

## TITLE 80 - CRIME VICTIM'S REPARATIONS COMMITTEE

### CHAPTER 1 - DEFINITIONS

001 Act - Act shall mean the Nebraska Crime Victim's Reparation Act, Sections 81-1801 to 81-1842, R.R.S. 1996, as amended.

002 Applicant - Applicant shall mean any victim or other eligible party who has properly applied for compensation under the Act.

003 Application - Application shall mean a form provided by the Committee and filed with the Committee, containing a verified statement by the applicant setting forth facts justifying compensation, together with any other documentation required by the application form or the Committee.

004 Committee - Committee shall mean the duly appointed Crime Victim's Reparations Committee and its support staff.

005 Compensation - Compensation shall mean any monetary award made by the Committee or Hearing Officer to an applicant or to any other person or entity on behalf of an applicant.

006 Dependent - Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income for more than half of his or her support at the time of death, provided, however, that children of a victim born after a victim's death shall be considered dependent notwithstanding the support requirement.

007 Hearing Officer - Hearing Officer shall mean the Executive Director of the Crime Commission or any person or persons licensed to practice law in Nebraska who are designated by the Committee and approved by the Crime Commission to make claim decisions and conduct hearings on behalf of the Committee.

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008 Innocent - Innocent, as used herein, shall mean complete freedom of culpability with regard to the act which produced the injury to the victim.

009 Net Financial Resources - Net Financial Resources shall mean any resources available to the victim which are free from claims or charges.

010 Offender - Offender shall mean a person legally accountable or answerable for a crime.

011 Personal Injury - Personal Injury shall mean actual bodily harm.

012 Relative - Relative shall mean spouse, parent, grandparent, step-parent, natural born child, step-child, adopted child, grandchild, step-grandchild, brother, sister, half-brother, half-sister or spouse's parents.

013 Victim - Victim shall mean an individual who suffers personal injury or death from a criminal act attempted or committed in Nebraska, a Nebraska resident or non-resident who suffers personal injury or death from a terroristic act attempted or committed in Nebraska, and Nebraska residents who suffer personal injury or death from a terroristic act attempted or committed in another state, nation, country or territory. Victim shall also mean an individual who suffers emotional trauma as a result of witnessing the actual attempted or committed criminal act. Personal injuries or death to a victim must be the result of:

013.01 - The commission or attempt of an unlawful criminal act on the part of a person or persons, other than the victim, or;

013.02 - An attempt on the part of the victim to prevent the commission of a crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his/her duties, or to aid a victim of a crime.

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014 Licensed - Licensed shall mean personnel or facilities rendering medical, mental health counseling, and/or pharmaceutical services as authorized by law.

015 Provider - Provider shall mean licensed personnel or facilities rendering medical, mental health counseling, pharmaceutical and/or funeral/burial services in relation to the criminal act for which the victim owes payment.

016 Maintenance - Maintenance of the victim shall mean an individual who physically provides care to the victim because the victim is not able to care for himself/herself. Requirement for such care must be prescribed by the licensed medical provider in writing.

Effective Date: January 20, 1998  
Revised from August 12, 1987

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### CHAPTER 2 - COMMITTEE AND HEARING OFFICER PROCEDURE

001 Meeting Date - The Committee or Hearing Officer shall have no fixed meeting date but is subject to call by the Chairperson of the Committee, by a quorum, or by the Director of the Crime Commission.

002 Quorum - A majority of the Committee shall constitute a quorum for the transaction of business.

003 Sessions - All meetings of the Committee shall be conducted pursuant to Sections 84-1401 to 84-1414, R.R.S. 1996.

004 Rules and Regulations - Any rules and regulations proposed for implementation by the Committee shall be done in accordance with Sections 84-901, et. seq., R.R.S. 1996.

005 Hearing Officer - All claims for compensation shall be considered and ruled upon by the designated Hearing Officer. The Hearing Officer shall forward to the applicant a written statement regarding the ruling on the claim for compensation.

006 Committee - The Committee shall conduct any Hearing requested by an applicant or the designated Hearing Officer pursuant to Chapter 5. If the Hearing Officer awards an amount in excess of the amount requested or actual expenses submitted by the applicant, the Committee shall be advised of such.

