

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 354

Introduced by McCollister, 20; Bolz, 29; Pansing Brooks, 28.

Read first time January 15, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to crime victims and witnesses; to amend
2 sections 81-1802, 81-1803, 81-1807, 81-1823, and 81-1848, Reissue
3 Revised Statutes of Nebraska; to add a member to the Crime Victim's
4 Reparations Committee; to eliminate obsolete provisions; to change
5 provisions relating to compensation from the Victim's Compensation
6 Fund; to change the rights of victims and witnesses of crimes as
7 prescribed; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1802, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1802 A Crime Victim's Reparations Committee is hereby created.
4 The committee shall consist of five members of the commission and three
5 ~~two~~ public members to be appointed by the Governor subject to approval by
6 the Legislature. One public member shall represent charitable
7 organizations, ~~and~~ one public member shall represent businesses, and one
8 public member shall represent crime victims who shall have training and
9 relevant work experience regarding crime victims. The members of the
10 committee shall select a chairperson who is a member of the commission.

11 Sec. 2. Section 81-1803, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-1803 Members of the committee shall serve for terms of four
14 years, ~~except that of the public members first appointed one shall be~~
15 ~~appointed for a term of two years and one for a term of four years.~~

16 Sec. 3. Section 81-1807, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 81-1807 Any person who may be eligible for compensation under the
19 Nebraska Crime Victim's Reparations Act may make application to the
20 committee on forms provided by the committee. The forms shall not be
21 required to be notarized. If the person entitled to make application is a
22 minor or mentally incompetent, the application may be made on his or her
23 behalf by his or her parent, guardian, or any other individual authorized
24 to administer his or her estate. Residents and nonresidents of Nebraska
25 who are victims of crimes committed in Nebraska shall be treated
26 similarly in determining compensation awards under the act. A resident of
27 Nebraska who is the victim of a crime committed in another state shall be
28 eligible for compensation if (1) the crime would be compensable had it
29 occurred in Nebraska and (2) the crime occurred in a state which does not
30 have a crime victim compensation program for which the person is
31 eligible.

1 Sec. 4. Section 81-1823, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1823 (1) Except as provided in section 81-1813, no compensation
4 shall be awarded under the Nebraska Crime Victim's Reparations Act from
5 the Victim's Compensation Fund in an amount in excess of twenty-five ~~ten~~
6 thousand dollars total for each applicant per incident as prescribed in
7 subsection (2) of this section unless expenses for job retraining or
8 similar employment-related rehabilitative services for the victim are
9 deemed necessary. In such case, amounts in excess of twenty-five ~~ten~~
10 thousand dollars shall be used only for such purposes. Each award shall
11 be paid in installments unless the hearing officer or committee decides
12 otherwise.

13 (2) Compensation awarded under this section shall not exceed ten
14 thousand dollars for funeral expenses, twenty thousand dollars for
15 medically related expenses, or five thousand dollars for other related
16 costs.

17 Sec. 5. Section 81-1848, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-1848 (1) Victims as defined in section 29-119 shall have the
20 following rights:

21 (a) To examine information which is a matter of public record and
22 collected by criminal justice agencies on individuals consisting of
23 identifiable descriptions and notations of issuance of arrest warrants,
24 arrests, detentions, indictments, charges by information, and other
25 formal criminal charges. Such information shall include any disposition
26 arising from such arrests, charges, sentencing, correctional supervision,
27 and release, but shall not include intelligence or investigative
28 information;

29 (b) To receive from the county attorney advance reasonable notice of
30 any scheduled court proceedings and notice of any changes in that
31 schedule;

1 (c) To be present throughout the entire trial of the defendant,
2 unless the victim is to be called as a witness or the court finds
3 sequestration of the victim necessary for a fair trial. If the victim is
4 to be called as a witness, the court may order the victim to be
5 sequestered;

6 (d) To be notified by the county attorney by any means reasonably
7 calculated to give prompt actual notice of the following:

