

Amendment to HB 705-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to the rights of victims of crime, increasing the cap on assistance for victims
4 of crime, and establishing a commission to study the needs of crime victims and
5 enforcement of statutes governing crime victims' rights.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8
9 1 New Paragraphs; Department of Justice; Office of Victim/Witness Assistance. Amend RSA 21-
10 M:8-b by inserting after paragraph VII the following new paragraphs:

11 VIII. The office of victim/witness assistance shall develop a crime victims' rights card that
12 describes in clear fashion a summary of the rights of crime victims under New Hampshire victims'
13 rights laws and other information helpful to victims of crime. The office shall oversee the printing
14 and the distribution of the card to first responders to provide to victims as soon as practicable.

15 IX. The office of victim/witness assistance shall develop and publish a set of professional
16 guidelines for victims' assistance providers in the state of New Hampshire.

17 2 Department of Justice; Claimant Eligibility and Compensation. Amend RSA 21-M:8-h, V to
18 read as follows:

19 V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical
20 expenses, funeral expenses, counseling expenses, rehabilitative expenses, expenses associated with
21 the victim's participation in post-conviction proceedings and victim-offender dialogue programs or
22 other restorative justice programs, and lost wages directly resulting from the crime. Claimants
23 eligible under subparagraph I(a)(4) may be reimbursed for the costs of removing the tattoo with an
24 identifying mark. No reimbursement shall be paid unless the claimant has incurred reimbursable
25 expenses of at least \$100. There shall be a [~~\$30,000~~] **\$40,000** maximum recovery per claimant per
26 incident. If expenses paid through the victims' assistance program fund are later covered by
27 insurance settlements, civil suit settlements, or restitution, or through any other source, the
28 claimant shall reimburse the fund for the amount of expenses recovered.

29 3 Department of Justice; Claimant Eligibility and Compensation. Amend RSA 21-M:8-h, VIII to
30 read as follows:

31 VIII. Any person who was a victim of a crime under investigation by the cold case homicide
32 unit as established in [~~New Hampshire Laws 2009, 269:1~~] **RSA 21-M:8-m** shall be eligible for
33 victim's compensation regardless of the date of the crime. [~~Compensation under this paragraph shall~~]

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~~be limited to counseling expenses and expenses associated with the victim's participation in pre- and post-conviction proceedings incurred after the effective date of this paragraph.]~~

4 New Paragraph; Department of Justice; Claimant Eligibility and Compensation. Amend RSA 21-M:8-h by inserting after paragraph XI the following new paragraph:

XII. Notwithstanding paragraph II, any person who was a child victim of physical or sexual abuse, or any person who was a child when a parent or sibling was a victim of homicide, shall be eligible for victims compensation regardless of the date of the crime. Compensation under this paragraph shall be limited to counseling expenses and expenses associated with the victim's participation in pre- and post-conviction proceedings incurred after the effective date of this paragraph.

5 Department of Justice; Rights of Crime Victims. Amend RSA 21-M:8-k to read as follows:
21-M:8-k Rights of Crime Victims.

I. As used in this section:

(a) "Victim" means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim, or the surviving partner in a civil union.

(b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony; ***a misdemeanor sexual offense; an offense listed in RSA 173-B:1, I; a violation of a protective order under RSA 458:16, III; or after arraignment, a violation of a protective order issued under RSA 173-B.***

II. To the extent that they can be reasonably guaranteed by the courts and by law enforcement and correctional authorities, and are not inconsistent with the constitutional or statutory rights of the accused, crime victims are entitled to the following rights:

(a) The right to be treated with fairness and respect for ~~their~~ ***the victim's safety***, dignity, and privacy throughout the criminal justice process.

(b) The right to be informed about the criminal justice process and how it progresses.

(c) The right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process, ***including the right to relocate for the victim's safety.***

(d) The right to ~~be notified of all court proceedings~~ ***reasonable and timely notice of all court proceedings, including post-conviction proceedings, and administrative proceedings including parole and probation.***

(e) The right ~~to attend trial and all other court proceedings the accused has the right to attend~~ ***on the same basis as the accused to attend trial and all other court proceedings, including post-conviction proceedings.***

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1 (f) The right to confer with the prosecution and to be consulted about the disposition of
2 the case, including plea bargaining.

3 (g) The right to have inconveniences associated with participation in the criminal justice
4 process minimized.

5 (h) The right to be notified if presence in court is not required.

6 (i) The right to be informed about available resources, financial assistance, and social
7 services.

8 (j) The right to ***full and timely*** restitution, as granted under RSA 651:62-67 or any
9 other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable
10 state law, for their losses.

11 (k) The right to be provided a secure, but not necessarily separate, waiting area during
12 court proceedings.

