

As Reported by the House Criminal Justice Committee

133rd General Assembly

Regular Session

2019-2020

S. B. No. 369

Senators Lehner, Manning

Cosponsors: Senators Kunze, Eklund, Antonio, Blessing, Brenner, Craig, Fedor, Gavarone, Huffman, M., Huffman, S., Johnson, McColley, Obhof, Sykes, Thomas, Williams, Yuko Representative Lang

A BILL

To amend sections 2743.51, 2743.59, 2743.60, 1
2743.65, 2743.66, and 2743.71 of the Revised 2
Code to revise the eligibility standards and 3
procedure for awarding reparations to crime 4
victims. 5

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

Section 1. That sections 2743.51, 2743.59, 2743.60, 6
2743.65, 2743.66, and 2743.71 of the Revised Code be amended to 7
read as follows: 8

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 9
the Revised Code: 10

(A) "Claimant" means both of the following categories of 11
persons: 12

(1) Any of the following persons who claim an award of 13
reparations under sections 2743.51 to 2743.72 of the Revised 14
Code: 15

(a) A victim who was one of the following at the time of 16

the criminally injurious conduct:	17
(i) A resident of the United States;	18
(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.	19 20 21
(b) A dependent of a deceased victim who is described in division (A) (1) (a) of this section;	22 23
(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;	24 25 26 27 28 29 30
(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;	31 32 33
(e) The estate of a deceased victim who is described in division (A) (1) (a) of this section.	34 35
(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	36 37 38
(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:	39 40 41 42
(i) Had a permanent place of employment in this state;	43

(ii) Was a member of the regular armed forces of the 44
United States or of the United States coast guard or was a full- 45
time member of the Ohio organized militia or of the United 46
States army reserve, naval reserve, or air force reserve; 47

(iii) Was retired and receiving social security or any 48
other retirement income; 49

(iv) Was sixty years of age or older; 50

(v) Was temporarily in another state for the purpose of 51
receiving medical treatment; 52

(vi) Was temporarily in another state for the purpose of 53
performing employment-related duties required by an employer 54
located within this state as an express condition of employment 55
or employee benefits; 56

(vii) Was temporarily in another state for the purpose of 57
receiving occupational, vocational, or other job-related 58
training or instruction required by an employer located within 59
this state as an express condition of employment or employee 60
benefits; 61

(viii) Was a full-time student at an academic institution, 62
college, or university located in another state; 63

(ix) Had not departed the geographical boundaries of this 64
state for a period exceeding thirty days or with the intention 65
of becoming a citizen of another state or establishing a 66
permanent place of residence in another state. 67

(b) A dependent of a deceased victim who is described in 68
division (A) (2) (a) of this section; 69

(c) A third person, other than a collateral source, who 70
legally assumes or voluntarily pays the obligations of a victim, 71

or of a dependent of a victim, who is described in division (A) 72
(2) (a) of this section, which obligations are incurred as a 73
result of the criminally injurious conduct that is the subject 74
of the claim and may include, but are not limited to, medical or 75
burial expenses; 76

(d) A person who is authorized to act on behalf of any 77
person who is described in division (A) (2) (a), (b), or (c) of 78
this section; 79

(e) The estate of a deceased victim who is described in 80
division (A) (2) (a) of this section. 81

(B) "Collateral source" means a source of benefits or 82
advantages for economic loss otherwise reparable that the victim 83
or claimant has received, or that is readily available to the 84
victim or claimant, from any of the following sources: 85

(1) The offender; 86

(2) The government of the United States or any of its 87
agencies, a state or any of its political subdivisions, or an 88
instrumentality of two or more states, unless the law providing 89
for the benefits or advantages makes them excess or secondary to 90
benefits under sections 2743.51 to 2743.72 of the Revised Code; 91

(3) Social security, medicare, and medicaid; 92

(4) State-required, temporary, nonoccupational disability 93
insurance; 94

(5) Workers' compensation; 95

(6) Wage continuation programs of any employer; 96

(7) Proceeds of a contract of insurance payable to the 97
victim for loss that the victim sustained because of the 98

criminally injurious conduct;	99
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	100 101
(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;	102 103 104
(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.	105 106 107 108
"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.	109 110 111 112 113
(C) "Criminally injurious conduct" means one of the following:	114 115
(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:	116 117 118 119 120 121 122 123 124 125
(a) The person engaging in the conduct intended to cause personal injury or death;	126 127

