

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 342

Senator Williams

A BILL

To amend sections 2743.51, 2743.59, 2743.60, and 1
2743.65 and to enact section 2743.602 of the 2
Revised Code to specify that any disqualifying 3
felony conviction, contributory misconduct, or 4
other offense in the Reparations Fund Law be 5
attributed only to the victim and to reduce the 6
look-back period for such conviction, 7
misconduct, or other offense from ten to three 8
years and the ongoing criminal conduct from five 9
years or less to three years or less. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2743.51, 2743.59, 2743.60, and 11
2743.65 be amended and section 2743.602 of the Revised Code be 12
enacted to read as follows: 13

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 14
the Revised Code: 15

(A) "Claimant" means both of the following categories of 16
persons: 17

(1) Any of the following persons who claim an award of 18
reparations under sections 2743.51 to 2743.72 of the Revised 19

Code:	20
(a) A victim who was one of the following at the time of the criminally injurious conduct:	21 22
(i) A resident of the United States;	23
(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.	24 25 26
(b) A dependent of a deceased victim who is described in division (A) (1) (a) of this section;	27 28
(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A) (1) (a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;	29 30 31 32 33 34 35
(d) A person who is authorized to act on behalf of any person who is described in division (A) (1) (a), (b), or (c) of this section;	36 37 38
(e) The estate of a deceased victim who is described in division (A) (1) (a) of this section.	39 40
(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	41 42 43
(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:	44 45 46 47

(i) Had a permanent place of employment in this state;	48
(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;	49 50 51 52
(iii) Was retired and receiving social security or any other retirement income;	53 54
(iv) Was sixty years of age or older;	55
(v) Was temporarily in another state for the purpose of receiving medical treatment;	56 57
(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;	58 59 60 61
(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;	62 63 64 65 66
(viii) Was a full-time student at an academic institution, college, or university located in another state;	67 68
(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.	69 70 71 72
(b) A dependent of a deceased victim who is described in division (A) (2) (a) of this section;	73 74

(c) A third person, other than a collateral source, who	75
legally assumes or voluntarily pays the obligations of a victim,	76
or of a dependent of a victim, who is described in division (A)	77
(2) (a) of this section, which obligations are incurred as a	78
result of the criminally injurious conduct that is the subject	79
of the claim and may include, but are not limited to, medical or	80
burial expenses;	81
(d) A person who is authorized to act on behalf of any	82
person who is described in division (A) (2) (a), (b), or (c) of	83
this section;	84
(e) The estate of a deceased victim who is described in	85
division (A) (2) (a) of this section.	86
(B) "Collateral source" means a source of benefits or	87
advantages for economic loss otherwise reparable that the victim	88
or claimant has received, or that is readily available to the	89
victim or claimant, from any of the following sources:	90
(1) The offender;	91
(2) The government of the United States or any of its	92
agencies, a state or any of its political subdivisions, or an	93
instrumentality of two or more states, unless the law providing	94
for the benefits or advantages makes them excess or secondary to	95
benefits under sections 2743.51 to 2743.72 of the Revised Code;	96
(3) Social security, medicare, and medicaid;	97
(4) State-required, temporary, nonoccupational disability	98
insurance;	99
(5) Workers' compensation;	100
(6) Wage continuation programs of any employer;	101

(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability;

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;

(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A) (1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;	131 132
(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;	133 134 135 136 137
(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;	138 139
(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code;	140 141 142 143
(e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of section 4549.02 or 4549.021 of the Revised Code.	144 145 146 147
(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:	148 149 150 151 152 153 154 155 156 157 158 159

(a) The person engaging in the conduct intended to cause personal injury or death;	160 161
(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;	162 163 164 165 166 167
(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;	168 169
(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code;	170 171 172 173 174 175
(e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to section 4549.02 or 4549.021 of the Revised Code.	176 177 178 179 180 181
(3) For the purposes of any person described in division (A) (1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.	182 183 184
(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.	185 186 187
(E) "Economic loss" means economic detriment consisting	188

only of allowable expense, work loss, funeral expense, 189
unemployment benefits loss, replacement services loss, cost of 190
crime scene cleanup, and cost of evidence replacement. If 191
criminally injurious conduct causes death, economic loss 192
includes a dependent's economic loss and a dependent's 193
replacement services loss. Noneconomic detriment is not economic 194
loss; however, economic loss may be caused by pain and suffering 195
or physical impairment. 196