Effective Date: January 20, 1998  
Revised from March 18, 1989

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### CHAPTER 3 - APPLICATION

001 Eligible Applicant - To be eligible for compensation, the claimant shall have incurred actual financial losses as defined in Chapter 4 which are not covered by other sources for expenses directly related to the crime. The claimant shall not be eligible for compensation if he/she was convicted of a federal crime or is delinquent in paying a court ordered fine, penalty, or restitution. The following are eligible to file an application:

001.01 - Any victim of a criminal act or one authorized by law to act on victim's behalf;

001.02 - Any person responsible for the maintenance and support of the victim who has suffered pecuniary loss while providing maintenance and support to the victim or has incurred the victim's expenses as a result of the victim's injury or death;

001.03 - Each dependent of a deceased victim (see 4.002.03);

001.04 - Any individual who incurred eligible expenses, as limited by statutes, which are the direct result of the victim's injury or death.

002 Form - The application for compensation shall be typewritten or legibly printed by hand. If sufficient space is not provided on the supplied form, the applicant may use additional sheets of paper. The application shall be signed by the applicant and verified before a Notary Public. The application shall be mailed with sufficient postage to the following address:

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Crime Victim's Reparations Committee  
State Office Building  
301 Centennial Mall South  
P. O. Box 94946  
Lincoln, Nebraska 68509-4946

The application for compensation shall contain the following:

002.01 Victim Information - The full name, address, Social Security number, telephone number, date of birth, age at time of incident, sex, occupation, place of employment, marital status, and spouse's name, if any, of the victim are required.

002.02 Claimant Information - If claimant is not the victim, the claimant's name, address, Social Security number, telephone number, date of birth, sex, marital status and relationship to victim, are required. If the victim died, the place and date of the death are required.

002.03 Minor and/or Dependent of Victim Information - If the claim is being made for loss of support on behalf of a minor and/or dependent, the minor and/or dependent's name, address, Social Security number, telephone number, date of birth, sex, marital status, and relationship to victim are required. The name, address, and telephone number of the person having legal custody, and any benefits being received for the minor and/or dependent are also required.

002.04 Claimant's Attorney Information - If the claimant has retained an attorney to represent him or her in the claim for compensation, the attorney's name, address, telephone number and either the attorney's social security number or tax identification number are required.

002.05 Emergency Award - If an emergency award is claimed, the claimant must indicate the amount of the emergency request and explain what undue hardship will result if the emergency request is not received.

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002.06 Incident Information - The claimant is required to provide the following, if known: a brief detailed description of the incident; the date, place, and time of the incident; the date the incident was reported to a law enforcement agency; the name of the individual who reported the incident; the name of the law enforcement agency to which the incident was reported; if the accused has been charged and/or convicted of the offense, the name or names and address(es) of the accused; and the name or names and address(es) of any witness to the incident.

002.07 Amount of Claim - The claimant is required to enter the amount of the request by type of services rendered as well as the total amount of the claim for compensation. Information relating to payment from other sources is required. If loss of wages is being claimed for the claimant and/or victim, the dates of work missed, the name of the victim's and/or claimant's employer, and the employer's telephone number and address are required.

002.08 Signatures - The claimant is required to sign a statement authorizing the release of information relating to the incident and to information relating to services rendered to the victim. Information and records received relating to the victim, the criminal incident and treatment shall remain confidential except for that information considered public under Nebraska or U.S. laws. The claimant is required to submit a signed, notarized statement attesting to the validity of the facts included in the claim for compensation.

003 Enclosures - The following documents shall accompany all applications:

003.01 Medical and/or Mental Health - Itemized billing statements for related medical and/or mental health services provided to the victim, which are directly related to the incident for which compensation is being requested, shall be submitted with the claim for compensation. All medical and/or mental health reports relating to the incident for which compensation is being requested shall be submitted to the Crime Victim's Reparations program upon request.

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003.02 Wages - The following information shall be submitted for the individual for whom the loss of wages is being claimed: a signed statement from the employer identifying the dates of work missed due to the incident; the individual's hourly wage; the number of hours worked weekly by the individual; the total amount of the individual's deductions; and the frequency of payment. A copy of the doctor's release is required.

