WISCONSIN STATE REPRESENTATIVE
Louis J. Molepske, Jr.
71ST ASSEMBLY DISTRICT

Assembly Bill 536
Children of Crime Victims Compensation Act

I. Current Law:

A. **Chapter 949 Wisconsin Statutes:** Under Wisconsin's Crime Victims Compensation Act, which was created in 1975, the Department of Justice is authorized to provide financial assistance to persons who are victimized by certain crimes or to persons who are injured or killed while doing or attempting to do any of the following:

1. Preventing the commission of a crime;
2. Apprehending a suspected criminal;
3. Aiding a police officer seeking to apprehend or arrest a suspected criminal; or
4. Aiding a victim of certain crimes.

B. In cases in which the person is killed while partaking in any of the activities listed above, the assistance granted under the Crime Victims Compensation Act may be paid to the person's dependents.

C. This laudable program has provided some much-needed financial assistance to a number of deserving individuals over the years.

II. Issue:

A. Unfortunately, Wisconsin Statute Section 949.08(2)(g) denies Crime Victims Compensation Act assistance to children in a variety of circumstances, including if their parent is a victim of crime and owes child support (unless the victim enters into a payment agreement that has been approved by the county child support agency).

B. In one recent state case that was brought to my attention, the father of two young children was killed by a drunk driver. Following a trial, the drunk driver was convicted of Homicide by the Intoxicated Use of a Motor Vehicle. The father that was killed was divorced and owed a significant amount of child support. As such, when the children applied for benefits under the Wisconsin Crime Victims' Compensation Fund, their request for

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support was denied because their father's name appeared on the state's child support lien docket.

C. As this case illustrates, the real victims in this situation were the children. Through no fault of their own, not only did they lose their father in this tragedy, but they were also denied assistance both by his failure to pay child support as well as the State of Wisconsin's denial of their request for compensation.

D. Sadly, this type of situation is far too common, making it clear that legislation is necessary to remedy this inequitable statute.

1. There were twenty-nine such instances in 2006 alone.

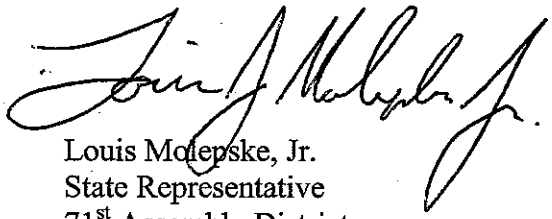
III. Mechanics of Legislation:

A. Assembly Bill 536, which has received broad bipartisan support, seeks to correct this inequitable law by eliminating the prohibition on assistance in cases where the deceased owed child support.

B. This bill would also apply retroactively to persons who have experienced situations similar to the above within one year of this bill becoming law.

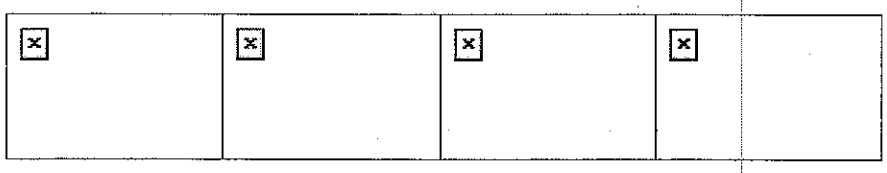
C. Like most state agencies, the Department of Justice is undoubtedly short on funding. However, that does not mean that children in need should qualify and be forced to go without the possibility of assistance.

Respectfully submitted,



Louis Molepske, Jr.
State Representative
71st Assembly District

Office of Crime Victim Services



WISCONSIN CRIME VICTIM COMPENSATION PROGRAM
A MEASURE OF JUSTICE

Every year hundreds of people are injured or killed in Wisconsin as a result of violent crime. These innocent people may experience the trauma of the event, of medical expenses, grief, other expenses, and loss of earnings. They are victims of assault, rape, domestic violence, sexual assault, homicides, drunk drivers and other serious crimes and many are children or vulnerable adults.

The State of Wisconsin recognizes the needs of victims and their families. WI Statute 949 states the Crime Victim Compensation Program has a moral responsibility to aid innocent victims of violent crime, to ease their financial burden, and maintain their dignity as they go through difficult and often traumatic times.

