



Crime Victim Services

Rule Revision 2017

**Recommendation Summary
& Draft Rule Language**

ARIZONA CRIMINAL JUSTICE COMMISSION



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Crime Victim Services Rule Revision 2017

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Rule Revision Process Summary

The process to identify recommended changes to the Crime Victim Compensation Program and the Crime Victim Assistance Program rules began in October 2016. Starting in February 2017 a workgroup of county compensation program coordinators began regular meetings with ACJC program staff. The purpose of the meetings was to review recommendations and make suggestions on the compensation program rules.

During the month of March and early April, ACJC program staff conducted regional meetings in Phoenix, Flagstaff, and Tucson to solicit feedback from county compensation program board members, members of the victim service community, crime victims, and members of the general public. Compensation board members from five different counties participated and provided feedback. Agency representatives attended regional meetings from the Federal Bureau of Investigation, Southern Arizona Children's Advocacy Center, Homicide Survivors, Arizona Department of Corrections, and many others. Additionally, victims and members of the public shared their experiences with the compensation program and the victim assistance program. Each of these meetings resulted in several valuable recommendations reflected in the proposed changes.

On June 12, 2017 a summary of the proposed rule changes and the first draft of the rules were made available to all interested stakeholders. ACJC program staff provided an online survey to collect comments and feedback on the draft language of the rules. A total of 12 survey responses were collected by the end of the review period. The feedback and recommendations from the online survey and additional comments provided over the phone and through email have been incorporated into the current third draft of the rules where appropriate.

On June 16th a rulemaking docket was opened with the Secretary of State's Office. Publication of the rulemaking docket begins the formal rulemaking process giving ACJC one year to complete rules promulgation for these programs.

Once the Commission approves the draft language of the rules, the next steps in the process focus on moving that language through the Governor's Regulatory Review Council (GRRC) approval process along the following timeline:

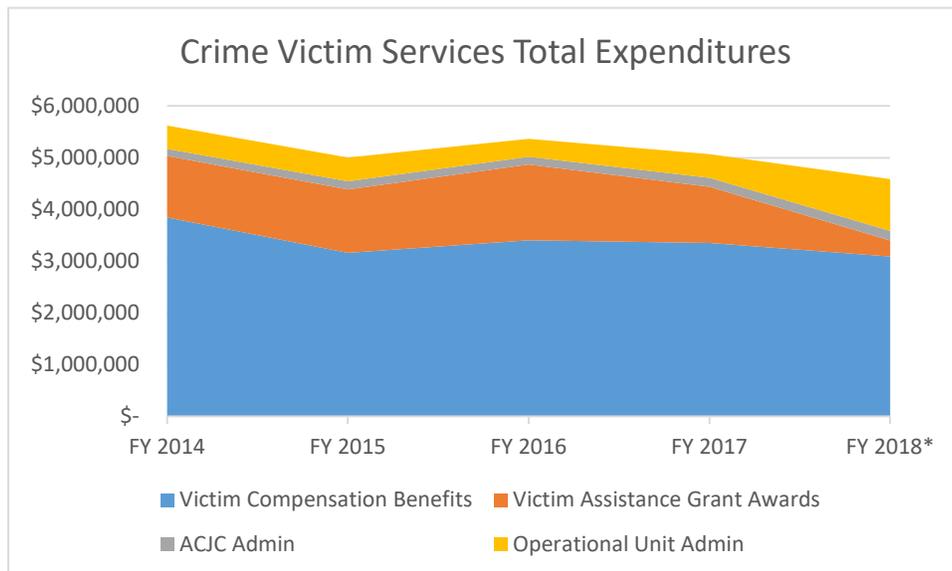
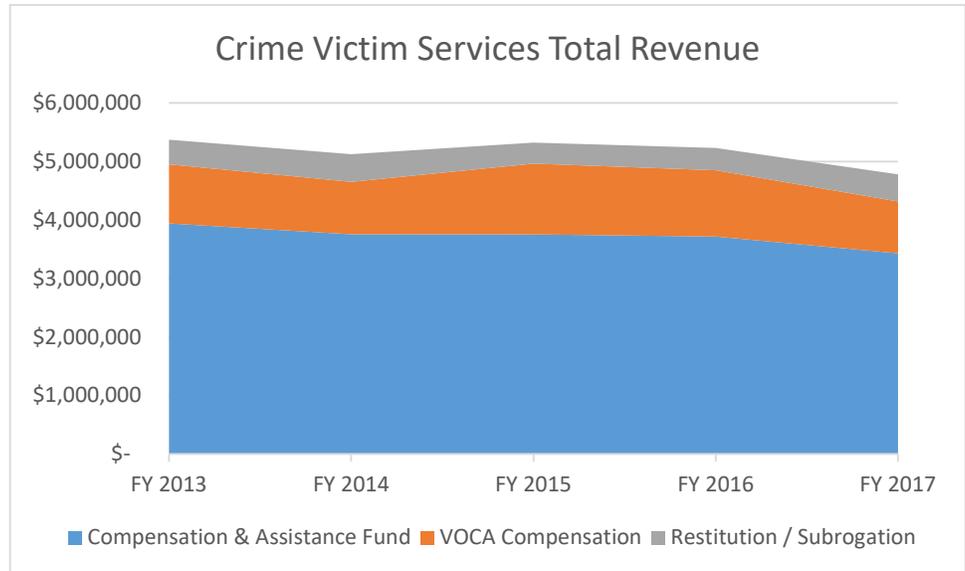
Time Frame	Rulemaking Activity
Sept. 2017	Crime Victims Committee reviews draft of proposed rules; Commission approves changes
Oct. 2017	Notice of proposed rulemaking filed with the Secretary of State and published in the Arizona Administrative Register
Nov. 2017	Public comment / oral proceeding
Oct. 2017	Rules documentation submitted to GRRC
Feb. 2018	Rules on agenda for GRRC meeting
Apr. 2018	New rules for compensation program and assistance program take effect

Funding Availability to Support Rule Recommendations

The rule change recommendations attempt to strike a balance between addressing the needs of victims and the victim services community with the availability of program funding. The following is a high-level analysis of how available funding and annual program expenditures influenced rule revisions for the Crime Victim Compensation Program and the Crime Victim Assistance Program.