(b) The person engaging in the conduct was using the 128
vehicle to flee immediately after committing a felony or an act 129
that would constitute a felony but for the fact that the person 130
engaging in the conduct lacked the capacity to commit the felony 131
under the laws of this state; 132

(c) The person engaging in the conduct was using the 133
vehicle in a manner that constitutes an OVI violation; 134

(d) The conduct occurred on or after July 25, 1990, and 135
the person engaging in the conduct was using the vehicle in a 136
manner that constitutes a violation of section 2903.08 of the 137
Revised Code; 138

(e) The person engaging in the conduct acted in a manner 139
that caused serious physical harm to a person and that 140
constituted a violation of section 4549.02 or 4549.021 of the 141
Revised Code. 142

(2) For the purposes of any person described in division 143
(A) (2) of this section, any conduct that occurs or is attempted 144
in another state, district, territory, or foreign country; poses 145
a substantial threat of personal injury or death; and is 146
punishable by fine, imprisonment, or death, or would be so 147
punishable but for the fact that the person engaging in the 148
conduct lacked capacity to commit the crime under the laws of 149
the state, district, territory, or foreign country in which the 150
conduct occurred or was attempted. Criminally injurious conduct 151
does not include conduct arising out of the ownership, 152
maintenance, or use of a motor vehicle, except when any of the 153
following applies: 154

(a) The person engaging in the conduct intended to cause 155
personal injury or death; 156

(b) The person engaging in the conduct was using the 157
vehicle to flee immediately after committing a felony or an act 158
that would constitute a felony but for the fact that the person 159
engaging in the conduct lacked the capacity to commit the felony 160
under the laws of the state, district, territory, or foreign 161
country in which the conduct occurred or was attempted; 162

(c) The person engaging in the conduct was using the 163
vehicle in a manner that constitutes an OVI violation; 164

(d) The conduct occurred on or after July 25, 1990, the 165
person engaging in the conduct was using the vehicle in a manner 166
that constitutes a violation of any law of the state, district, 167
territory, or foreign country in which the conduct occurred, and 168
that law is substantially similar to a violation of section 169
2903.08 of the Revised Code; 170

(e) The person engaging in the conduct acted in a manner 171
that caused serious physical harm to a person and that 172
constituted a violation of any law of the state, district, 173
territory, or foreign country in which the conduct occurred, and 174
that law is substantially similar to section 4549.02 or 4549.021 175
of the Revised Code. 176

(3) For the purposes of any person described in division 177
(A) (1) or (2) of this section, terrorism that occurs within or 178
outside the territorial jurisdiction of the United States. 179

(D) "Dependent" means an individual wholly or partially 180
dependent upon the victim for care and support, and includes a 181
child of the victim born after the victim's death. 182

(E) "Economic loss" means economic detriment consisting 183
only of allowable expense, work loss, funeral expense, 184
unemployment benefits loss, replacement services loss, cost of 185

crime scene cleanup, and cost of evidence replacement. If 186
criminally injurious conduct causes death, economic loss 187
includes a dependent's economic loss and a dependent's 188
replacement services loss. Noneconomic detriment is not economic 189
loss; however, economic loss may be caused by pain and suffering 190
or physical impairment. 191

(F) (1) ~~"Allowable~~ For a victim described in division (L) 192
(1) of this section, "allowable expense" means reasonable 193
charges incurred for reasonably needed products, services, and 194
accommodations, including those for medical care, 195
rehabilitation, rehabilitative occupational training, and other 196
remedial treatment and care and including replacement costs for 197
hearing aids; dentures, retainers, and other dental appliances; 198
canes, walkers, and other mobility tools; and eyeglasses and 199
other corrective lenses. It does not include that portion of a 200
charge for a room in a hospital, clinic, convalescent home, 201
nursing home, or any other institution engaged in providing 202
nursing care and related services in excess of a reasonable and 203
customary charge for semiprivate accommodations, unless 204
accommodations other than semiprivate accommodations are 205
medically required. 206