8 (i) The crimes for which the defendant is charged, the defendant's
9 bond, and the time and place of any scheduled court proceedings;

10 (ii) The final disposition of the case;

11 (iii) The crimes for which the defendant was convicted;

12 (iv) The victim's right to make a written or oral impact statement
13 to be used in the probation officer's preparation of a presentence
14 investigation report concerning the defendant;

15 (v) The address and telephone number of the probation office which
16 is to prepare the presentence investigation report;

17 (vi) That a presentence investigation report and any statement by
18 the victim included in such report will be made available to the
19 defendant unless exempted from disclosure by order of the court; and

20 (vii) The victim's right to submit a written impact statement at the
21 sentencing proceeding or to read his or her impact statement submitted
22 pursuant to subdivision (1)(d)(iv) of this section at the sentencing
23 proceeding;

24 (e) To be notified by the county attorney by any means reasonably
25 calculated to give prompt actual notice of the time and place of any
26 subsequent judicial proceedings if the defendant was acquitted on grounds
27 of insanity;

28 (f) To be notified as provided in section 81-1850, to testify before
29 the Board of Parole or submit a written statement for consideration by
30 the board, and to be notified of the decision of and any action taken by
31 the board; and

1 (g) To submit a written statement for consideration at any
2 conditional release proceedings, Board of Parole proceedings, pardon
3 proceedings, or commutation proceedings. Conditional release proceeding
4 means a proceeding convened pursuant to a Department of Correctional
5 Services' decision to grant a furlough from incarceration for twenty-four
6 hours or longer or a release into community-based programs, including
7 educational release and work release.

8 (2) Victims and witnesses of crimes shall have the following rights:

9 (a) To be informed on all writs of subpoena or notices to appear
10 that they are entitled to apply for and may receive a witness fee;

11 (b) To be notified that a court proceeding to which they have been
12 subpoenaed will not go on as scheduled in order to save the person an
13 unnecessary trip to court;

14 (c) To receive protection from harm and threats of harm arising out
15 of their cooperation with law enforcement and prosecution efforts and to
16 be provided with information as to the level of protection available;

17 (d) To be informed of financial assistance and other social services
18 available as a result of being a witness or a victim of a crime,
19 including information on how to apply for the assistance and services;

20 (e) To be informed of the procedure to be followed in order to apply
21 for and receive any witness fee to which they are entitled;

22 (f) To be provided, whenever possible, a secure waiting area during
23 court proceedings that does not require them to be in close proximity to
24 defendants and families and friends of defendants;

25 (g) To have any stolen or other personal property expeditiously
26 returned by law enforcement agencies when no longer needed as evidence.
27 If feasible, all such property, except weapons, currency, contraband,
28 property subject to evidentiary analysis, and property the ownership of
29 which is disputed, shall be returned to the person within ten days after
30 being taken;

31 (h) To be provided with appropriate employer intercession services

1 to insure that employers of victims and witnesses will cooperate with the
2 criminal justice process in order to minimize an employee's loss of pay
3 and other benefits resulting from court appearances;

4 (i) To be entitled to a speedy disposition of the case in which they
5 are involved as a victim or witness in order to minimize the length of
6 time they must endure the stress of their responsibilities in connection
7 with the matter;

8 (j) To have any personal identifying information, other than the
9 victim's or witness's name, not be disclosed on any court documents,
10 including electronic court documents, that may be available to the
11 public;

12 (k j) To be informed by the county attorney of the final disposition
13 of a felony case in which they were involved and to be notified pursuant
14 to section 81-1850 whenever the defendant in such case is released from
15 custody; and

16 (l k) To have the family members of all homicide victims afforded
17 all of the rights under this subsection (2) of this section and services
18 analogous to those provided under section 81-1847.

19 Sec. 6. Original sections 81-1802, 81-1803, 81-1807, 81-1823, and
20 81-1848, Reissue Revised Statutes of Nebraska, are repealed.