(F) (1) "Allowable expense" means reasonable charges 197
incurred for reasonably needed products, services, and 198
accommodations, including those for medical care, 199
rehabilitation, rehabilitative occupational training, and other 200
remedial treatment and care and including replacement costs for 201
hearing aids; dentures, retainers, and other dental appliances; 202
canes, walkers, and other mobility tools; and eyeglasses and 203
other corrective lenses. It does not include that portion of a 204
charge for a room in a hospital, clinic, convalescent home, 205
nursing home, or any other institution engaged in providing 206
nursing care and related services in excess of a reasonable and 207
customary charge for semiprivate accommodations, unless 208
accommodations other than semiprivate accommodations are 209
medically required. 210

(2) An immediate family member of a victim of criminally 211
injurious conduct that consists of a homicide, a sexual assault, 212
domestic violence, or a severe and permanent incapacitating 213
injury resulting in paraplegia or a similar life-altering 214
condition, who requires psychiatric care or counseling as a 215
result of the criminally injurious conduct, may be reimbursed 216
for that care or counseling as an allowable expense through the 217
victim's application. The cumulative allowable expense for care 218
or counseling of that nature shall not exceed two thousand five 219

hundred dollars for each immediate family member of a victim of 220
that type and seven thousand five hundred dollars in the 221
aggregate for all immediate family members of a victim of that 222
type. 223

(3) A family member of a victim who died as a proximate 224
result of criminally injurious conduct may be reimbursed as an 225
allowable expense through the victim's application for wages 226
lost and travel expenses incurred in order to attend criminal 227
justice proceedings arising from the criminally injurious 228
conduct. The cumulative allowable expense for wages lost and 229
travel expenses incurred by a family member to attend criminal 230
justice proceedings shall not exceed five hundred dollars for 231
each family member of the victim and two thousand dollars in the 232
aggregate for all family members of the victim. 233

(4) (a) "Allowable expense" includes reasonable expenses 234
and fees necessary to obtain a guardian's bond pursuant to 235
section 2109.04 of the Revised Code when the bond is required to 236
pay an award to a fiduciary on behalf of a minor or other 237
incompetent. 238

(b) "Allowable expense" includes attorney's fees not 239
exceeding one thousand dollars, at a rate not exceeding one 240
hundred dollars per hour, incurred to successfully obtain a 241
restraining order, custody order, or other order to physically 242
separate a victim from an offender. Attorney's fees for the 243
services described in this division may include an amount for 244
reasonable travel time incurred to attend court hearings, not 245
exceeding three hours' round-trip for each court hearing, 246
assessed at a rate not exceeding thirty dollars per hour. 247

(G) "Work loss" means loss of income from work that the 248
injured person would have performed if the person had not been 249

injured and expenses reasonably incurred by the person to obtain 250
services in lieu of those the person would have performed for 251
income, reduced by any income from substitute work actually 252
performed by the person, or by income the person would have 253
earned in available appropriate substitute work that the person 254
was capable of performing but unreasonably failed to undertake. 255

(H) "Replacement services loss" means expenses reasonably 256
incurred in obtaining ordinary and necessary services in lieu of 257
those the injured person would have performed, not for income, 258
but for the benefit of the person's self or family, if the 259
person had not been injured. 260

(I) "Dependent's economic loss" means loss after a 261
victim's death of contributions of things of economic value to 262
the victim's dependents, not including services they would have 263
received from the victim if the victim had not suffered the 264
fatal injury, less expenses of the dependents avoided by reason 265
of the victim's death. If a minor child of a victim is adopted 266
after the victim's death, the minor child continues after the 267
adoption to incur a dependent's economic loss as a result of the 268
victim's death. If the surviving spouse of a victim remarries, 269
the surviving spouse continues after the remarriage to incur a 270
dependent's economic loss as a result of the victim's death. 271

