § 36.