If you are an innocent victim of violent crime that occurred in Wisconsin, and the crime is compensable by statute, the Crime Victim Compensation Program may be able to help you.

Compensable Crimes

Who May Be Eligible?

- an innocent person who was the victim of a crime that occurred in Wisconsin
- an innocent victim who suffers physical and/or emotional harm or death from a crime
- a dependent or legal representative of an innocent victim who has been killed as a result of a crime
- a person who is injured while aiding a crime victim or helping a police officer
- a person who suffers a reaction from the death of a family or household member
- a person who is injured in an automobile accident caused by a drunk driver

What Expenses May Be Paid?

Up to $40,000 in payment for expenses for any one injury or death, including:

- medical, hospital, surgical, pharmacy and mental health counseling expenses
- lost wages
- loss of support to a dependent of a crime victim who is killed

♦ reasonable replacement costs of clothing or bedding held as evidence by the police, prosecutor or crime lab – up to $300
♦ reasonable replacement value for property held as evidence and made unusable by crime lab testing – up to $200
♦ reasonable and necessary costs for securing and cleaning a crime scene – up to $1,000
♦ cost of homemaker services
♦ An additional $2,000 may be paid for reasonable funeral expenses.

No property loss or damage is covered other than those described above.

The Crime Victim Compensation Fund is the "payer of last resort." The State of Wisconsin is the secondary payer of out-of-pocket expenses that are not paid or payable by a private or group insurance plan, public funds, or any other source, including subrogation or restitution for the offender. All other sources of financial resources must be used before the Program can be of assistance. Individuals with insurance, Medical Assistance, or other sources of payment must use providers approved by their plan. If money is received from the offender or a third party through restitution or any civil action, the money must be re-paid to the state for any money paid out on behalf of the victim.

What determines whether someone is eligible?

♦ The crime must have been reported to a law enforcement agency within 5 days of the date on which it occurred and,
♦ The applicant must file a claim within one year of the date of the crime. This may be waived in certain instances and,
♦ The victim must be current with court-ordered child support or maintenance payments and,
♦ The victim's conduct must not have caused or contributed to the crime that led to the injury or death and,
♦ The victim must not have committed a crime that led to the injury or death and,
♦ The victim must cooperate with law enforcement officials in their investigation and prosecution of the crime and,
♦The applicant must cooperate with Wisconsin Department of Justice in supplying information for the application, including all records, bills and other information.
♦ If the victim was injured in a car accident caused by a drunk driver, the victim must have been:

- a pedestrian or a passenger in the other car
- a child passenger in the offender's car
- unaware that the driver was under the influence of alcohol or an illegal drug

Note: A victim of sexual assault who does not wish to report the crime to police, or for reasons of confidentiality, to his or her insurance provider, may receive limited assistance through the Sexual Assault Forensic Exam Fund (SAFE Fund). The SAFE Fund pays for the sexual assault forensic exam conducted at the hospital to recover evidence of the sexual assault. Click here for more information about the SAFE Fund.

Is An Attorney Needed To File For Compensation?

An attorney is not needed to file a claim.
circuit court.

How does a crime victim apply to the program?

A copy of the Crime Victim Compensation application can be obtained from law enforcement, Victim Witness Coordinators, hospitals, by writing or calling the Office of Crime Victim Services at:

1-800-446-6564 (toll free)

Send the completed and signed application to the address listed below:

Crime Victim Compensation
P.O. Box 7951
Madison, WI 53707-7951

Or download PDF here:

Crime Victim Compensation Application

What Happens After I Apply?

After receiving the application for Crime Victim Compensation, additional information may be requested from the applicant or claimant, law enforcement, employers, medical providers, public agencies and insurance companies and other information necessary for making a decisior regarding the claim.

After all the information contained in the application is verified, there will be a notification of eligibility for compensation. The time it takes to arrive at this decision varies depending upon the complexity of the claim. You will be sent a copy of the decision in writing. If the claim is denied, the reason will be explained and an appeal procedure will be provided.