(J) "Dependent's replacement services loss" means loss 272
reasonably incurred by dependents after a victim's death in 273
obtaining ordinary and necessary services in lieu of those the 274
victim would have performed for their benefit if the victim had 275
not suffered the fatal injury, less expenses of the dependents 276
avoided by reason of the victim's death and not subtracted in 277
calculating the dependent's economic loss. If a minor child of a 278
victim is adopted after the victim's death, the minor child 279

continues after the adoption to incur a dependent's replacement 280
services loss as a result of the victim's death. If the 281
surviving spouse of a victim remarries, the surviving spouse 282
continues after the remarriage to incur a dependent's 283
replacement services loss as a result of the victim's death. 284

(K) "Noneconomic detriment" means pain, suffering, 285
inconvenience, physical impairment, or other nonpecuniary 286
damage. 287

(L) "Victim" means a person who suffers personal injury or 288
death as a result of any of the following: 289

(1) Criminally injurious conduct; 290

(2) The good faith effort of any person to prevent 291
criminally injurious conduct; 292

(3) The good faith effort of any person to apprehend a 293
person suspected of engaging in criminally injurious conduct. 294

(M) "Contributory misconduct" means any conduct of ~~the~~ 295
~~claimant or of the~~ victim through whom the claimant claims an 296
award of reparations that is unlawful or intentionally tortious 297
and that, without regard to the conduct's proximity in time or 298
space to the criminally injurious conduct, has a causal 299
relationship to the criminally injurious conduct that is the 300
basis of the claim. 301

(N) (1) "Funeral expense" means any reasonable charges that 302
are not in excess of seven thousand five hundred dollars per 303
funeral and that are incurred for expenses directly related to a 304
victim's funeral, cremation, or burial and any wages lost or 305
travel expenses incurred by a family member of a victim in order 306
to attend the victim's funeral, cremation, or burial. 307

(2) An award for funeral expenses shall be applied first 308
to expenses directly related to the victim's funeral, cremation, 309
or burial. An award for wages lost or travel expenses incurred 310
by a family member of the victim shall not exceed five hundred 311
dollars for each family member and shall not exceed in the 312
aggregate the difference between seven thousand five hundred 313
dollars and expenses that are reimbursed by the program and that 314
are directly related to the victim's funeral, cremation, or 315
burial. 316

(O) "Unemployment benefits loss" means a loss of 317
unemployment benefits pursuant to Chapter 4141. of the Revised 318
Code when the loss arises solely from the inability of a victim 319
to meet the able to work, available for suitable work, or the 320
actively seeking suitable work requirements of division (A) (4) 321
(a) of section 4141.29 of the Revised Code. 322

(P) "OVI violation" means any of the following: 323

(1) A violation of section 4511.19 of the Revised Code, of 324
any municipal ordinance prohibiting the operation of a vehicle 325
while under the influence of alcohol, a drug of abuse, or a 326
combination of them, or of any municipal ordinance prohibiting 327
the operation of a vehicle with a prohibited concentration of 328
alcohol, a controlled substance, or a metabolite of a controlled 329
substance in the whole blood, blood serum or plasma, breath, or 330
urine; 331

(2) A violation of division (A) (1) of section 2903.06 of 332
the Revised Code; 333

(3) A violation of division (A) (2), (3), or (4) of section 334
2903.06 of the Revised Code or of a municipal ordinance 335
substantially similar to any of those divisions, if the offender 336

was under the influence of alcohol, a drug of abuse, or a 337
combination of them, at the time of the commission of the 338
offense; 339

(4) For purposes of any person described in division (A) 340
(2) of this section, a violation of any law of the state, 341
district, territory, or foreign country in which the criminally 342
injurious conduct occurred, if that law is substantially similar 343
to a violation described in division (P) (1) or (2) of this 344
section or if that law is substantially similar to a violation 345
described in division (P) (3) of this section and the offender 346
was under the influence of alcohol, a drug of abuse, or a 347
combination of them, at the time of the commission of the 348
offense. 349

(Q) "Pendency of the claim" for an original reparations 350
application or supplemental reparations application means the 351
period of time from the date the criminally injurious conduct 352
upon which the application is based occurred until the date a 353
final decision, order, or judgment concerning that original 354
reparations application or supplemental reparations application 355
is issued. 356

(R) "Terrorism" means any activity to which all of the 357
following apply: 358

(1) The activity involves a violent act or an act that is 359
dangerous to human life. 360