003.02A Loss of Earning Power - If the claim is for loss of earning power for the victim, earning information from the victim's employer and income tax returns for the previous two years; written relevant medical information from the medical providers regarding the diagnosis, prognosis, degree of disability, the amount of time the victim will be unable to work and any other information determined to be relevant by the Hearing Officer or Committee, are required.

003.02B Maintenance of the Victim - If the claimant is requesting funds for the maintenance of the victim, the claimant must submit a copy of the doctor's written statement requiring such services, the reason(s) the victim requires such services; and, the dates such services are required.

003.03 Funeral and Burial - If funeral expenses are claimed, the applicant shall submit a copy of the death certificate of the victim and all itemized statements relating to the funeral and burial expenses of the victim.

003.04 Pecuniary - If the applicant is claiming compensation for pecuniary loss for dependent(s) of a deceased victim, the applicant shall provide the Committee or Hearing Officer legal documentation that said applicant is the conservator of the estate of the deceased and has conservatorship for the dependent(s).

003.05 Net Financial Resources Form - The applicant shall complete and submit the Net Financial Resources Form with the claim for compensation.

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004 Request for Information and Dismissal of Applications - The Committee or Hearing Officer may, at any time, request an applicant to furnish such required information as listed in this chapter or any additional information which they determine to be relevant. If such information is not furnished within thirty 30 days of mailing the request, a second request will be sent by certified mail with return receipt requested to the address listed on the application. If the information is not submitted within 30 days of the second request, said application will be dismissed without prejudice to the applicant by the Hearing Officer or the Committee. It is the obligation of the claimant to notify the Committee of any change of address.

005 Supplemental Claims - If additional expenses, as defined in Chapter 4, directly related to the crime are anticipated to be incurred by the applicant, the Committee or Hearing Officer may allow the claim to remain open for a period not to exceed two years from the date of the incident. A supplemental application may be considered by the Hearing Officer or Committee for unanticipated expenses directly related to the crime as defined in Chapter 4. The supplemental application must be received within two years of the date of the incident. The additional expenses are subject to availability of funds and the total award is not to exceed the limit as set forth in Section 81-1823 of the Act. An application shall be considered filed when it has been deposited in the United States Mail with sufficient postage.

006 Denied Without Prejudice Claims - A claim which was denied without prejudice may be reconsidered by the Hearing Officer if the required information is received within 45 days from the date of the letter notifying the applicant of the denial. Extension of the 45 day requirement may be granted by the Hearing Officer and/or Committee if extenuating circumstances prevented the applicant from submitting the required information.

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### CHAPTER 4 - COMPENSATION

001 Compensable Damages (Sec. 81-1819) - The Committee or Hearing Officer may order the payment of compensation for the following, as defined:

001.01 - "Expenses actually and reasonably incurred" shall mean medical, mental health counselor, hospital, pharmaceutical, and funeral and burial expenses for the victim as limited in 4.002.

001.02 - "Loss of earning power" shall refer only to cases wherein total or partial disability of the victim is involved as limited in 4.002.

001.03 - "Pecuniary loss" shall mean loss of support to a surviving dependent or dependents or expenses related to the crime actually and reasonably incurred by the victim or claimant for which the victim's dependents are legally responsible as limited in 4.002.

001.04 - "Any other loss" shall be restricted to residential crime scene cleanup and loss of wages by a surviving victim or claimant medically required to provide for the maintenance of the victim as limited in Section 4.002. An actual loss of wages from gainful employment must occur to be eligible for loss of wages compensation as limited in 4.002.

002 Award of Compensation - Compensation, if allowed, shall be awarded pursuant to the following limitations:

002.01 - Any award for medical, mental health counseling, hospital or pharmaceutical expenses actually and reasonably incurred shall be limited to actual costs for necessary services rendered by a licensed medical, mental health, hospital, pharmaceutical facility, or individual as related to the incident which caused

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the injury or death of the victim. No private room rates shall be allowed. Compensation for mental health counseling shall not be awarded in excess of \$2,000.

002.02 - Any awards for loss of earning power shall be limited to cases where total or partial disability is proven and where proof of actual and reasonable rehabilitative services is presented to the Committee.

002.03 - A pecuniary loss award to a surviving dependent shall be considered as one application and in no event shall any award exceed the maximum stated in Section 81-1823, R.R.S. 1996 and 4.006, infra.