The Right To Appeal:

If the Crime Victim Compensation Program makes a decision with which the victim or claimant disagrees, the victim or the claimant has a right under the law to appeal the decision. The victim or claimant must notify the Crime Victim Compensation Program of disputed facts withir 30 days of the denial notice. If the victim or claimant does not agree with the decision of the hearing judge, an appeal may be made to circuit court.

Crime Victim Compensation Frequently Asked Questions

Crime Victim Compensation - Handbook For Those Assisting Innocent Victims of Crime

For questions relating to the Crime Victim Compensation Program, click here.

Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2007 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **07-0063/1**	Introduction Number **AB-0536**

Description
Awards for dependents of deceased victims of crime

Fiscal Effect

State:
- ☐ No State Fiscal Effect
- ☐ Indeterminate
  - ☐ Increase Existing Appropriations
  - ☐ Decrease Existing Appropriations
  - ☐ Create New Appropriations
  - ☐ Increase Existing Revenues
  - ☐ Decrease Existing Revenues
  - ☒ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☒ No
  - ☐ Decrease Costs

Local:
- ☐ No Local Government Costs
- ☐ Indeterminate
  1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
  2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
  3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
  4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
  5. Types of Local Government Units Affected
     ☐ Towns ☐ Village ☐ Cities
     ☐ Counties ☐ Others
     ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
DOJ/ Mark Rinehart (608) 264-9463		3/6/2008

Fiscal Estimate Narratives

DOJ 3/6/2008

LRB Number **07-0063/1**	Introduction Number **AB-0536**	Estimate Type **Original**
Description Awards for dependents of deceased victims of crime		

Assumptions Used in Arriving at Fiscal Estimate

Under Chapter 949 of the Wisconsin Statutes, the Department of Justice administers the Crime Victim Compensation (CVC) program. The CVC program compensates victims and their dependents of certain crimes for costs that include medical treatment, lost wages, funeral/burial expenses, and replacement costs of clothing or bedding held for evidentiary purposes. The maximum compensation award for any one injury or death is $40,000, and another $2,000 for burial expenses. The CVC program is a "payer of last resort", meaning it only covers expenses remaining after all other payment sources, such as insurance, worker's & unemployment compensation, restitution, etc., have been exhausted.

Under 949.08 (2) DOJ is prohibited from awarding compensation if the victim is included on the statewide child support lien docket. 2007 Assembly Bill 536 eliminates this prohibition in cases where the claimant is a victim of homicide.

In each of the past several years, the department has received qualified applications for compensation from crime victims that exceed the CVC program's annual budgeted amount. For example, in fiscal year 2006-07, $2,750,800 ($1,258,000 GPR, $1,004,000 FED and $488,800 PR) was appropriated to this program to make awards to victims of crime. In that same year, the CVC program received 1,652 applications that it determined to be eligible for compensation. Though the precise amount of eligible claims is still yet to be determined because all expenses may not have been incurred or because of the potential for collateral source compensation, the amount of eligible claims annually exceeds the annual appropriation, requiring the agency to withhold payments in part or in whole until additional appropriations are made. Given the appropriation shortfall, the CVC program will often make partial payments during a given year to a particular victim or service provider. This has the effect of maximizing the number of claimants who receive some compensation during a given year, but delaying full payment to some victims or their service providers. As a result of the shortfall, currently, there is a total of approximately $1.5 million in accumulated unpaid eligible claims yet to be paid out. Should eligible claims continue to exceed appropriations, at some point in the future, the amount of accumulated unpaid claims from previous years will approach annual appropriations, causing additional significant delays in compensation. The compensation backlog creates conditions where a significant new appropriation will be required to pay all claimants with an entitlement to payment.

This legislation would increase the number of claims eligible for compensation. In fiscal year 2006-2007, the CVC program denied 14 claims involving homicide due to the victims' placement on the child support lien docket. Homicide claims are often eligible for the compensation that reaches the statutory maximum, and thus each of the claims in this category could reach the $40,000 award limit. As a result, under AB 536 last fiscal year, the CVC program would have received applications potentially eligible for approximately $560,000 in additional awards. Though the number of claims in any given year and the availability of collateral sources will make the total amount eligible for compensation vary from year to year, the Department estimates the amount of newly eligible claims will range from a few hundred thousand to several hundred thousand dollars annually.

Long-Range Fiscal Implications