(2) The act described in division (R) (1) of this section 361
is committed within the territorial jurisdiction of the United 362
States and is a violation of the criminal laws of the United 363
States, this state, or any other state or the act described in 364
division (R) (1) of this section is committed outside the 365

territorial jurisdiction of the United States and would be a 366
violation of the criminal laws of the United States, this state, 367
or any other state if committed within the territorial 368
jurisdiction of the United States. 369

(3) The activity appears to be intended to do any of the 370
following: 371

(a) Intimidate or coerce a civilian population; 372

(b) Influence the policy of any government by intimidation 373
or coercion; 374

(c) Affect the conduct of any government by assassination 375
or kidnapping. 376

(4) The activity occurs primarily outside the territorial 377
jurisdiction of the United States or transcends the national 378
boundaries of the United States in terms of the means by which 379
the activity is accomplished, the person or persons that the 380
activity appears intended to intimidate or coerce, or the area 381
or locale in which the perpetrator or perpetrators of the 382
activity operate or seek asylum. 383

(S) "Transcends the national boundaries of the United 384
States" means occurring outside the territorial jurisdiction of 385
the United States in addition to occurring within the 386
territorial jurisdiction of the United States. 387

(T) "Cost of crime scene cleanup" means any of the 388
following: 389

(1) The replacement cost for items of clothing removed 390
from a victim in order to make an assessment of possible 391
physical harm or to treat physical harm; 392

(2) Reasonable and necessary costs of cleaning the scene 393

and repairing, for the purpose of personal security, property 394
damaged at the scene where the criminally injurious conduct 395
occurred, not to exceed seven hundred fifty dollars in the 396
aggregate per claim. 397

(U) "Cost of evidence replacement" means costs for 398
replacement of property confiscated for evidentiary purposes 399
related to the criminally injurious conduct, not to exceed seven 400
hundred fifty dollars in the aggregate per claim. 401

(V) "Provider" means any person who provides a victim or 402
claimant with a product, service, or accommodations that are an 403
allowable expense or a funeral expense. 404

(W) "Immediate family member" means an individual who 405
resided in the same permanent household as a victim at the time 406
of the criminally injurious conduct and who is related to the 407
victim by affinity or consanguinity. 408

(X) "Family member" means an individual who is related to 409
a victim by affinity or consanguinity. 410

Sec. 2743.59. (A) The attorney general shall fully 411
investigate a claim for an award of reparations, regardless of 412
whether any person is prosecuted for or convicted of committing 413
the criminally injurious conduct alleged in the application. 414
After completing the investigation, the attorney general shall 415
make a written finding of fact and decision concerning an award 416
of reparations. 417

(B) (1) The attorney general may require the claimant to 418
supplement the application for an award of reparations with any 419
further information or documentary materials, including any 420
medical report readily available, that may lead to any relevant 421
facts in the determination of whether, and the extent to which, 422

a claimant qualifies for an award of reparations. The attorney 423
general may depose any witness, including the claimant, pursuant 424
to Civil Rules 28, 30, and 45. 425

(2) (a) For the purpose of determining whether, and the 426
extent to which, a claimant qualifies for an award of 427
reparations, the attorney general may issue subpoenas and 428
subpoenas duces tecum to compel any person or entity, including 429
any collateral source, that provided, will provide, or would 430
have provided to the victim any income, benefit, advantage, 431
product, service, or accommodation, including any medical care 432
or other income, benefit, advantage, product, service, or 433
accommodation that might qualify as an allowable expense or a 434
funeral expense, to produce materials to the attorney general 435
that are relevant to the income, benefit, advantage, product, 436
service, or accommodation that was, will be, or would have been 437
so provided and to the attorney general's determination. 438

(b) If the attorney general issues a subpoena or subpoena 439
duces tecum under division (B) (2) (a) of this section and if the 440
materials that the attorney general requires to be produced are 441
located outside this state, the attorney general may designate 442
one or more representatives, including officials of the state in 443
which the materials are located, to inspect the materials on the 444
attorney general's behalf, and the attorney general may respond 445
to similar requests from officials of other states. The person 446
or entity subpoenaed may make the materials available to the 447
attorney general at a convenient location within the state. 448