Available Funding vs. Expenditures

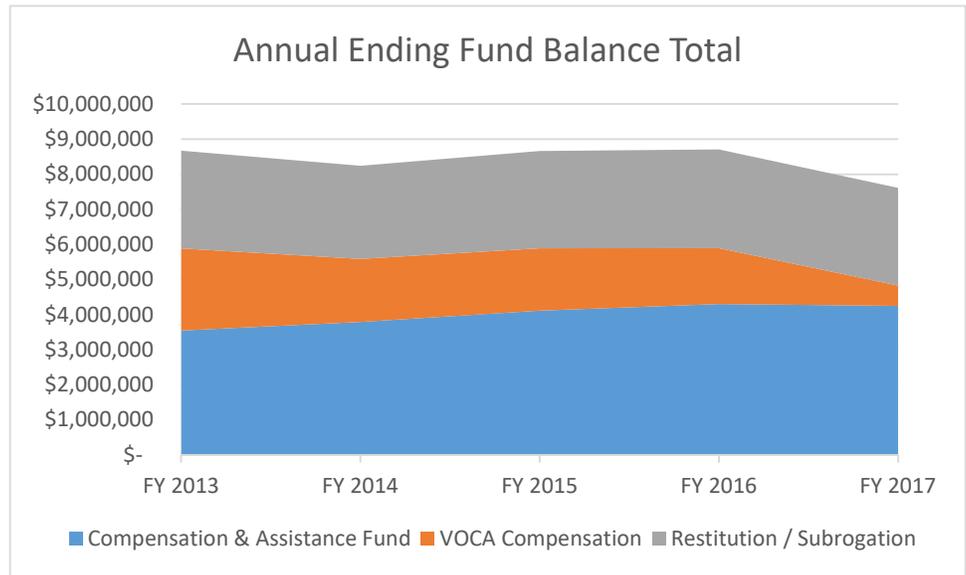
Crime victim services total revenue has averaged \$5,167,600 annually during the last five fiscal years. The impact of annual revenue declines in the Criminal Justice Enhancement Fund (CJEF) have been reduced by increases in revenue from restitution fund sources and lower statewide victim service program area expenditures.



Total expenditures for crime victim services averaged \$5,130,100 annually during the last five fiscal years. *The expenditure amount for FY 2018 includes average expenditure amounts for victim compensation benefit expenses. All other areas represent funding allocations for each expense. FY 2018 also illustrates the shift in resources from victim assistance to victim compensation operational unit administrative costs.

Available Crime Victim Service Fund Balance

The average annual ending fund balance for crime victim services for the last five years is \$8,378,600. The decline in federal funding for FY 2017 was due to delayed notification of the FFY 2017 VOCA Compensation award. Notification of that award should be received by the end of September 2017, and represents \$886,000 of funding available for FY 2018.



Additional Program Revenue

During the 2017 legislative session a statutory change was made in ARS 22-116, redirecting unclaimed victim restitution, originating from the justice courts, to the Victim Compensation and Assistance Fund. This change mirrors the revenue source already in place at the superior court level. At this time there is no way to estimate how much this new source of revenue will bring into the fund during the current fiscal year, or whether the amount deposited this fiscal year represents what can be expected during subsequent years. Unclaimed victim restitution deposited into the fund from the superior courts averages about \$700,000 annually.

Rule Revision Summary Tables

Tables VS1 and VS2 on the following pages summarize the changes found in the current third draft of the rules. Each recommended change has been given an identifying number followed by a brief description. Reference numbers included in italicized parenthesis following the description text point to the related section in the draft language of the rules. In the "Annual Cost Impact" column and the "Administrative Impact" column, ACJC program staff estimates how the recommended changes impact program expenditures and workload. The "Comments" column includes any additional information related to the recommendation.

TABLE VS1: Proposed Rule Changes Crime Victim Compensation Program

Program Administration

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
1	Remove statutory reference related to the Fund and replace with broader language related to all potential program funding sources <i>(R10-4-101.13) (R10-4-102.A)</i>	None	None	Clarifying change better reflecting actual program funding administration
2	Remove the specific allocation formula variables and the annual formula approval requirement; maintain Commission approval of allocation formula annually as needed <i>(R10-4-102.C)</i>	None	None	Allows the allocation formula to consider all available data and allows Commission to make changes annually as needed
3	Remove additional reporting and allocation requirements for operational units receiving and spending additional funds for victim compensation other than those included under the Fund <i>(R10-4-102.H)</i>	None	Reduces reporting requirements for Operational Units (OU)	Clarifying change better reflecting actual program administration
4	Allow the Commission to approve payment rate schedules for program benefit cost categories; maintain operational unit ability to negotiate benefit costs if an approved rate schedule does not exist <i>(R10-4-102.I)</i>	Significant Savings	Significant savings for OU	Other State agencies utilizing a rate to pay medical expenses consistently save 28% – 30% annually; an annual cost savings of 25% for medical expenses for the compensation program is approximately \$322,000
5	Allow the Commission to designate another operational unit for a jurisdiction in situations where a jurisdiction is not served by an operational unit <i>(R10-4-103)</i>	None	None	Clarifying change better reflecting how situation may be addressed

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
6	Remove quarterly financial reporting requirement and specifics on what must be reported by operational units; replace with broader language allowing the Commission to annually determine all reporting requirements (<i>R10-4-104.B.2.e</i>)	None	None	Allows reporting to include all available program financial data and allows Commission to make changes annually as needed
7	Allow the Executive Director of the Commission to choose and appoint compensation board members from a list of recommended individuals provided by the operational unit (<i>R10-4-105.C and D</i>)	None	None	Clarifying change better reflecting actual program administration
8	Remove detail on what information a claimant must provide to the program for an award (<i>R10-4-107.D.1</i>); replace with broader language requiring claimants to provide any information or documentation necessary for the operational unit to investigate and substantiate the claim (<i>R10-4-107.E</i>)	None	None	Allows program to adapt the application content to only information required to initiate processing of the claim; Allows OU to determine what documentation best justifies a benefit request
9	Clarify that determining claimant eligibility is acceptable as the only action taken on a claim within the 60 day deadline (<i>R10-4-108.A</i>)	None	None	Clarifying change better reflecting actual program administration
10	Clarify that only claims that are complete and ready for the board to make a decision upon are subject to the 60 day deadline (<i>R10-4-108.A</i>)	None	None	Addresses instances where action on a claim may be delayed because the program is awaiting response from the claimant, another government agency, or service provider
11	Remove language allowing a good cause exception for use of a collateral source for mental health counseling expenses (<i>R10-4-108.F.1</i>)	None	None	Clarifying change better reflecting actual program administration; waiving the required use of a collateral source is most often due to the lack of availability and is not limited to mental health counseling

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
12	Allow the operational unit to request a rehearing (<i>R10-4-109.E</i>)	None	None	This change clarifies that an operational unit may request a rehearing by the Board for any reason

Eligibility Requirements

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
13	Add stepsibling to the definition of "derivative victim" (<i>R10-4-101.10.a</i>)	Minimal Increase	None	See Appendix "A"
14	Clarify that a victim is not eligible if, at the time of the criminally injurious conduct, the victim was serving a sentence in prison, home arrest, or work furlough (<i>R10-4-106.A.3.b.i</i>)	None	None	Clarifies that eligibility is determined at the time of victimization
14a	Add incarcerated awaiting sentencing or disposition (<i>R10-4-106.A.3.b.ii</i>)	Minimal Savings	None	Provides additional clarification on eligibility for a sub-group of incarcerated victims
15	Clarify that a claimant is not eligible if, at the time of application submission, he or she is delinquent in paying a state or federal fine, monetary penalty, or restitution (<i>R10-4-106.A.3.c.i-iii</i>)	None	None	Clarifies that eligibility is determined at the time of application submission
16	Add automatic ineligibility if program discovers claimant is wanted in Arizona on an active warrant (<i>R10-4-106.A.3.d</i>)	None	Minimal Increase	Implementation policy will not require checking for active warrants; eligibility will be denied if during the course of normal claim investigation and substantiation an active warrant is discovered
17	Remove negligence as a factor for consideration related to contributory conduct (<i>R10-4-108.F.3.a</i>)	None	None	Requirement is often misunderstood and misapplied by board members