002.04 - Lost wages shall be paid only to a victim or a claimant who is responsible for the maintenance of the victim who is employed at the time of the incident and only for the period the victim or claimant is unable to work due to the victim's injuries as a direct result of the incident as certified by a licensed medical provider. Lost wages shall be computed pursuant to the provisions of Chapter 48, Article I, of the Nebraska Revised Statutes and any amendments thereto relating to total disability, subject to the limitations in this act, including those in Nebraska Revised Statutes 81-1814, 81-1816, and 81-1823. No award shall be allowed for use of accumulated sick leave, vacation leave, unemployment or disability payments during the disability period.

002.05 - Any claim containing a combination of two or more of the compensable damages listed herein shall not be awarded in excess of the limitation contained in 81-1823 R.R.S. 1996.

002.06 - In the case of death of the victim, funeral expenses incurred by an eligible applicant shall not be awarded in excess of \$5,000.00.

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002.07 - Compensation for mental health counseling shall be considered on a case by case basis for minor children of victims of homicide, sexual assault, felony assault or false imprisonment. Claims for compensation for mental health counseling for the victim's minor children must be received by the Crime Victim's Reparations program within 2 years of the date of the incident.

002.08 - Reasonable expenses incurred for the cleaning of a residential crime scene shall not exceed \$1,000.00.

002.09 - Attorney fees shall be considered for legal services rendered in assisting the victim or claimant in filing a claim for compensation and shall not exceed 5 percent of the total award.

003 Reduction of Award - Any award shall be reduced by the amounts of any payments received or to be received from any contract of insurance or any other source of compensation except life insurance proceeds or social security payments. Compensation awards shall not be used to pay for any service if the service is covered under any federal program or federally financed state or local program. The Crime Victim's Reparations program is the payor of last resort.

004 Payment of Compensation - All awards made pursuant to Chapter 4.001.01 shall be to the provider who rendered services unless the Committee or Hearing Officer directs otherwise. All other awards, whether in lump sum or in installment, shall be made to the order of the eligible applicant or the estate of a deceased victim.

005 Denial of Award - In addition to grounds for denial of an award contained in the Act, an award may be denied (1) when the eligible applicant has failed to cooperate with criminal justice agencies in the investigation and prosecution of the crime giving rise to the injuries of the victim; (2) when the eligible applicant has failed to cooperate with the Committee, Hearing Officer, or staff in its investigation of the claim filed for compensation; or (3) when the victim is found not

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to be an innocent victim of a crime. No compensation shall be awarded if the claim is not submitted to the Committee within two years of the date of the incident or the incident is not reported to law enforcement within three days. The only exception to these reporting requirements is for a minor child who was a victim of a physical or sexual assault and who did not report such incident to an adult. At which time the minor child reports an incident or incidents to an adult, the reporting requirement becomes effective. No compensation shall be awarded if the victim was a passenger in a motorized vehicle who knew or reasonably should have known that the driver was operating the vehicle while under the influence of alcohol or illegal drugs.

006 Claims in Excess of Limitation (Sections 81-1823 and 81-1813) - No award based upon a claim filed by any one applicant arising out of any single incident shall exceed \$10,000 unless expenses for job retraining or similar employment related rehabilitative services for the victim are deemed necessary by a certified physician. In cases of job retraining or similar related rehabilitative services for the victim, the award shall not exceed \$5,000 and shall be used only for such purposes.

007 When an eligible claim exceeds \$10,000 and an award of \$10,000 is ordered by the Committee or Hearing Officer, the Committee or Hearing Officer shall give priority to lost wages and funeral expenses and shall reduce all other compensable damages on a pro-rata basis.

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### CHAPTER 5 - HEARINGS

001 The Crime Victim's Reparations Hearing Officer may request the Committee to conduct a Hearing on any submitted claim for compensation. A claimant who filed the claim for compensation may request a Hearing if the claim was denied or substantially reduced without just cause. The appeal must be made in writing and received by the Committee within 30 days from the date notice of the Hearing Officer's action was mailed.

001.01 Crime Victim's Reparations program staff shall establish the date, time and place of the Hearing after consultation with the members of the Crime Victim's Reparations Committee and notify, in writing, the Committee members and claimants filing the appeal of the date, time and place of the Hearing. Notification of Committee members and claimants shall be made at least 20 working days prior to the Hearing.