(c) At any time before the return day specified in the 449
subpoena or subpoena duces tecum issued under division (B) (2) (a) 450
of this section or within twenty days after the subpoena or 451
subpoena duces tecum has been served, whichever period is 452

shorter, the person or entity subpoenaed may file with a judge 453
of the court of claims a petition to extend the return day or to 454
modify or quash the subpoena or subpoena duces tecum. The 455
petition shall state good cause. 456

(d) A person or entity who is subpoenaed under division 457
(B) (2) (a) of this section shall comply with the terms of the 458
subpoena or subpoena duces tecum unless otherwise provided by an 459
order of a judge of the court of claims entered prior to the day 460
for return contained in the subpoena or as extended by the 461
court. If a person or entity fails without lawful excuse to obey 462
a subpoena or subpoena duces tecum issued under division (B) (2) 463
(a) of this section or to produce relevant materials, the 464
attorney general may apply to a judge of the court of claims for 465
and obtain an order adjudging the person or entity in contempt 466
of court. 467

(C) The finding of fact and decision that is issued by the 468
attorney general pursuant to division (A) of this section shall 469
contain all of the following: 470

(1) Whether the criminally injurious conduct that is the 471
basis for the application did occur, the date on which the 472
conduct occurred, and the exact nature of the conduct; 473

(2) Whether the criminally injurious conduct was reported 474
to a law enforcement officer or agency, the date on which the 475
conduct was reported, the name of the person who reported the 476
conduct, and the reasons why the conduct was not reported to a 477
law enforcement officer or agency; 478

(3) The exact nature of the injuries that the victim 479
sustained as a result of the criminally injurious conduct; 480

(4) A specific list of the economic loss that was 481

sustained as a result of the criminally injurious conduct by the 482
victim, the claimant, or a dependent; 483

(5) A specific list of any benefits or advantages that the 484
victim, the claimant, or a dependent has received or is entitled 485
to receive from any collateral source for economic loss that 486
resulted from the conduct and whether a collateral source would 487
have reimbursed the claimant for a particular expense if a 488
timely claim had been made, and the extent to which the expenses 489
likely would have been reimbursed by the collateral source; 490

(6) A description of any evidence in support of 491
contributory misconduct ~~by the claimant or~~ by the victim through 492
whom the claimant claims an award of reparations, whether the 493
victim has been convicted of a felony or has a record of felony 494
arrests under the laws of this state, another state, or the 495
United States, whether disqualifying conditions exist under 496
division (E) of section 2743.60 of the Revised Code, and whether 497
there is evidence that the victim engaged in an ongoing course 498
of criminal conduct within ~~five~~three years or less of the 499
criminally injurious conduct that is the subject of the claim; 500

(7) Whether the victim of the criminally injurious conduct 501
was a minor; 502

(8) If the victim of the criminally injurious conduct was 503
a minor, whether a complaint, indictment, or information was 504
filed against the alleged offender and, if such a filing 505
occurred, its date; 506

(9) Any information that is relevant to the claim for an 507
award of reparations. 508

(D) The decision that is issued by the attorney general 509
pursuant to division (A) of this section shall contain all of 510

the following: 511

(1) A statement as to whether a claimant is eligible for 512
an award of reparations, whether payments made pursuant to the 513
award are to be made to the claimant, to a provider, or jointly 514
to the claimant and a provider, and the amount of the payments 515
to the claimant or provider; 516

(2) A statement as to whether any of the payments made 517
pursuant to the award should be paid in a lump sum or in 518
installments; 519

(3) If the attorney general decides that an award not be 520
made to the claimant, the reasons for that decision. 521

(E) The attorney general shall make a written finding of 522
fact and decision in accordance with sections 2743.51 to 2743.72 523
of the Revised Code within one hundred twenty days after 524
receiving the claim application. The attorney general may extend 525
the one-hundred-twenty-day time limit and shall record in 526
writing specific reasons to justify the extension. The attorney 527
general shall notify the claimant of the extension and of the 528
reasons for the extension. The attorney general shall serve a 529
copy of its written finding of fact and decision upon the 530
claimant. 531

Sec. 2743.60. (A) The attorney general or the court of 532
claims shall not make or order an award of reparations to a 533
claimant if the criminally injurious conduct upon which the 534
claimant bases a claim never was reported to a law enforcement 535
officer or agency. 536

(B) (1) The attorney general or the court of claims shall 537
not make or order an award of reparations to a claimant if any 538
of the following apply: 539

(a) The claimant is the offender or an accomplice of the offender who committed the criminally injurious conduct, or the award would unjustly benefit the offender or accomplice.