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
18	Exclude consideration of contributory conduct in instances where the victim was coerced or forced to act against his or her own will <i>(R10-4-108.H.a)</i>	Minimal Increase	Minimal Increase	Requires boards to consider whether or not the victim acted willfully resulting in the victimization
19	Exclude consideration of contributory conduct for minor victims in any instance other than illegal behavior <i>(R10-4-108.H.b)</i>	Minimal Increase	Minimal Increase	For FY 2016 and 2017 operational units were surveyed and able to identify 5 minor victims' claims denied and 3 minor victims' claims reduced due to contributory conduct
20	Clarify that failure to cooperate may include a substantial mental health risk <i>(R10-4-108.I.1)</i>	None	None	Clarifies good cause exception for cooperation criteria

Program Benefits

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
21	Expand definition of "medical expense" to include care provided to a derivative victim for care associated with a mental health condition <i>(R10-4-101.19.b)</i>	Minimal Increase	Minimal Increase	See Appendix "A"
22	Add fee expenses as an eligible expense in the definition of "transportation costs" <i>(R10-4-101.30.b)</i>	None	None	This is currently allowed as an expense, the addition provides clarification of eligibility
23	Expand medical expenses to cover medical treatment including prescription costs related to mental health counseling for derivative victims <i>(R10-4-108.C.1.a.iii)</i>	Minimal Increase	Minimal Increase	See Appendix "A"
24	Exclude as an eligible medical expense any drug, substance, or chemical found under Schedule I of the Federal Controlled Substances Act <i>(R10-4-108.C.1.b.ii)</i>	None	None	Excludes prescription costs for medical marijuana; though currently eligible, the compensation program has not paid any such costs to date

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
25	Expand the availability of work loss to derivative victims for mental distress only <i>(R10-4-108.C.2.b)</i>	[See 34]	Significant Increase	See Appendix "A"
26	Replace "court proceeding" to clarify the availability of work loss and transportation benefits <i>(R10-4-108.C.2.c.iii) (R10-4-108.C.2.e.iii) (R10-4-108.C.7.c)</i>	Minimal Increase	Minimal Increase	Change clarifies benefits available; encouraging victim or derivative victim participation in all formal aspects of the criminal justice process
27	Clarify language tied to work loss for a derivative victim to make funeral arrangements for, or tend to the affairs of, a deceased victim <i>(R10-4-108.C.2.f)</i>	None	None	Omits repetitive language
28	Clarify that personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral are not eligible <i>(R10-4-108.C.3)</i>	None	None	clarification may allow the Board to approve food expenses directly associated with the victim's funeral
29	Remove behavioral health technician as an individual who can provide mental health counseling and care; this licensure type no longer exists in the referenced administrative code <i>(R10-4-108.C.4.a.iii)</i>	None	None	Technical change conforming to position types available under A.A.C. R9-20-101
30	Limit medical benefits available to derivative victims to a maximum of \$5,000 <i>(R10-4-108.D.3.ii)</i>	Minimal Increase	Minimal Increase	See Appendix "A"
31	Include all work loss subsections, except for loss of support, under the maximum amount per calendar week of 40 hours at the current minimum wage <i>(R10-4-108.D.4.a)</i>	Minimal Increase	None	Facilitates easier calculation of work loss with a single weekly maximum

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
32	Limit work loss paid to derivative victims to a maximum of \$5,000 (R10-4-108.D.4.a.ii)	Significant Increase	None	See Appendix "A"
33	Remove the calculation requirement for loss of support payments (R10-4-108.D.4.b)	None	Moderate Decrease	The calculation requirements currently in rule are over burdensome and unnecessary when most loss of support requests max out a claim
34	Increase transportation cost maximum from \$1,500 to \$2,000 per victim or derivative victim (R10-4-108.D.8)	Moderate Increase	None	Annually an average of 21 claims statewide reach the current benefit cap of \$1,500; based on that average the recommendation could increase expenditures by \$10,500 annually
35	Expand emergency award to include up to \$5,000 for funeral expenses only; maintain \$1,000 for all other benefit categories (R10-4-111.B.1 and 2)	None	Minimal Increase	Change facilitates access to benefits and should not impact funeral benefit expenditures

Clarifying and Technical Changes

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
36	Remove the phrase "act of international terrorism"; international terrorism is a federal crime and federal crimes are included under definition of criminally injurious conduct (Throughout text)	None	None	
36a	Remove definition of "international terrorism" (R10-4-101.18)	None	None	
37	Replace the phrase "required for" with "in the best interest of" in the definition of "derivative victim" related to counseling justification (R10-4-101.10.g)	None	None	Compensation boards sometimes struggle with determining whether or not something is required

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
38	Clarify that compensation programs outside of Arizona must be accessible to a victim as another source of financial recovery (R10-4-106.A.1.b) (R10-4-107.D)	None	None	Clarifying change better reflecting actual program administration
39	Remove duplicative language "directly resulted in the victim's physical injury, mental distress, medical condition, or death" (R10-4-106.A.3.a) (R10-4-108.F.3) (R10-4-108.G)	None	None	Similar language is included in the definition of "criminally injurious conduct"
40	Add new delinquency subsections to delinquency waivers (R10-4-106.C and D)	None	None	
41	Clarify that an operational unit or ACJC has ten business days to inform the claimant of a decision related to the claim (R10-4-108.A) (R10-4-109.B and C) (R10-4-110.H)	None	Minor Decrease	Extends the response time by a couple of days
42	Clarify language tied to work loss for medical treatment (R10-4-108.C.2.c)	None	None	Replace the word "make" with "attend"
43	Replace "required" with "medically necessary" for non-skilled nursing care under work loss (R10-4-108.C.2.g)	None	None	Compensation boards sometimes struggle with determining whether or not something is required
44	Remove language and timeframes related to when an inactive claim can be closed (R10-4-108.L)	None	None	A draft record retention schedule for the compensation program is in process at State Library and Archives

TABLE VS2: Proposed Rule Changes Crime Victim Assistance Grant Program

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
1	Reduce match requirement from twenty-five percent to twenty percent <i>(R10-4-201.3)</i>	Cost sharing reduction for grantees	None	
2	Replace the word "donation" with "source of program support" in the definition of "In-kind contribution" <i>(R10-4-201.6)</i>	None	None	
3	Remove the definition of "Substantial financial support from other sources"; this eliminates the fifty percent match requirement for existing programs <i>(R10-4-201.8)</i>	Cost sharing reduction for grantees	None	
4	Remove statutory references when describing what program revenue is deposited in the Fund <i>(R10-4-202.A)</i>	None	None	Clarifying change better reflecting actual program funding administration
5	Qualify statewide distribution of grant funding with "when possible" <i>(R10-4-202.B)</i>	None	None	
6	Remove the requirement that a non-criminal justice governmental agency or private nonprofit organization be approved by a prosecuting attorney's office or law enforcement agency <i>(R10-4-203.A)</i>	None	Reduces application workload for applicants	
7	Add award eligibility for projects that address victimization without assisting victims directly <i>(R10-4-203.A.1) (R10-4-203.A.4) (R10-4-203.B.2) (R10-4-204.A) (R10-4-204.B.1) (R10-4-204.C.5)</i>	None	None	