(2) ~~An immediate family member of~~ For a victim of 207
~~criminally injurious conduct that consists of a homicide, a~~ 208
~~sexual assault, domestic violence, or a severe and permanent~~ 209
~~incapacitating injury resulting in paraplegia or a similar life-~~ 210
~~altering condition, who requires~~ described in division (L) (2) of 211
this section, "allowable expense" means reasonable charges 212
incurred for psychiatric care or counseling reasonably needed as 213
a result of the criminally injurious conduct, ~~may be reimbursed~~ 214
~~for that care or counseling as an allowable expense through the~~ 215
~~victim's application. The cumulative allowable~~ No other type of 216

~~expense for care or counseling of that nature shall not exceed~~ 217
~~two thousand five hundred dollars for each immediate family~~ 218
~~member of a victim of that type and seven thousand five hundred~~ 219
~~dollars in the aggregate is compensable under section 2743.51 to~~ 220
~~2743.72 of the Revised Code for all immediate family members of~~ 221
a victim of that type. 222

(3) For a victim described in division (L) (3) of this 223
section, "allowable expense" means work loss and reasonable 224
charges incurred for psychiatric care or counseling reasonably 225
needed as a result of the criminally injurious conduct. No other 226
type of expense is compensable under sections 2743.51 to 2743.72 227
of the Revised Code for a victim of that type. 228

(4) A family member of a victim who died as a proximate 229
result of criminally injurious conduct may be reimbursed as an 230
allowable expense through the victim's application for wages 231
lost and travel expenses incurred in order to attend criminal 232
justice proceedings arising from the criminally injurious 233
conduct. The cumulative allowable expense for wages lost and 234
travel expenses incurred by a family member to attend criminal 235
justice proceedings shall not exceed five hundred dollars for 236
each family member of the victim and two thousand dollars in the 237
aggregate for all family members of the victim. 238

~~(4) (a) "Allowable~~ (5) For a victim described in division 239
(L) (1) of this section, "allowable expense" includes reasonable 240
both of the following: 241

(a) Reasonable expenses and fees necessary to obtain a 242
guardian's bond pursuant to section 2109.04 of the Revised Code 243
when the bond is required to pay an award to a fiduciary on 244
behalf of a minor or other incompetent. 245

(b) ~~"Allowable expense" includes attorney's~~ Attorney's 246
fees not exceeding one thousand dollars, at a rate not exceeding 247
one hundred dollars per hour, incurred to successfully obtain a 248
restraining order, custody order, or other order to physically 249
separate a victim from an offender. Attorney's fees for the 250
services described in this division may include an amount for 251
reasonable travel time incurred to attend court hearings, not 252
exceeding three hours' round-trip for each court hearing, 253
assessed at a rate not exceeding thirty dollars per hour. 254

(G) "Work loss" means loss of income from work that the 255
injured person would have performed if the person had not been 256
injured and expenses reasonably incurred by the person to obtain 257
services in lieu of those the person would have performed for 258
income, reduced by any income from substitute work actually 259
performed by the person, or by income the person would have 260
earned in available appropriate substitute work that the person 261
was capable of performing but unreasonably failed to undertake. 262

(H) "Replacement services loss" means expenses reasonably 263
incurred in obtaining ordinary and necessary services in lieu of 264
those the injured person would have performed, not for income, 265
but for the benefit of the person's self or family, if the 266
person had not been injured. 267

(I) "Dependent's economic loss" means loss after a 268
victim's death of contributions of things of economic value to 269
the victim's dependents, not including services they would have 270
received from the victim if the victim had not suffered the 271
fatal injury, less expenses of the dependents avoided by reason 272
of the victim's death. If a minor child of a victim is adopted 273
after the victim's death, the minor child continues after the 274
adoption to incur a dependent's economic loss as a result of the 275

victim's death. If the surviving spouse of a victim remarries, 276
the surviving spouse continues after the remarriage to incur a 277
dependent's economic loss as a result of the victim's death. 278

(J) "Dependent's replacement services loss" means loss 279
reasonably incurred by dependents after a victim's death in 280
obtaining ordinary and necessary services in lieu of those the 281
victim would have performed for their benefit if the victim had 282
not suffered the fatal injury, less expenses of the dependents 283
avoided by reason of the victim's death and not subtracted in 284
calculating the dependent's economic loss. If a minor child of a 285
victim is adopted after the victim's death, the minor child 286
continues after the adoption to incur a dependent's replacement 287
services loss as a result of the victim's death. If the 288
surviving spouse of a victim remarries, the surviving spouse 289
continues after the remarriage to incur a dependent's 290
replacement services loss as a result of the victim's death. 291