(b) Except as provided in division (B)(2) of this section, both of the following apply:

(i) The victim was a passenger in a motor vehicle and knew or reasonably should have known that the driver was under the influence of alcohol, a drug of abuse, or both.

(ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.

(c) Both of the following apply:

(i) The victim was under the influence of alcohol, a drug of abuse, or both and was a passenger in a motor vehicle and, if sober, should have reasonably known that the driver was under the influence of alcohol, a drug of abuse, or both.

(ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.

(2) Division (B)(1)(b) of this section does not apply if on the date of the occurrence of the criminally injurious conduct, the victim was under sixteen years of age or was at least sixteen years of age but less than eighteen years of age and was riding with a parent, guardian, or care-provider.

(C) The attorney general or the court of claims, upon a finding that the claimant or victim has not fully cooperated

with appropriate law enforcement agencies, may deny a claim or 568
reconsider and reduce an award of reparations. 569

(D) The attorney general or the court of claims shall 570
reduce an award of reparations or deny a claim for an award of 571
reparations that is otherwise payable to a claimant to the 572
extent that the economic loss upon which the claim is based is 573
recouped from other persons, including collateral sources. If an 574
award is reduced or a claim is denied because of the expected 575
recoupment of all or part of the economic loss of the claimant 576
from a collateral source, the amount of the award or the denial 577
of the claim shall be conditioned upon the claimant's economic 578
loss being recouped by the collateral source. If the award or 579
denial is conditioned upon the recoupment of the claimant's 580
economic loss from a collateral source and it is determined that 581
the claimant did not unreasonably fail to present a timely claim 582
to the collateral source and will not receive all or part of the 583
expected recoupment, the claim may be reopened and an award may 584
be made in an amount equal to the amount of expected recoupment 585
that it is determined the claimant will not receive from the 586
collateral source. 587

If the claimant recoups all or part of the economic loss 588
upon which the claim is based from any other person or entity, 589
including a collateral source, the attorney general may recover 590
pursuant to section 2743.72 of the Revised Code the part of the 591
award that represents the economic loss for which the claimant 592
received the recoupment from the other person or entity. 593

(E) (1) Except as otherwise provided in division (E) (2) of 594
this section, the attorney general or the court of claims shall 595
not make an award to a claimant if any of the following applies: 596

(a) The victim was convicted of a felony within ~~ten~~three 597

years prior to the criminally injurious conduct that gave rise 598
to the claim or is convicted of a felony during the pendency of 599
the claim. 600

~~(b) The claimant was convicted of a felony within ten- 601
years prior to the criminally injurious conduct that gave rise- 602
to the claim or is convicted of a felony during the pendency of- 603
the claim. 604~~

~~(c) It is proved by a preponderance of the evidence that 605
the victim or the claimant engaged, within ~~ten~~ three years prior 606
to the criminally injurious conduct that gave rise to the claim 607
or during the pendency of the claim, in an offense of violence, 608
a violation of section 2925.03 of the Revised Code, or any 609
substantially similar offense that also would constitute a 610
felony under the laws of this state, another state, or the 611
United States. 612~~

~~(d) (c) The claimant-victim was convicted of a violation 613
of section 2919.22 or 2919.25 of the Revised Code, or of any 614
state law or municipal ordinance substantially similar to either 615
section, within ~~ten~~ three years prior to the criminally 616
injurious conduct that gave rise to the claim or during the 617
pendency of the claim. 618~~

~~(e) (d) It is proved by a preponderance of the evidence 619
that the victim at the time of the criminally injurious conduct 620
that gave rise to the claim engaged in conduct that was a felony 621
violation of section 2925.11 of the Revised Code or engaged in 622
any substantially similar conduct that would constitute a felony 623
under the laws of this state, another state, or the United 624
States. 625~~