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
8	Replace the word "program" with the word "project" to describe the highest level of grant funded activity (<i>Throughout</i>)	None	None	Conforms to the term used by the DPS-VOCA Assistance grant; may help to avoid confusion among grantees
9	Broaden language associated with awareness of the victim compensation program to include efforts beyond assisting a victim directly (<i>R10-4-203.A.5</i>)	None	None	
10	Remove "program that has existed for at least three years" under eligibility requirements (<i>R10-4-203.B</i>)	None	None	This eliminates the current distinction between new projects and existing projects
11	Replace the "substantial financial support" requirement with lesser "financial support" requirement (<i>R10-4-203.B.1</i>)			This subjects all funded programs to the recommended twenty percent match requirement
12	Replace "length of time the program has provided victim services" with evidence-based outcomes to demonstrate the efficacy of project services (<i>R10-4-203.B.2.a</i>)	None	Moderate increase for grantees	Funded projects will have to demonstrate services provided are effective
13	Remove language describing and establishing requirements for projects existing for less than three years (<i>R10-4-203.D</i>)	None	None	This eliminates the current distinction between new projects and existing projects
14	Remove language specifying frequency of financial reporting of grantees; allow Commission to establish reporting frequency (<i>R10-4-203.C.1</i>)	None	None	Allows reporting to include all available program financial data, and allows Commission to make changes to reporting frequency as needed
15	Remove language specifying frequency of activity reporting of grantees and specifying the content of activity reports; allow Commission to annually establish reporting frequency (<i>R10-4-203.C.2</i>)	None	None	Allows reporting to include all available program activity data, and allows Commission to make changes to reporting frequency as needed

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
16	Remove 24-hour hotline as the only example of crisis intervention services <i>(R10-4-204.A.1)</i>	None	None	
17	Replace “including” with “such as” to clarify that services other than those listed may still be eligible for funding under the allowable service category <i>(R10-4-204.A.2-5)</i>	None	None	Clarify that the list provided is not the limit of eligible activities
18	Include relocation in addition to temporary shelter under emergency services <i>(R10-4-204.A.2.a)</i>	None	None	
19	Replace “petty cash” with “emergency financial assistance” under emergency services <i>(R10-4-204.A.2.b)</i>	None	None	Conforms to the term used by the DPS-VOCA Assistance grant; may help to avoid confusion among grantees
20	Include temporary repairs to doors in addition to locks and windows under emergency services; clarify that repair services are intended to prevent further victimization <i>(R10-4-204.A.2.c)</i>	None	None	
21	Replace “counseling” with the broader term “assistance” under support services <i>(R10-4-204.A.3.a)</i>	None	None	
22	Include assistance with replacing property kept as evidence in addition to obtaining the return of that property under support services <i>(R10-4-204.A.3.c)</i>	None	None	
23	Replace “petty cash” with “financial assistance” under court-related services <i>(R10-4-204.A.4.a)</i>	None	None	Conforms to the term used by the DPS-VOCA Assistance grant; may help to avoid confusion among grantees

ID #	Description	Annual Cost Impact	Administrative Impact	Comments
24	Remove transportation to court from the list of court-related services (<i>R10-4-204.A.4.a</i>)	None	None	
25	Include a statutory reference to notification services included under crime victims' rights (<i>R10-4-204.A.5</i>)	None	None	
26	Remove language limiting what agency types can receive grant funded training (<i>R10-4-204.B.1</i>)	None	None	
27	Replace "printing and distributing brochures" with broader language allowing for production of any educational or outreach materials (<i>R10-4-204.B.2</i>)	None	None	
28	Allow funded project to provide training or services focused on preventing initial victimization or further victimization connected to violent crime (<i>R10-4-204.B.3</i>)	None	None	This is a project activity that was previously unallowable
29	Clarify that funding cannot be used for broad crime prevention efforts (<i>R10-4-204.C.1</i>)	None	None	
30	Remove restriction on funding used to train persons who do not provide direct services to a victim (<i>R10-4-204.C.6</i>)	None	None	This is a project activity that was previously unallowable
31	Remove restriction that funded project services cannot be the same as those allowed under the victim compensation program (<i>R10-4-204.C.7</i>)	None	None	

APPENDIX "A"

Definition of Derivative Victim

Under the current victim compensation program rules "Derivative Victim" includes the following, R10-4-101(10):

- The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
- A child born to a victim after the victim's death;
- A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the board to be substantially similar to a relationship listed above;
- A member of the victim's family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct;
- A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
- A natural person whose mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.

The only recommended change to the definition of derivative victim is to add stepsibling to the first clause of the definition. Stepsiblings can currently qualify for benefits as a sub-group under the sibling designation. The recommended addition clarifies eligibility for stepsiblings as derivative victims.

Changes to Benefits for Derivative Victims

	Under Current Rules	Proposed Recommendations
Medical	Unavailable	Limited to medical care and prescription costs associated with mental health treatment; \$5,000 maximum
Mental Health	Includes counseling expenses and prescription related costs; \$5,000 maximum	Include prescription costs under medical; \$5,000 maximum
Work Loss		\$5,000 total benefit maximum
Medical treatment	Unavailable	Limited to medical care associated with mental health treatment maximum
Mental health counseling	Limited to \$400 per calendar week up to \$25,000 claim maximum	Limited to \$400 per calendar week
Attend court hearing	Limited to \$400 per calendar month up to \$25,000 claim maximum	Limited to \$400 per calendar week
Make funeral arrangements	Limited to \$240 maximum	Limited to \$400 per calendar week
Non-skilled nursing care	Limited to \$1,600	Limited to \$400 per calendar week

Loss of Support	Limited to \$400 per calendar week up to \$25,000 claim maximum	Can be paid in lump sum or periodic payments up to the \$25,000 claim maximum
Due to mental distress	Unavailable	Limited to \$400 per calendar week
Transportation Costs	\$1,500 total benefit maximum	\$2,000 total benefit maximum
Medical treatment	Unavailable	Limited to medical care associated with mental health treatment
Mental health counseling	Up to total benefit maximum	No change
Attend court hearing	Up to total benefit maximum	No change
Threat to Safety	Up to total benefit maximum	No change

Estimated Cost Impact of Recommendations

Allow for Limited Medical Expenses

The annual average number of claims including mental health benefits paid on behalf of derivative victims during FY 2014 – FY 2017 was 88. The average derivative victim mental health cost per claim was \$987.

During the four years sampled three claims for mental health tied to a derivative victim reached the \$5,000 mental health maximum; an additional nine claims had total mental health expenses over \$4,000.

Cap Work Loss Benefit

Under the current rules each work loss sub-category is available to derivative victims up to the sub-category maximum or the total claim maximum of \$25,000. Making a maximum of \$5,000 available to derivative victims for total work loss expenses reduces the total work loss benefit available to derivative victims by \$20,000. This change does not apply to loss of support payments to derivative victims.