(K) "Noneconomic detriment" means pain, suffering, 292
inconvenience, physical impairment, or other nonpecuniary 293
damage. 294

(L) "Victim" means ~~a~~ one of the following: 295

(1) A person who suffers personal injury or death as a 296
result of any of the following: 297

~~(1)~~ (a) Criminally injurious conduct; 298

~~(2)~~ (b) The good faith effort of any person to prevent 299
criminally injurious conduct; 300

~~(3)~~ (c) The good faith effort of any person to apprehend a 301
person suspected of engaging in criminally injurious conduct. 302

(2) A person who is an immediate family member of a victim 303

of criminally injurious conduct that consists of a homicide, a 304
sexual assault, domestic violence, or a severe and permanently 305
incapacitating injury resulting in paraplegia or a similar life- 306
altering condition, who requires psychiatric care or counseling 307
as a result of the criminally injurious conduct; 308

(3) A person who suffers trauma so severe that it impedes 309
or prohibits a person from participating in normal daily 310
activities and who is either of the following: 311

(a) A family member of a victim of criminally injurious 312
conduct that consists of a homicide, or a family member of a 313
victim who, as a result of criminally injurious conduct, has 314
sustained a severe and permanently incapacitating injury 315
resulting in paraplegia or a similar life-altering condition, 316
and who can demonstrate either of the following by a 317
preponderance of the evidence: 318

(i) The person witnessed the criminally injurious conduct. 319

(ii) The person arrived at the crime scene in its 320
immediate aftermath. 321

(b) An immediate family member who is a caretaker of a 322
dependent victim of criminally injurious conduct that consists 323
of a sexual assault. 324

(M) "Contributory misconduct" means any conduct of the 325
claimant or of the victim through whom the claimant claims an 326
award of reparations that is unlawful or intentionally tortious 327
and that, without regard to the conduct's proximity in time or 328
space to the criminally injurious conduct, has a causal 329
relationship to the criminally injurious conduct that is the 330
basis of the claim. 331

(N) (1) "Funeral expense" means any reasonable charges that 332

are not in excess of seven thousand five hundred dollars per 333
funeral and that are incurred for expenses directly related to a 334
victim's funeral, cremation, or burial and any wages lost or 335
travel expenses incurred by a family member of a victim in order 336
to attend the victim's funeral, cremation, or burial. 337

(2) An award for funeral expenses shall be applied first 338
to expenses directly related to the victim's funeral, cremation, 339
or burial. An award for wages lost or travel expenses incurred 340
by a family member of the victim shall not exceed five hundred 341
dollars for each family member and shall not exceed in the 342
aggregate the difference between seven thousand five hundred 343
dollars and expenses that are reimbursed by the program and that 344
are directly related to the victim's funeral, cremation, or 345
burial. 346

(O) "Unemployment benefits loss" means a loss of 347
unemployment benefits pursuant to Chapter 4141. of the Revised 348
Code when the loss arises solely from the inability of a victim 349
to meet the able to work, available for suitable work, or the 350
actively seeking suitable work requirements of division (A) (4) 351
(a) of section 4141.29 of the Revised Code. 352

(P) "OVI violation" means any of the following: 353

(1) A violation of section 4511.19 of the Revised Code, of 354
any municipal ordinance prohibiting the operation of a vehicle 355
while under the influence of alcohol, a drug of abuse, or a 356
combination of them, or of any municipal ordinance prohibiting 357
the operation of a vehicle with a prohibited concentration of 358
alcohol, a controlled substance, or a metabolite of a controlled 359
substance in the whole blood, blood serum or plasma, breath, or 360
urine; 361

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code; 362
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(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense; 364
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(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense. 370
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(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued. 380
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(R) "Terrorism" means any activity to which all of the following apply: 387
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(1) The activity involves a violent act or an act that is dangerous to human life. 389
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(2) The act described in division (R)(1) of this section 391
is committed within the territorial jurisdiction of the United 392
States and is a violation of the criminal laws of the United 393
States, this state, or any other state or the act described in 394
division (R)(1) of this section is committed outside the 395
territorial jurisdiction of the United States and would be a 396
violation of the criminal laws of the United States, this state, 397
or any other state if committed within the territorial 398
jurisdiction of the United States. 399