(2) The attorney general or the court of claims may make 626

an award to a minor dependent of a deceased victim for the 627
dependent's economic loss or for counseling pursuant to division 628
(F) (2) of section 2743.51 of the Revised Code ~~if the minor~~ 629
~~dependent is not ineligible under division (E) (1) of this~~ 630
~~section due to the minor dependent's criminal history and if the~~ 631
victim was not killed while engaging in illegal conduct that 632
contributed to the criminally injurious conduct that gave rise 633
to the claim. For purposes of this section, the use of illegal 634
drugs by the deceased victim shall not be deemed to have 635
contributed to the criminally injurious conduct that gave rise 636
to the claim. 637

(F) In determining whether to make an award of reparations 638
pursuant to this section, the attorney general or the court of 639
claims shall consider whether there was contributory misconduct 640
by the victim ~~or the claimant~~. The attorney general or the court 641
of claims shall reduce an award of reparations or deny a claim 642
for an award of reparations to the extent it is determined to be 643
reasonable because of the contributory misconduct of ~~the~~ 644
~~claimant or the victim~~. 645

When the attorney general decides whether a claim should 646
be denied because of an allegation of contributory misconduct, 647
the burden of proof on the issue of that alleged contributory 648
misconduct shall be upon the claimant, if either of the 649
following apply: 650

(1) The victim was convicted of a felony more than ~~ten~~ 651
three years prior to the criminally injurious conduct that is 652
the subject of the claim or has a record of felony arrests under 653
the laws of this state, another state, or the United States. 654

(2) There is good cause to believe that the victim engaged 655
in an ongoing course of criminal conduct within ~~five~~ three years 656

or less of the criminally injurious conduct that is the subject 657
of the claim. 658

(G) The attorney general or the court of claims shall not 659
make an award of reparations to a claimant if the criminally 660
injurious conduct that caused the injury or death that is the 661
subject of the claim occurred to a victim who was an adult and 662
while the victim, after being convicted of or pleading guilty to 663
an offense, was serving a sentence of imprisonment in any 664
detention facility, as defined in section 2921.01 of the Revised 665
Code. 666

(H) If a claimant unreasonably fails to present a claim 667
timely to a source of benefits or advantages that would have 668
been a collateral source and that would have reimbursed the 669
claimant for all or a portion of a particular expense, the 670
attorney general or the court of claims may reduce an award of 671
reparations or deny a claim for an award of reparations to the 672
extent that it is reasonable to do so. 673

(I) Reparations payable to a victim and to all other 674
claimants sustaining economic loss because of injury to or the 675
death of that victim shall not exceed fifty thousand dollars in 676
the aggregate. If the attorney general or the court of claims 677
reduces an award under division (F) of this section, the maximum 678
aggregate amount of reparations payable under this division 679
shall be reduced proportionately to the reduction under division 680
(F) of this section. 681

(J) Nothing in this section shall be construed to prohibit 682
an award to a claimant whose claim is based on the claimant's 683
being a victim of a violation of section 2905.32 of the Revised 684
Code if the claimant was less than eighteen years of age when 685
the criminally injurious conduct occurred. 686

Sec. 2743.602. The amendments to sections 2743.51, 2743.59, 2743.60, and 2743.65 of the Revised Code made by the act in which this section was enacted apply to all applications for an award of reparations filed on or after the effective date of this section, and to all applications for an award of reparations filed before the effective date of this section, for which an award or denial of the claim by the attorney general or the court of claims has not yet become final.

Sec. 2743.65. (A) The attorney general shall determine, and the state shall pay, in accordance with this section attorney's fees, commensurate with services rendered, to the attorney representing a claimant under sections 2743.51 to 2743.72 of the Revised Code. The attorney shall submit on an application form an itemized fee bill at the rate of sixty dollars per hour upon receipt of the final decision on the claim. Attorney's fees paid pursuant to this section are subject to the following maximum amounts:

(1) A maximum of seven hundred twenty dollars for claims resolved without the filing of an appeal to the court of claims;

(2) A maximum of one thousand twenty dollars for claims in which an appeal to the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the court of claims at the rate of thirty dollars per hour;

(3) A maximum of one thousand three hundred twenty dollars for claims in which an appeal to the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield

county, Pickaway county, Madison county, or Union county, an 717
amount for the attorney's travel time to attend the oral hearing 718
before the court at the rate of thirty dollars per hour; 719

(4) A maximum of seven hundred twenty dollars for a 720
supplemental reparations application; 721