Work Loss for Mental Distress

The requirements for derivative victims demonstrating need for work loss due to mental distress would be similar to those required of victims. A mental health professional, qualified to provide care under the compensation program rules, must declare the derivative victim unable to work do to mental distress directly resulting from the victimization.

Additionally, utilization of both mental health benefits and work loss benefits for derivative victims should be similar to, or less than, that of victims. For victims, during FY 2014 – FY 2017 the annual average number of claims including mental health benefits was 259. Of those claims an annual average of 13, or 5 percent, also included payments for work loss.

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

- R10-4-101.** Definitions
- R10-4-102.** Administration of the Fund
- R10-4-103.** Statewide Operation
- R10-4-104.** Operational Unit Requirements
- R10-4-105.** Crime Victim Compensation Board
- R10-4-106.** Prerequisites for a Compensation Award
- R10-4-107.** Submitting a Claim
- R10-4-108.** Compensation Award Criteria
- R10-4-109.** Hearing; Request for Rehearing
- R10-4-110.** State-level Claim Review
- R10-4-111.** Emergency Compensation Award

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

R10-4-101. Definitions

In this Article:

1. “Board” means the Crime Victim Compensation Board of an operational unit.
2. “Claim” means an application for compensation submitted under this Article.
3. “Claimant” means a natural person who files a claim.
4. “Collateral source” means a source of compensation for economic loss that a claimant received or is accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
 - a. The perpetrator or a third party responsible for the perpetrator’s actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
 - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
 - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, insurance for a temporary, non-occupational disability;

- e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable to cover a specific compensable cost due to criminally injurious conduct ~~or an act of international terrorism~~;
 - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
 - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
 6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
 7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
 8. "Crime scene cleanup expense" means the reasonable and customary cost for:
 - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct ~~or act of international terrorism~~ occurring within a residence or the surrounding curtilage;
 - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct ~~or act of international terrorism~~ occurring within a residence or the surrounding curtilage.
 9. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
 - b. Poses a substantial threat of physical injury, mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
 10. "Derivative victim" means:
 - a. The spouse, child, parent, stepparent, stepchild, sibling, stepsibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct ~~or an act of international terrorism~~;
 - b. A child born to a victim after the victim's death;
 - c. A person living in the household of a victim who died as a result of criminally injurious conduct ~~or act of international terrorism~~, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
 - e. A member of the victim's family who witnessed the criminally injurious conduct ~~or act of international terrorism~~ or who discovered the scene of the criminally injurious conduct ~~or act of international terrorism~~;

- f. A natural person who is not related to the victim but who witnessed the criminally injurious conduct ~~or act of international terrorism~~ or discovered the scene of the criminally injurious conduct ~~or act of international terrorism~~; or
- g. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is ~~required for~~ in the best interest of the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
- Is medically necessary to treat an injury or condition resulting from criminally injurious conduct ~~or an act of international terrorism~~;
 - Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
 - Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. "Fund" means ~~the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407~~ all State, Federal, and jurisdiction financial resources dedicated to the compensation program through statute, this chapter, or federal grant award.
14. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
15. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
16. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
17. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~18. "International terrorism" has the meaning prescribed in 18 U.S.C. 2331.~~
- ~~19.~~ 18. "Jurisdiction" means any county in this state.
- ~~20.~~ 19. "Medical expense" means a reasonable and customary cost for medical care provided to:
- a A victim due to a physical injury, mental health condition, or medical condition that is a direct result of criminally injurious conduct ~~or an act of international terrorism~~; or
 - A derivative victim for costs resulting from associated mental health counseling and care that is a direct result of the criminally injurious conduct.

- ~~21.~~ 20. “Mental distress” means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
- ~~22.~~ 21. “Mental health counseling and care expense” means a reasonable and customary cost to assess, diagnose, and treat a victim’s or derivative victim’s mental distress resulting from criminally injurious conduct ~~or an act of international terrorism.~~
- ~~23.~~ 22. “Minimum wage standard” means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
- ~~24.~~ 23. “Operational unit” means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
- ~~25.~~ 24. “Program” means the Crime Victim Compensation Program.
- ~~26.~~ 25. “Proximate cause” means an event sufficiently related to criminally injurious conduct ~~or act of international terrorism~~ to be held the cause of the criminally injurious conduct ~~or act of international terrorism.~~
- ~~27.~~ 26. “Reasonable and customary” means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~28.~~ 27. “Resident” means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
- ~~29.~~ 28. “Subrogation” means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
- ~~30.~~ 29. “Total and permanent disability” means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct ~~or act of international terrorism~~ and:
- a. Produces a significant and sustained reduction in the victim’s former mental or physical abilities dramatically altering the victim’s ability to interact with others and carry on normal functions of life;
 - b. Lessens the victim’s ability to work to a material degree; or
 - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim’s crime-related condition can reasonably be expected.
- ~~31.~~ 30. “Transportation costs” means a travel expense that may be reimbursed to a claimant as follows:
- a. Mileage, calculated at the rate established by:
 - i. The operational unit, or
 - ii. The state if the operational unit has not established a mileage rate;
 - b. Fare or fee expenses; and
 - c. Vehicle rental at the cost specified in the rental agreement.

~~32-~~ 31. “Victim” means a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of:

- a. Criminally injurious conduct,
- ~~b. An act of international terrorism,~~
- ~~e. b.~~ The person’s good faith effort to prevent criminally injurious conduct ~~or an act of international terrorism,~~ or
- d. ~~c.~~ The person’s good faith effort to apprehend a person suspected of engaging in criminally injurious conduct ~~or an act of international terrorism.~~

~~33-~~ 32. “Work loss” means a reduction in income from:

- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
- b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

R10-4-102. Administration of the Fund

- A. The Commission shall ~~deposit~~ include in the Fund all funds ~~received under A.R.S. § 12-116.01 and any other funds~~ received for compensating a claimant under this Chapter.
- B. The Commission shall designate one operational unit for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a an allocation formula ~~that approved by the Commission,~~ determines annually using:
 - ~~1. A base amount for each operational unit,~~
 - ~~2. An analysis of the prior year’s claim activity,~~
 - ~~3. The share of population of each jurisdiction, and~~
 - ~~4. The share of crime of each jurisdiction.~~
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes an operational unit for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.

G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.

~~**H.** An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.~~

I. H. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

I. An operational unit shall pay approved compensation program benefit expenses using benefit category cost rate schedules approved by the Commission. If the Commission has not approved a cost rate schedule for a benefit category, or if an eligible benefit cost is not covered by the approved rate schedule, the operational unit shall negotiate a reasonable and customary cost with the service provider for the approved benefit expense.

R10-4-103. Statewide Operation

For any jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article, designate another operational unit as described in R10-4-104, or provide for a program by contract.

R10-4-104. Operational Unit Requirements

A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.

B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:

1. Only if the public or private agency agrees not to:
 - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
 - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
2. Only if the public or private agency agrees to:
 - a. Forward to the Board a claim relating to an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring in the public or private agency's jurisdiction or jurisdictions;

- b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
 - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring outside of the United States in an area without a an accessible crime compensation program;
 - d. Notify the Commission of any change in the public or private agency's program procedures or program policies before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
 - e. Submit ~~a written quarterly~~ financial and program activity reports to the Commission, ~~on a form provided in a format required~~ by the Commission, and at a frequency established annually by the Commission; and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
 - f. Provide an application form to a claimant;
 - g. Comply with all civil rights requirements;
 - h. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; ~~and~~
 - i. Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.
- B. Board members serve a three-year term and are eligible for reappointment.
- C. When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete

the term of the Board member's appointment, the Commission ~~Chairman~~ Director shall appoint a new Board member for the unexpired term only.