(3) The activity appears to be intended to do any of the 400
following: 401

(a) Intimidate or coerce a civilian population; 402

(b) Influence the policy of any government by intimidation 403
or coercion; 404

(c) Affect the conduct of any government by assassination 405
or kidnapping. 406

(4) The activity occurs primarily outside the territorial 407
jurisdiction of the United States or transcends the national 408
boundaries of the United States in terms of the means by which 409
the activity is accomplished, the person or persons that the 410
activity appears intended to intimidate or coerce, or the area 411
or locale in which the perpetrator or perpetrators of the 412
activity operate or seek asylum. 413

(S) "Transcends the national boundaries of the United 414
States" means occurring outside the territorial jurisdiction of 415
the United States in addition to occurring within the 416
territorial jurisdiction of the United States. 417

(T) "Cost of crime scene cleanup" means any of the 418
following: 419

(1) The replacement cost for items of clothing removed 420
from a victim in order to make an assessment of possible 421
physical harm or to treat physical harm; 422

(2) Reasonable and necessary costs of cleaning the scene 423
and repairing, for the purpose of personal security, property 424
damaged at the scene where the criminally injurious conduct 425
occurred, not to exceed seven hundred fifty dollars in the 426
aggregate per claim. 427

(U) "Cost of evidence replacement" means costs for 428
replacement of property confiscated for evidentiary purposes 429
related to the criminally injurious conduct, not to exceed seven 430
hundred fifty dollars in the aggregate per claim. 431

(V) "Provider" means any person who provides a victim or 432
claimant with a product, service, or accommodations that are an 433
allowable expense or a funeral expense. 434

(W) "Immediate family member" means an individual who 435
resided in the same permanent household as a victim at the time 436
of the criminally injurious conduct and who is related to the 437
victim by affinity or consanguinity. 438

(X) "Family member" means an individual who is related to 439
a victim by affinity or consanguinity. 440

Sec. 2743.59. (A) The attorney general shall fully 441
investigate a claim for an award of reparations, regardless of 442
whether any person is prosecuted for or convicted of committing 443
the criminally injurious conduct alleged in the application. 444
After completing the investigation, the attorney general shall 445
make a written finding of fact and decision concerning an award 446
of reparations. 447

(B) (1) The attorney general may require the claimant to 448

supplement the application for an award of reparations with any 449
further information or documentary materials, including any 450
medical report readily available, that may lead to any relevant 451
facts in the determination of whether, and the extent to which, 452
a claimant qualifies for an award of reparations. The attorney 453
general may depose any witness, including the claimant, pursuant 454
to Civil Rules 28, 30, and 45. 455

(2) (a) For the purpose of determining whether, and the 456
extent to which, a claimant qualifies for an award of 457
reparations, the attorney general may issue subpoenas and 458
subpoenas duces tecum to compel any person or entity, including 459
any collateral source, that provided, will provide, or would 460
have provided to the victim any income, benefit, advantage, 461
product, service, or accommodation, including any medical care 462
or other income, benefit, advantage, product, service, or 463
accommodation that might qualify as an allowable expense or a 464
funeral expense, to produce materials to the attorney general 465
that are relevant to the income, benefit, advantage, product, 466
service, or accommodation that was, will be, or would have been 467
so provided and to the attorney general's determination. 468

(b) If the attorney general issues a subpoena or subpoena 469
duces tecum under division (B) (2) (a) of this section and if the 470
materials that the attorney general requires to be produced are 471
located outside this state, the attorney general may designate 472
one or more representatives, including officials of the state in 473
which the materials are located, to inspect the materials on the 474
attorney general's behalf, and the attorney general may respond 475
to similar requests from officials of other states. The person 476
or entity subpoenaed may make the materials available to the 477
attorney general at a convenient location within the state. 478

(c) At any time before the return day specified in the subpoena or subpoena duces tecum issued under division (B) (2) (a) of this section or within twenty days after the subpoena or subpoena duces tecum has been served, whichever period is shorter, the person or entity subpoenaed may file with a judge of the court of claims a petition to extend the return day or to modify or quash the subpoena or subpoena duces tecum. The petition shall state good cause.