(5) A maximum of two hundred dollars if the claim is 722
denied on the basis of a ~~claimant's or victim's~~ conviction of a 723
felony offense prior to the filing of the claim. If the ~~claimant-~~ 724
~~or victim~~ is convicted of a felony offense during the pendency 725
of the claim, the two hundred dollars maximum does not apply. If 726
the attorney had knowledge of the ~~claimant's or victim's~~ felony 727
conviction prior to the filing of the application for the claim, 728
the attorney general may determine that the filing of the claim 729
was frivolous and may deny attorney's fees. 730

(B) The attorney general may determine that an attorney be 731
reimbursed for fees incurred in the creation of a guardianship 732
if the guardianship is required in order for an individual to 733
receive an award of reparations, and those fees shall be 734
reimbursed at a rate of sixty dollars per hour. 735

(C) (1) The attorney general shall forward an application 736
form for attorney's fees to a claimant's attorney before or when 737
the final decision on a claim is rendered. The application form 738
for attorney's fees shall do all of the following: 739

(a) Inform the attorney of the requirements of this 740
section; 741

(b) Require a verification statement comporting with the 742
law prohibiting falsification; 743

(c) Require an itemized fee statement; 744

(d) Require a verification statement that the claimant was served a copy of the completed application form;

(e) Include notice that the claimant may oppose the application by notifying the attorney general in writing within ten days.

(2) The attorney general shall forward a copy of this section to the attorney with the application form for attorney's fees. The attorney shall file the application form with the attorney general. The attorney general's decision with respect to an award of attorney's fees is final ten days after the attorney general renders the decision and mails a copy of the decision to the attorney at the address provided by the attorney. The attorney may request reconsideration of the decision on grounds that it is insufficient or calculated incorrectly. The attorney general's decision on the request for reconsideration is final.

(D) The attorney general shall review all application forms for attorney's fees that are submitted by a claimant's attorney and shall issue an order approving the amount of fees to be paid to the attorney within sixty days after receipt of the application form.

(E) No attorney's fees shall be paid for the following:

(1) Estate work or representation of a claimant against a collateral source;

(2) Duplication of investigative work required to be performed by the attorney general;

(3) Performance of unnecessary criminal investigation of the offense;

(4) Presenting or appealing an issue that has been 773
repeatedly ruled upon by the highest appellate authority, unless 774
a unique set of facts or unique issue of law exists that 775
distinguishes it; 776

(5) A fee request that is unreasonable, is not 777
commensurate with services rendered, violates the Ohio code of 778
professional responsibility, or is based upon services that are 779
determined to be frivolous. 780

(F) (1) The attorney general may reduce or deny the payment 781
of attorney's fees to an attorney who has filed a frivolous 782
claim. Subject to division (A) (5) of this section, the denial of 783
a claim on the basis of a felony conviction, felony conduct, or 784
contributory misconduct does not constitute a frivolous claim. 785

(2) As used in this section, "frivolous claim" means a 786
claim in which there is clearly no legal grounds under the 787
existing laws of this state to support the filing of a claim on 788
behalf of the claimant or victim. 789

(G) The attorney general may determine that a lesser 790
number of hours should have been required in a given case. 791
Additional reimbursement may be made where the attorney 792
demonstrates to the attorney general that the nature of the 793
particular claim required the expenditure of an amount in excess 794
of that allowed. 795

(H) No attorney shall receive payment under this section 796
for assisting a claimant with an application for an award of 797
reparations under sections 2743.51 to 2743.72 of the Revised 798
Code if that attorney's fees have been allowed as an expense in 799
accordance with division (F) (4) of section 2743.51 of the 800
Revised Code. 801

(I) A contract or other agreement between an attorney and 802
any person that provides for the payment of attorney's fees or 803
other payments in excess of the attorney's fees allowed under 804
this section for representing a claimant under sections 2743.51 805
to 2743.72 of the Revised Code shall be void and unenforceable. 806

(J) Each witness who appears in a hearing on a claim for 807
an award of reparations shall receive compensation in an amount 808
equal to that received by witnesses under section 119.094 of the 809
Revised Code. 810

Section 2. That existing sections 2743.51, 2743.59, 811
2743.60, and 2743.65 of the Revised Code are hereby repealed. 812