- D. When a Board is first established and when a new member is appointed to an existing Board, the Commission ~~Chairman~~ Director shall choose the individual to be appointed from a list submitted by the operational unit.
- E. A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- F. The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- G. The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.
- H. As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.
- I. An employee of an operational unit shall not serve as a Board member.
- J. A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.
- K. A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.
- L. A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

R10-4-106. Prerequisites for a Compensation Award

- A. The Board shall make a compensation award only if it determines that:
 - 1. Criminally injurious conduct ~~or an act of international terrorism~~:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without a an accessible crime compensation program and affected a resident;
 - 2. The criminally injurious conduct ~~or act of international terrorism~~ directly resulted in the victim's physical injury, mental distress, medical condition, or death;
 - 3. The victim of the criminally injurious conduct ~~or act of international terrorism~~ or a person who submits a claim regarding criminally injurious conduct ~~or an act of international terrorism~~ was not:
 - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct ~~or act of international terrorism~~ that ~~directly resulted in the victim's physical injury, mental distress, medical condition, or death~~ is the subject of the claim;

- b. ~~Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conductor act of international terrorism that directly resulted in the victim's physical injury, mental distress, medical condition, or death; At the time of the criminally injurious conduct that is the subject of the claim:~~
 - i. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough; or
 - ii. Incarcerated in any detention facility awaiting criminal sentencing or disposition.
 - c. ~~Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conductor act of international terrorism that directly resulted in the victim's physical injury, mental distress, medical condition, or death; At the time of claim submission to the operational unit for a jurisdiction:~~
 - i. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough;
 - ii. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - iii. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
 - d. Wanted in Arizona on an active warrant, if warrant status is discovered anytime following submission of the claim.
4. The criminally injurious conduct ~~or act of international terrorism~~ was reported to an appropriate law enforcement authority within 72 hours after its discovery;
 5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct ~~or act of international terrorism~~ that is not compensable by a collateral source; and
 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct ~~or act of international terrorism~~.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.

- C. If a victim died as a result of criminally injurious conduct ~~or act of international terrorism~~, the ~~requirement~~ requirements under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii), (A)(3)(c)(iii), and (A)(3)(d) ~~is~~ are waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
- D. If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii) and (A)(3)(c)(iii), the ~~requirement~~ requirements under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii) and (A)(3)(c)(iii) may be waived for:
1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious ~~conduct or an act of international terrorism~~; or
 2. A compensation award for expenses under R10-4-108(C)(3).

R10-4-107. Submitting a Claim

- A. If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
1. A victim;
 2. A derivative victim;
 3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
 4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B. If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct ~~or act of international terrorism~~, the person shall submit a separate claim regarding each incident of criminally injurious conduct ~~or act of international terrorism~~.
- C. If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct ~~or act of international terrorism~~, each person shall submit a separate claim.
- D. To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit for the jurisdiction in which the incident of criminally injurious conduct occurred or to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct ~~is an act of international terrorism~~ or occurred in an area without a an accessible victim compensation program. ~~The claimant shall provide the following:~~
1. ~~About the victim:~~
 - a. ~~Full name,~~
 - b. ~~Residential address,~~
 - c. ~~Gender,~~
 - d. ~~Date of birth,~~
 - e. ~~Residential and work telephone numbers,~~
 - f. ~~Statement of whether the victim is deceased,~~
 - g. ~~Ethnicity,~~

- ~~h. Statement of whether the victim is a resident, and~~
 - ~~i. Statement of whether the victim is disabled;~~
 - ~~2. About the claimant if the claimant is not the victim:~~
 - ~~a. Full name;~~
 - ~~b. Residential address;~~
 - ~~c. Gender;~~
 - ~~d. Date of birth;~~
 - ~~e. Residential and work telephone numbers;~~
 - ~~f. Relationship to the victim; and~~
 - ~~g. If there are multiple victims or derivative victims of an incident of criminally injurious conductor act of international terrorism, the name, residential address, and date of birth of each, and for derivative victims, the relationship to the victim;~~
 - ~~3. About the crime:~~
 - ~~a. Type of crime;~~
 - ~~b. Statement of whether the crime was related to domestic violence;~~
 - ~~c. Statement of whether the crime was a federal crime;~~
 - ~~d. Date on which crime was committed;~~
 - ~~e. Date on which crime was reported to law enforcement authorities;~~
 - ~~f. Name of law enforcement agency to which the crime was reported;~~
 - ~~g. Name of law enforcement officer to whom the crime was reported;~~
 - ~~h. Law enforcement report number;~~
 - ~~i. Location of crime;~~
 - ~~j. Name of perpetrator, if known; and~~
 - ~~k. Brief description of the crime and resulting injuries;~~
 - ~~4. About a civil lawsuit:~~
 - ~~a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and~~
 - ~~b. If the answer to subsection (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;~~
 - ~~5. About benefits from collateral sources:~~
 - ~~a. List of the benefits the claimant has received since the incident of criminally injurious conductor act of international terrorism or is entitled to receive; and~~
 - ~~b. For each benefit identified:~~
 - ~~i. Type of benefit,~~
 - ~~ii. Contact address and telephone number; and~~

~~iii. Claimant's identification or policy number;~~

~~6. About the economic loss for which compensation is requested:~~

- ~~a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider;~~
- ~~b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider;~~
- ~~c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;~~
- ~~d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and~~
- ~~e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid;~~
- ~~f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10 4 108(C)(6) and if mileage is claimed, the date and mileage of each trip; and~~

~~7. The claimant's dated signature:~~

- ~~a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;~~
- ~~b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;~~
- ~~c. Authorizing the release of confidential information necessary to administer the claim; and~~
- ~~d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conductor act of international terrorism and is necessary to verify the claim.~~

E. A claimant shall ~~attach~~ submit the following in addition to the claim form submitted under subsection (D):

- 1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense ~~claimed under subsection (D)(6); and~~
- 2. ~~If work loss expenses are claimed, a signed statement on official letterhead:~~
 - ~~a. From the claimant's employer verifying the information provided under subsection (D)(6)(c); and~~
 - ~~b. If applicable, from the physician or mental health care provider indicating the claimant:~~

- ~~i. Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or~~
 - ~~ii. Is totally and permanently disabled.~~
2. Any documentation required by the operational unit to fully investigate and substantiate claimant eligibility and all claim expense requests.