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

(C) ~~The~~ If the attorney general decides to make an award of reparations, the finding of fact and decision that is issued by the attorney general pursuant to division (A) of this section shall contain all of the following:

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

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

a law enforcement officer or agency;	509
(3) The exact nature <u>A description</u> of the injuries that the victim sustained as a result of the criminally injurious conduct;	510 511 512
(4) A specific list of the economic loss that was sustained as a result of the criminally injurious conduct by the victim, the claimant, or a dependent;	513 514 515
(5) A specific list of any benefits or advantages that the victim, the claimant, or a dependent has received or is entitled to receive from any collateral source for economic loss that resulted from the conduct and whether a collateral source would have reimbursed the claimant for a particular expense if a timely claim had been made, and the extent to which the expenses likely would have been reimbursed by the collateral source;	516 517 518 519 520 521 522
(6) A description of any evidence in support of <u>a reduction of the award total on the basis of contributory misconduct or failure to cooperate</u> by the claimant or by the victim through whom the claimant claims an award of reparations, whether the victim has been convicted of a felony or has a record of felony arrests under the laws of this state, another state, or the United States, whether disqualifying conditions exist under division (E) of section 2743.60 of the Revised Code, and whether there is evidence that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim;	523 524 525 526 527 528 529 530 531 532 533 534
(7) Whether the victim of the criminally injurious conduct was a minor;	535 536
(8) If the victim of the criminally injurious conduct was	537

~~a minor, whether a complaint, indictment, or information was~~ 538
~~filed against the alleged offender and, if such a filing~~ 539
~~occurred, its date;~~ 540

~~(9) Any information that is relevant to the claim for an~~ 541
~~award of reparations;~~ 542

(8) A statement as to whether payments made pursuant to 543
the award are to be made to the claimant, to a provider, or 544
jointly to the claimant and provider, and the amount of the 545
payments. 546

~~(D) The~~ If the attorney general decides to deny an award 547
to the claimant, the finding of fact and decision that is issued 548
by the attorney general pursuant to division (A) of this section 549
shall contain ~~all~~ both of the following: 550

~~(1) A statement as to whether a claimant is eligible for~~ 551
~~an award of reparations, whether payments made pursuant to the~~ 552
~~award are to be made to the claimant, to a provider, or jointly~~ 553
~~to the claimant and a provider, and the amount of the payments~~ 554
~~to the claimant or provider;~~ 555

~~(2) A statement as to whether any of the payments made~~ 556
~~pursuant to the award should be paid in a lump sum or in~~ 557
~~installments;~~ 558

~~(3) If the attorney general decides that an award not be~~ 559
~~made to the claimant, the~~ The reasons for that decision; 560

(2) A description of any disqualifying conditions that 561
exist under section 2743.60 of the Revised Code. 562

(E) The attorney general shall make a written finding of 563
fact and decision in accordance with sections 2743.51 to 2743.72 564
of the Revised Code within one hundred twenty days after 565

receiving the claim application. The attorney general may extend 566
the one-hundred-twenty-day time limit and shall record in 567
writing specific reasons to justify the extension. The attorney 568
general shall notify the claimant of the extension and of the 569
reasons for the extension. The attorney general shall serve a 570
copy of its written finding of fact and decision upon the 571
claimant. 572

Sec. 2743.60. (A) The attorney general or the court of 573
claims shall not make or order an award of reparations to a 574
claimant if the criminally injurious conduct upon which the 575
claimant bases a claim never was reported to a law enforcement 576
officer or agency. 577

(B) (1) The attorney general or the court of claims shall 578
not make or order an award of reparations to a claimant if any 579
of the following apply: 580

(a) The claimant is the offender or an accomplice of the 581
offender who committed the criminally injurious conduct, or the 582
award would unjustly benefit the offender or accomplice. 583

(b) Except as provided in division (B) (2) of this section, 584
both of the following apply: 585

(i) The victim was a passenger in a motor vehicle and knew 586
or reasonably should have known that the driver was under the 587
influence of alcohol, a drug of abuse, or both. 588

(ii) The claimant is seeking compensation for injuries 589
proximately caused by the driver described in division (B) (1) (b) 590
(i) of this section being under the influence of alcohol, a drug 591
of abuse, or both. 592

(c) Both of the following apply: 593

(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 reconsider and reduce an award of reparations.

