

### **31-22-5. Claims; review; hearings and evidence.**

A. Where an application is made to the commission pursuant to the Crime Victims Reparation Act, the director of the commission shall determine if a claim for a reparation award is eligible for consideration pursuant to the provisions of the Crime Victims Reparation Act. All claims arising from the injury or death of a person as a direct result of a single crime shall be considered together by a single staff member. When the director determines that a claim for a reparation award is not eligible for consideration, the director shall notify the commission of his determination at the next regular meeting of the commission. If the commission concurs with the director's determination that a claim for a reparation award is not eligible for consideration, the claimant shall be notified that his claim was denied. When the director determines that a claim for a reparation award is eligible for consideration, the director shall order that the claim be processed and he shall assign the claim to a member of the commission staff.

B. The staff member to whom such claim is assigned shall examine the papers filed in support of the claim and shall cause an investigation to be conducted into the validity of the claim. The investigation may include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury or death upon which the claim is based and other benefits received or to be received.

C. The staff member to whom a claim is assigned may make his recommendation regarding the claim on the basis of the papers filed in support thereof and the report of the investigation of the claim. If the staff member is unable to make a recommendation upon the basis of the papers and report, he shall present the claim to the commission without a recommendation.

D. When the claim has been processed, the director shall assign the claim to a commission member.

E. After examining the papers filed in support of the claim and the report of investigation and after a hearing, if any, the commission member to whom the claim was assigned shall make a recommendation to the entire commission either granting an award or denying the claim.

F. A quorum of the commission shall act upon the recommendation of the commission member. A quorum of the commission, by majority vote, may affirm, increase, decrease or deny the award.

G. Upon a request from a victim or claimant, the commission shall grant the victim or claimant an informal appearance at a commission meeting. The purpose of the informal appearance shall be for the victim or claimant to present any evidence or information in support of his claim.

H. A formal hearing may be called for by a majority of the commission. The purpose of the hearing shall be for the commission to hear evidence to assist it in making a determination regarding a claim.

I. At the hearing, the claimant and the commission's legal advisor shall be entitled to appear and be heard, and any other person may appear and be heard who has satisfied the commission member that he has a substantial interest in the proceedings. In any case in which the claimant is a child or is mentally incompetent, the application may be made on behalf of such claimant by his parent, guardian, custodian or any other person authorized to administer his estate.

J. Where any person is entitled to appear and be heard, that person may appear in person or by his attorney. All hearings shall be open to the public unless in a particular case the member of the commission assigned to the claim determines that the hearing or a portion thereof shall be held in private, having regard to the fact that the offender has not been convicted or in the interest of the victim of an alleged sexual offense.

K. Every person appearing under the provisions of this section shall have the right to produce evidence and to cross-examine witnesses. The commission member may receive in evidence any statement, document, information or matter that may, in his opinion, contribute to the functions of the hearing under the Crime Victims Reparation Act, whether or not such statement, document, information or other matter would be admissible in a court of law.

**History:** Laws 1981, ch. 325, § 5; 1989, ch. 246, § 3; 1991, ch. 36, § 1; 1993, ch. 207, § 4.

### ANNOTATIONS

**The 1993 amendment**, effective June 18, 1993, in Subsection A, substituted the language beginning "determine if a claim" for "assign the claim to a member of the commission staff" at the end of the first sentence and added the last three sentences; in Subsection B, substituted "may" for "shall" before "include" in the second sentence; and in Subsection D, deleted "and a claim summary has been prepared" after "processed".

**The 1991 amendment**, effective July 1, 1991, in Subsection A, in the first sentence, substituted "director" for "chairman" and "to a member" for "to himself or to another member" and added "staff", in the second sentence, and, in Subsections B and C, substituted "staff member" for "commission member"; in the second sentence of Subsection C substituted "make a" for "decide his" and added the language beginning with "present the claim"; deleted former Subsections D to F pertaining to the appearance of a claimant at the hearings; added Subsection D; redesignated former Subsections G and H as Subsections E and F; and added Subsections G to K.

**The 1989 amendment**, effective June 16, 1989, in Subsection H substituted "A quorum of the commission" for "The entire commission" in the first sentence and "The commission" in the second sentence, and deleted the former third sentence which read: "No decision shall be valid unless a majority of the commission members are in agreement on the decision."