13 (l) The right to be advised of case progress and final disposition.

14 (m) The right of confidentiality of the victim's address, place of employment, and other
15 personal information.

16 (n) The right to the prompt return of property when no longer needed as evidence.

17 (o) The right to have input in the probation presentence report impact statement.

18 (p) The right to appear and ~~[make a written or oral victim impact statement at the~~
19 ~~sentencing of the defendant or, in the case of a plea bargain, prior to any plea bargain agreement.~~
20 ~~No victim shall be subject to questioning by counsel when giving an impact statement]~~ ***be heard at***
21 ***any disposition and any proceeding involving the release, plea, sentencing, or parole of the***
22 ***accused, including the right to be notified of, to attend, and to make a written or oral***
23 ***impact statement at the sentence review hearings and sentence reduction hearings. No***
24 ***victim shall be subject to questioning by counsel when being heard.***

25 (q) The right to be notified of an appeal, an explanation of the appeal process, the time,
26 place and result of the appeal, and the right to attend the appeal hearing.

27 (r) The right to be notified of, to attend, and to make a written or oral victim impact
28 statement at the sentence review hearings and sentence reduction hearings. No victim shall be
29 subject to questioning by counsel when giving an impact statement.

30 (s) The right to be notified of any change of status such as prison release, permanent
31 interstate transfer, or escape, and the date of the parole board hearing, when requested by the
32 victim ~~[through the victim advocate]~~.

33 (t) The right to address or submit a written statement for consideration by the parole
34 board on the defendant's release and to be notified of the decision of the board, when requested by
35 the victim ~~[through the victim advocate]~~.

36 (u) The right to all federal and state constitutional rights guaranteed to all victims of
37 crime on an equal basis, and notwithstanding the provisions of any laws on capital punishment, the

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1 right not to be discriminated against or have their rights as a victim denied, diminished, expanded,
2 or enhanced on the basis of the victim's support for, opposition to, or neutrality on the death penalty.

3 (v) The right to access to restorative justice programs, including victim-initiated victim-
4 offender dialogue programs offered through the department of corrections.

5 (w) The right to be informed of the filing of a petition for post-conviction DNA testing
6 under RSA 651-D.

7 ***(x) The right to have the prosecuting attorney notify the victim's employer, if***
8 ***requested by the victim, of the necessity of the victim's cooperation and testimony in a court***
9 ***proceeding that may necessitate the absence of the victim from work for good cause.***

10 II-a.(a) In any case where the victim informs the court that he or she requires assistance in
11 making an oral or written impact statement permitted under this section, the court shall allow the
12 victim to designate a representative to write or speak on the victim's behalf.

13 (b) The victim's impact statement shall not be limited to the injuries, harm, or damages
14 noted in the information or indictment, but may include all injuries, harm, and damages suffered as
15 a result of the commission or attempted commission of the crime whether or not the injuries, harm,
16 or damages were fully determined or discovered at the time the information or indictment was filed.

17 III. Nothing in this section shall be construed as creating a cause of action against the state,
18 a county or municipality, or any of their agencies, instrumentalities, or employees. Nothing in this
19 section shall be construed as creating any new cause of action or new remedy or right for a criminal
20 defendant.

21 ***IV. The attorney general shall annually provide copies of current crime victims***
22 ***statutes, if available as a single publication from a commercial publisher, without charge***
23 ***only upon request of the members of the house criminal justice and public safety committee***
24 ***and senate judiciary committee.***

25 6 Department of Justice; Restitution to the Victims' Assistance Fund. RSA 21-M:8-1 is repealed
26 and reenacted to read as follows:

27 21-M:8-1 Restitution to the Victims' Assistance Fund.

28 I. Notwithstanding RSA 651:63, a court may order restitution to the victims' assistance fund
29 as part of a sentence, to the extent that moneys were awarded to the victim of the crime from the
30 victims' assistance fund, if the court finds that:

31 (a) Restitution shall replenish the victims' assistance fund.

32 (b) The victims' assistance fund has not been reimbursed for the moneys expended from
33 another source.

34 II. If restitution to the fund is ordered, the amount of assistance provided by the fund shall
35 be established by copies of bills submitted to the victims' assistance commission reflecting the
36 amount paid from the fund and stating that the services for which payment was made were for
37 uninsured pecuniary losses.

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1 III.(a) The victim's residential address, telephone number, and other contact information,
2 and the victim's Social Security number shall be confidential and shall be redacted by the victims'
3 assistance commission from any document used to establish the amount paid from the fund for the
4 purpose of restitution.