R10-4-108. Compensation Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, the eligibility of the claimant, whether to make a compensation award, and ~~if so~~, the terms and amount of ~~the~~ any compensation award. The Board shall make a decision within 60 days after the operational unit receives a complete and actionable claim under R10-4-107 unless good cause for delay exists. The Board shall inform the claimant in writing within 10 business days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
 - 1. Reasonable and customary medical expenses due to ~~the victim's~~ physical injury, medical condition, mental health condition, or death.
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a victim's prosthetic device, eyeglasses or other corrective lenses, or a dental device; ~~and~~
 - ii. Durable medical equipment required for treatment of the victim; and
 - iii. A victim's or derivative victim's prescription costs related to mental health counseling and care.
 - b. The Board shall not include as a medical expense ~~a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;~~
 - i. A charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary; and
 - ii. Any drug, substance, or chemical included under Schedule I of the Federal Controlled Substances Act 21 U.S.C. §812(c).
 - 2. Reasonable and customary work loss expenses for:
 - a. A victim whose ability to work is reduced due to physical injury, mental distress, or medical condition resulting from the criminally injurious conduct ~~or act of international terrorism;~~

- ~~b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;~~
- b. A derivative victim whose ability to work is reduced due to mental distress;
- c. A victim or derivative victim to attend:
 - i. Medical treatment;
 - ii. Mental health counseling and care; or
 - iii. Criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
- ~~e. d. A derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the derivative victim;~~
- ~~d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;~~
- e. A parent or guardian of a minor victim to transport or accompany a minor victim during:
 - i. Medical treatment;
 - ii. Mental health counseling and care; or
 - iii. A criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
- ~~e. f. A derivative victim to make funeral arrangements for a deceased victim, or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or~~
- ~~f. g. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required medically necessary as a result of the criminally injurious conduct ~~or act of international terrorism~~;~~
- 3. Reasonable and customary funeral expenses. ~~Expenses~~ Personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
- 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's mental distress resulting from the criminally injurious conduct ~~or act of international terrorism~~ if:
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101, or
 - ~~iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or~~

~~iv.~~ iii. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and

- b. The mental health counseling and care expenses do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary;
6. Reasonable and customary crime scene cleanup expenses due to a victim's homicide, aggravated assault, or sexual assault; and
7. Reasonable and customary transportation costs related to:
 - a. Obtaining medical care as defined in subsection (C)(1),
 - b. Obtaining mental health counseling and care as defined in subsection (C)(4),
 - c. Attending A victim or derivative victim attending a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the incident of criminally injurious conduct ~~or act of international terrorism that is the subject of the claim,~~
 - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
 - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(e).

D. The Board shall not make a compensation award to a claimant that exceeds:

1. Twenty-five thousand dollars for all economic loss submitted under a claim as a result of an incident of criminally injurious conduct ~~or act of international terrorism;~~
2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
3. For medical expenses:
 - i. For a victim, the maximum amount specified in subsections (D)(1) and (D)(2), or
 - ii. For a derivative victim, \$5,000 per derivative victim.
- ~~4.~~ 3. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a), ~~and (C)(2)(e)~~ (C)(2)(b), (C)(2)(c), (C)(2)(e), (C)(2)(f), and (C)(2)(g), are limited to an amount per calendar week equal to 40 hours at the current minimum wage and; ~~the maximum amount specified in subsections (D)(1) and (D)(2);~~
 - i. For a victim's work loss, the maximum amount specified in subsections (D)(1) and (D)(2), or
 - ii. For a derivative victim's work loss, \$5,000 per derivative victim;
 - b. ~~Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to an amount per calendar month equal to 40 hours at the current minimum wage and the maximum amount specified in~~

~~subsections (D)(1) and (D)(2);~~ Loss of support under subsection (C)(2)(c) may be awarded to the maximum allowed under subsections (D)(1) and (D)(2) in a lump sum or periodic payments;

~~c. Work loss expenses under subsection (C)(2)(e) are limited to an amount equal to 24 hours at the current minimum wage, and~~

~~d. Work loss expenses under subsection (C)(2)(f) are limited to an amount equal to 160 hours at the current minimum wage;~~

~~5. 4.~~ For mental health counseling and care expenses, \$5,000 per victim or derivative victim;

~~6. 5.~~ For funeral expenses, \$10,000;

~~7. 6.~~ For crime scene cleanup expenses, \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and

~~8. 7.~~ For transportation costs, ~~\$1,500~~ \$2,000 per victim or derivative victim paid as reimbursement of actual transportation expenses.

E. If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.

F. The Board shall deny or reduce a compensation award to a claimant if:

1. The victim or claimant has recouped or is eligible to recoup the economic loss from ~~a~~ an obtainable and accessible collateral source, including ~~except if the Board determines that use of a collateral source, excluding~~ benefits from a federal or federally financed program, ~~to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;~~

2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or

3. The Board determines that the ~~victim's physical injury, medical condition, mental distress, or death~~ incident of criminally injurious conduct that is the subject of the claim was due in substantial part to the victim's:

~~a. Negligence;~~

~~b. a.~~ Intentional unlawful conduct that was the proximate cause of the incident of criminally injurious conduct ~~or act of international terrorism,~~ or

~~c. b.~~ Conduct intended to provoke or aggravate that was the proximate cause of the incident of criminally injurious conduct ~~or act of international terrorism.~~

G. The Board shall deny or reduce a compensation award under subsection (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the ~~victim's physical injury, medical condition, mental distress, or death~~ incident of criminally injurious conduct that is the subject of the claim.

H. The Board shall not consider eligibility:

- a. Under (F)(3) for any behavior or action of a victim that is committed by the victim while under the duress or experience of threat, exploitation, coercion or any circumstance absent the victim's own willful desire to participate, or
- b. Under (F)(3)(a) for a victim that was a minor at the time of the criminally injurious conduct.

~~H.~~ I. The Board shall deny a compensation award to a claimant if:

1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial ~~health~~ medical, mental health, or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct ~~or act of international terrorism~~ or failed to appear as a witness for the prosecution;
 - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct ~~or act of international terrorism~~ escaped prosecution or the prosecution of the suspect was negatively affected; or
 - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct ~~or act of international terrorism~~, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; ~~or.~~
2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.

~~I.~~ J. If there are insufficient funds to make a compensation award, the Board may;

1. Deny the claim,
2. Make a partial award and reconsider the claim later during the fiscal year, or
3. Extend the claim into a subsequent fiscal year.

~~J.~~ K. The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.

~~K.~~ L. The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

~~L.~~ ~~The operational unit may close an inactive claim:~~

- ~~1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;~~
 - ~~2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case;~~
- ~~and~~

~~3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.~~

R10-4-109. Hearing; Request for Rehearing

- A. If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article.
- B. The Board shall provide a claimant with at least 10 business days' notice of a hearing or rehearing.
- C. The Board shall provide written notice of its decision to the claimant within 10 business days after a hearing or rehearing.
- D. The Board shall serve notice of a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- E. The ~~Board~~ operational unit may request a rehearing of a decision by the Board at any time and for any reason under this Article.
- F. A claimant who is aggrieved by a decision of the Board made at a hearing may request a rehearing of the decision within 30 days after the Board serves notice of the decision. A claimant shall request a rehearing in writing and specify the grounds for the request.
- G. A claimant may amend a request for a rehearing of a Board decision at any time before it is ruled on by the Board.
- H. The Board may require additional written explanation of an issue raised in a request for rehearing of a Board decision and may provide for oral argument.
- I. The Board shall grant a rehearing for any of the following reasons materially affecting a claimant's rights:
 - 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
 - 2. Misconduct of the Board, the operational unit, or staff of the operational unit;
 - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
 - 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
 - 5. The decision is not justified by the evidence or is contrary to law.
- K. When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.
- L. The Board may affirm or modify a decision on all or part of the issues for any of the reasons listed in subsection (I). An order modifying a decision shall specify with particularity the grounds for the order.