001.02 If the claimant cannot attend the Hearing, Crime Victim's Reparations staff shall be notified at least five working days prior to the Hearing. Claimant notification may be made by telephone, but is to be followed by written notification which is signed by the claimant.

001.03 Missed Scheduled Hearings - The Committee may reschedule the Hearing for an appeal of a denied claim for compensation when the claimant fails to appear or notifies the Committee of an intended absence for a scheduled Hearing. If the claimant fails to appear at the second scheduled Hearing and has not notified the Committee prior to the Hearing, the Committee may deny the appeal and the decision of the Committee may be final.

001.04 The claimant shall be notified, in writing, of the decision of the Crime Victim's Reparations Committee within ten working days from the date of the Hearing. Such notification shall be made via certified mail with a signed Return Receipt from

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the claimant being requested. Notification shall include the decision of the Committee; if the claim is awarded, the amount of the award and the amount to each eligible service provider shall be stated. If the Committee denies the appeal, the reason for the denial shall be stated.

002 Rules of Evidence - The Committee or its Hearing Officer shall not be bound by common law or statutory rules of evidence or by any technical or formal rules of procedure other than provided in these rules and regulations. Any statement, document, or information necessary to afford the parties a fair Hearing may be received as evidence. The Committee may also accept hospital records or reports, physicians' reports, and mental health counselor's reports as proof of the injuries sustained without requiring the presence of the attending physicians or mental health counselors at the hearing.

003 Investigation - The Committee or its Hearing Officer may consider as evidence at a hearing any information determined to be relevant as discovered through the Committee's independent investigation, including, but not limited to police reports, records of medical payments by third parties or any other payments to or on behalf of the eligible applicant, the applicant's financial need, and statements of witnesses or acquaintances.

004 Recording - Minutes shall be taken of all Committee meetings with a record of all votes maintained. The proceedings of all Hearings by the Committee shall be recorded and shall be transcribed only after the Committee receives notice of appeal in District Court.

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CHAPTER 6 - APPEALS OF CRIME VICTIM'S REPARATIONS COMMITTEE  
ACTIONS

001 An appeal of a determination, decision or an award may be filed in District Court if:

001.01 - The determination, decision or award has been heard by an assigned Hearing Officer and;

001.02 - An appeal of the determination, decision or award of the Hearing Officer was ruled upon by the Committee.

002 The appeal of the determination, decision, or award shall be filed in the District Court of the county where the action of the Committee was taken. The appeal is to be made by filing a petition in the District Court within 30 days after the service of the final decision by the Committee. This 30-day period shall begin from the day on which the Committee deposits its decision in the United States Mail, with sufficient postage prepaid, addressed to the applicant. All appeals shall be governed by the provisions of Chapter 84, Article 9, R.R.S., 1996.

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### CHAPTER 7 - MISCELLANEOUS

001 Any request of a law enforcement agency pursuant to 81-1810 (3) shall be made in writing and shall specify the information desired, the name of the victim, the approximate date and time of the occurrence, and any other information which may assist in identifying the incident. All law enforcement agencies receiving a request shall respond in writing within 20 working days.

002 If sufficient funds are not available, the Committee or Hearing Officer may order a partial payment on a claim. If funds do not become available within two years, the Committee or Hearing Officer may defer payment on the remainder of the claim and close the file without prejudice. The Committee or Hearing Officer in determining the amount of compensation payable to an allowed claim may consider the following factors in determining the amount and date of payment.

002.01 Rate and amount of compensation payable for injuries and death under other laws of this state and of the United States.

002.02 The availability of funds appropriated for the purpose of sections 81-1801 to 81-1842.

003 If a request to review a claim for compensation is made by an individual other than a member of the Crime Victim's Reparations Committee, Hearing Officer, or the claimant, such request shall be made in writing with the reason for such review clearly stated. Only the claim form, itemized billings, Hearing Officer's decision, and decision of the Crime Victim's Reparations Committee will be made available for review. Only the original incident of the law enforcement report will be made available. Review of medical or other reports regarding the victim shall require written consent by the claimant. The review shall take place at the Crime Commission with Crime Commission staff present. If the claimant and/or victim requests to review their claim for compensation file, all information except the complete law enforcement report shall be made available for their review with Crime Commission staff present.

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