5 (b) In cases involving stalking, sexual offenses, domestic violence, and homicide, in
6 addition to the information listed in subparagraph (a), the victim's employer's name, telephone
7 number, address, and other contact information; and the victim's medical or mental health provider's
8 name, telephone number, address, and other contact information shall be confidential and shall not
9 be disclosed for any purpose, absent a court order.

10 7 New Section; Department of Justice; Commission on the Needs of Victims of Crime and the
11 Enforcement of Crime Victims' Rights. Amend RSA 21-M by inserting after section 8-m the
12 following new section:

13 21-M:8-n Commission on the Needs of Victims of Crime and the Enforcement of Crime Victims'
14 Rights.

15 I. There is established a commission on the needs of crime victims and the enforcement of
16 crime victims rights. The members of the commission shall be as follows:

17 (a) Five members of the house of representatives, appointed by the speaker of the house
18 of representatives.

19 (b) Two member of the senate, appointed by the senate president.

20 (c) The attorney general, or designee.

21 (d) The chief justice of the superior court, or designee.

22 (e) The director of the department of justice, office of victim/witness assistance
23 established in RSA 21-M:8-b, or designee.

24 (f) A representative of the department of justice, victim assistance commission
25 established in RSA 21-M:8-g, appointed by the commission.

26 (g) The director of victims, services, department of corrections, appointed by the
27 commissioner of the department of corrections.

28 (h) The executive director of the New Hampshire Coalition Against Domestic and Sexual
29 Violence, or designee.

30 (i) The executive director of the American Civil Liberties Union of New Hampshire, or
31 designee.

32 (j) The dean of the university of New Hampshire school of law, or designee.

33 (k) The executive director of the New Hampshire Public Defender, or designee.

34 (l) One member from the Association of County Attorneys, appointed by that association.

35 (m) A system-based victims' advocate, appointed by the director of the office of
36 victim/witness assistance.

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1 (n) Three member of the public who are victims/survivors of crime, one appointed by the
2 governor, one appointed by the speaker of the house of representatives, one appointed by the senate
3 president.

4 II. The commission shall:

5 (a) Review the needs and services for victims of crime, and provide recommendations
6 concerning addressing needs and enhancing services for victims of crime.

7 (b) Review the existing mechanisms and resources for the enforcement of the rights of
8 victims of crimes and provide recommendations on enhancing enforcement of the rights of victims'
9 rights.

10 (c) Solicit testimony and input from the victims of crime and members of the general
11 public.

12 (d) Study other matters related to the needs of victims of crime as the commission may
13 determine.

14 III. Legislative members of the commission shall receive mileage at the legislative rate when
15 attending to the duties of the commission. The members of the commission shall elect a chairperson
16 from among the members. The first meeting of the commission shall be called by the first named
17 house member. The first meeting of the commission shall be held within 45 days of the effective date
18 of this section. Ten members of the commission shall constitute a quorum.

19 IV. The commission shall report its findings and any recommendations for proposed
20 legislation to the speaker of the house of representatives, the president of the senate, the house
21 clerk, the senate house clerk, the governor, and the state library on or before November 1, 2020.

22 8 Crime Victim Employment Leave Act; Right to Leave Work. Amend RSA 275:62, I to read as
23 follows:

24 I. ***Pursuant to the rights of crime victims under RSA 21-M:8-k, II(e)***, an employer shall
25 permit an employee who is a victim of a crime to leave work so that the employee may attend court
26 or other legal or investigative proceedings associated with the prosecution of the crime.

27 9 Unemployment Compensation; Disqualification for Benefits. Amend RSA 282-A:32, I(a)(3) to
28 read as follows:

29 (3) ***Pursuant to the rights of crime victims under RSA 21-M:8-k, II(c)***, the
30 individual reasonably believes that separation from employment is necessary to protect himself or
31 herself or any member of his or her immediate family from domestic abuse, as defined in RSA 173-
32 B:1. The existence of domestic abuse shall be verified by the department, through reasonable
33 documentation, and the department shall keep such information confidential;

34 10 Repeal. RSA 21-M:8-n, establishing a commission on the needs of crime victims and the
35 enforcement of crime victims rights, is repealed.

36 11 Effective Date.

37 I. Section 10 of this act shall take effect November 1, 2020.

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- 1 II. Sections 1-6 and 8-9 of this act shall take effect 60 days after its passage.
- 2 III. The remainder of this act shall take effect upon its passage.

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2019-2806h

AMENDED ANALYSIS

This bill increases the maximum recovery for crime victims from the victims' compensation fund; establishes confidentiality procedures for information used to support restitution to the victims' compensation fund; expands the offenses covered by the crime victims' bill of rights; expands the rights available to crime victims; requires the department of justice to develop a crime victims' rights card and establish professional guidelines for victims' assistance providers; and establishes a commission on the needs of crime victims and the enforcement of crime victims' rights.