R10-4-110. State-level Claim Review

- A.** A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- B.** The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
 - 1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
 - 2. A representative of the Office of the Attorney General, and
 - 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- C.** The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 days after receiving the written request required under subsection (A).
- D.** A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E.** When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
 - 1. Considers only evidence previously presented to the Board, and
 - 2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F.** The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G.** A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
 - 1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
 - 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H.** The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 business days after the state-level claim review.

R10-4-111. Emergency Compensation Award

- A.** After receiving a claim submitted under R10-4-107, an operational unit may grant one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
 - 1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 - 2. Serious hardship will result to the person if an immediate compensation award is not made.

- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed ~~\$1,000.~~ :
1. For funeral expenses, \$5,000, or
 2. \$1,000 for all other compensation benefit expense categories.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Grant Eligibility Requirements
- R10-4-204. Services

R10-4-201. Definitions

In this Article:

1. “Commission” means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. “Crime” means conduct, completed or preparatory, committed in Arizona, that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. “Financial support from other sources” means that at least ~~one-fourth~~ one-fifth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. “Fund” means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. “Immediate family” means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. “In-kind contribution” means a non-cash ~~donation~~ source of program support to which a cash value can be given.

7. “Subrogation” means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
- ~~8. “Substantial financial support from other sources” means that at least half of the financial support to a victim assistance program is from sources, not including in-kind contributions, other than the Fund.~~
- ~~9.~~ 8. “Victim” means a natural person against whom a crime is perpetrated and the victim’s immediate family.

R10-4-202. Administration of the Fund

- A.** The Commission shall deposit in the Fund all funds received ~~under A.R.S. § 31-467.06(B) and 31-411(F) and any other funds received~~ for victim assistance under this Chapter.
- B.** The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution when possible and effective and efficient use of the funds.
- C.** At least six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is www.azcjc.gov.
- D.** To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E.** The Commission’s grant period coincides with the state’s fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

R10-4-203. Grant Eligibility Requirements

- ~~**A.** A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney’s office or law enforcement agency.~~
- B. A.** A public agency or private nonprofit organization ~~qualified under subsection (A)~~ may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a ~~program~~ project that:
 1. Provides services described in R10-4-204 ~~to~~ benefitting victims or addressing victimization;
 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the ~~program~~ project for victim assistance;

3. Uses volunteers effectively and efficiently to provide ~~victim~~ services;
4. Promotes coordinated public and private efforts to assist victims or address victimization within the community served;
5. ~~Assists a victim in seeking available victim compensation benefits~~ Increases awareness of, and facilitates access to, available victim compensation benefits; and
6. Complies with all applicable civil rights laws.

~~C. B.~~ To receive a grant from the Commission, a public agency or private nonprofit organization that operates a ~~program that has existed for at least three years~~ project shall demonstrate to the Commission that the ~~program~~ project:

1. Has ~~substantial financial support from a source other than the Fund~~ financial support from other sources; and
2. Has a history of providing effective services ~~to victims~~ in accordance with section (A). The Commission shall determine whether the ~~program's victim~~ project's services are effective based on:
 - a. ~~The length of time the program has provided victim services~~ Evidence-based outcomes demonstrating project services are benefitting victims or addressing victimization, and
 - b. Whether data indicate program results are achieved in a cost-effective manner.

~~D.~~ ~~To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for fewer than three years shall demonstrate to the Commission that the program:~~

- ~~1. Has financial support from a source other than the Fund; and~~
- ~~2. Is designed to meet a currently unmet need for a specific victim service.~~

~~E. C.~~ To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:

1. Submit to the Commission ~~quarterly~~ financial reports, on a form provided by the Commission, at a frequency established by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
2. ~~Submit an annual report~~ Report project activity to the Commission, on a form provided by the Commission, at a frequency established annually by the Commission. ~~and provide the following information:~~
 - ~~a. Number of victims served during the reporting period, by type of crime;~~
 - ~~b. Type of services provided;~~
 - ~~c. Number of times each service was provided;~~
 - ~~d. Ethnic background, age, and sex of each victim served;~~
 - ~~e. Type of assistance provided to victims in obtaining victim compensation;~~
 - ~~f. Number of times each type of assistance was provided; and~~
 - ~~g. A narrative assessment of the impact of Commission funds on the program.~~

R10-4-204. Services

- A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services or services addressing victimization:
1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. ~~Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;~~
 2. Emergency services ~~including such as~~:
 - a. Temporary shelter or relocation for a victim who cannot safely remain in current lodgings;
 - b. ~~Petty-cash~~ Emergency financial assistance for immediate needs related to transportation, food, shelter, and other necessities; and
 - c. Temporary repairs ~~such as to doors, locks, and windows damaged as a result of a crime to prevent the home or apartment from being re-burglarized immediately~~ further victimization;
 3. Support services, ~~including such as~~:
 - a. ~~Counseling~~ Assistance dealing with the effects of victimization;
 - b. Assistance dealing with other social services and criminal justice agencies;
 - c. Assistance in replacing, or obtaining the return of property kept as evidence;
 - d. Assistance in dealing with the victim's landlord or employer; and
 - e. Referral to other sources of assistance as needed;
 4. Court-related services, ~~including such as~~:
 - a. Direct services or ~~petty-cash~~ financial assistance that helps a victim participate in criminal justice proceedings, ~~including transportation to court, such as~~ child care, meals, and parking expenses; and
 - b. Advocate services ~~including such as~~ escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
 5. Notification services, ~~including notifying a victim:~~ such as those found in A.R.S Title 13, Chapter 40, Crime Victims' Rights.
 - a. ~~Of significant developments in the investigation or adjudication of the case;~~
 - b. ~~That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled;~~
and
 - e. ~~Of the final disposition of the case.~~
- B. A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to ~~provide~~:
1. ~~Training~~ Provide training for salaried or volunteer staff of ~~criminal justice, social services, mental health, or related agencies, agencies~~ who provide ~~direct services to~~ directly benefitting victims; and

2. ~~Printing and distributing brochures or similar announcements~~ Produce educational or outreach materials describing the direct services available, how to obtain program assistance, and volunteer opportunities; and
 3. Provide training or services focused on preventing initial victimization or further victimization connected to violent crime.
- C. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
1. ~~Crime Broad crime~~ Broad crime prevention efforts, other than those aimed at providing specific ~~emergency help after an individual is victimized~~ services addressing victimization;
 2. General public relations programs;
 3. Advocacy for a particular legislative or administrative reform;
 4. General criminal justice agency improvement; or
 5. A ~~program project~~ project in which victims are not the primary beneficiaries, or a project not directly addressing victimization;
 6. ~~Management training or training for persons who do not provide direct services to a victim; or~~
 7. ~~Victim Compensation provided under this Chapter.~~