(D) The attorney general or the court of claims shall reduce an award of reparations or deny a claim for an award of reparations that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is recouped from other persons, including collateral sources. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If the award or denial is conditioned upon the recoupment of the claimant's economic loss from a collateral source and it is determined that the claimant did not unreasonably fail to present a timely claim

to the collateral source and will not receive all or part of the 624
expected recoupment, the claim may be reopened and an award may 625
be made in an amount equal to the amount of expected recoupment 626
that it is determined the claimant will not receive from the 627
collateral source. 628

If the claimant recoups all or part of the economic loss 629
upon which the claim is based from any other person or entity, 630
including a collateral source, the attorney general may recover 631
pursuant to section 2743.72 of the Revised Code the part of the 632
award that represents the economic loss for which the claimant 633
received the recoupment from the other person or entity. 634

(E) (1) Except as otherwise provided in division (E) (2) of 635
this section, the attorney general or the court of claims shall 636
not make an award to a claimant if any of the following applies: 637

(a) The victim was convicted of a felony within ~~ten~~-five 638
years prior to the criminally injurious conduct that gave rise 639
to the claim or is convicted of a felony during the pendency of 640
the claim. 641

(b) The claimant was convicted of a felony within ~~ten~~-five 642
years prior to the criminally injurious conduct that gave rise 643
to the claim or is convicted of a felony during the pendency of 644
the claim unless the claimant is applying as the parent or 645
guardian of a minor victim. 646

(c) It is proved by a preponderance of the evidence that 647
the victim or the claimant, other than a claimant applying as 648
the parent or guardian of a minor victim, engaged, within ~~ten~~- 649
five years prior to the criminally injurious conduct that gave 650
rise to the claim or during the pendency of the claim, in an 651
offense of violence, a violation of section 2925.03 of the 652

Revised Code, or any substantially similar offense that also 653
would constitute a felony under the laws of this state, another 654
state, or the United States. 655

(d) The claimant, other than one applying as the parent or 656
guardian of a minor victim, was convicted of a violation of 657
section 2919.22 or 2919.25 of the Revised Code, or of any state 658
law or municipal ordinance substantially similar to either 659
section, within ~~ten~~ five years prior to the criminally injurious 660
conduct that gave rise to the claim or during the pendency of 661
the claim. 662

~~(e) It is proved by a preponderance of the evidence that~~ 663
~~the victim at the time of the criminally injurious conduct that~~ 664
~~gave rise to the claim engaged in conduct that was a felony~~ 665
~~violation of section 2925.11 of the Revised Code or engaged in~~ 666
~~any substantially similar conduct that would constitute a felony~~ 667
~~under the laws of this state, another state, or the United~~ 668
~~States.~~ 669

(2) The attorney general or the court of claims may make 670
an award to a minor dependent of a deceased victim for 671
dependent's economic loss or for counseling pursuant to division 672
(F) (2) of section 2743.51 of the Revised Code if the minor 673
dependent is not ineligible under division (E) (1) of this 674
section due to the minor dependent's criminal history and if the 675
victim was not killed while engaging in illegal conduct that 676
contributed to the criminally injurious conduct that gave rise 677
to the claim. ~~For purposes of this section, the use of illegal~~ 678
~~drugs by the deceased victim shall not be deemed to have~~ 679
~~contributed to the criminally injurious conduct that gave rise~~ 680
~~to the claim.~~ 681

(F) In determining whether to make an award of reparations 682

pursuant to this section, the attorney general or the court of claims shall consider whether there was contributory misconduct by the victim or the claimant. The attorney general or the court of claims shall reduce an award of reparations or deny a claim for an award of reparations to the extent it is determined to be reasonable because of the contributory misconduct of the claimant or the victim.

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

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

(2) There is good cause to believe that the victim engaged in an ongoing course of criminal conduct within ~~five~~ three years or less of the criminally injurious conduct that is the subject of the claim.

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

(H) If a claimant unreasonably fails to present a claim

timely to a source of benefits or advantages that would have 712
been a collateral source and that would have reimbursed the 713
claimant for all or a portion of a particular expense, the 714
attorney general or the court of claims may reduce an award of 715
reparations or deny a claim for an award of reparations to the 716
extent that it is reasonable to do so. 717

(I) Reparations payable to a victim described in division 718
(L) (1) of section 2743.51 of the Revised Code and to all other 719
claimants sustaining economic loss because of injury to or the 720
death of that victim shall not exceed fifty thousand dollars in 721
the aggregate. Reparations payable to a victim described in 722
division (L) (2) of section 2743.51 of the Revised Code shall not 723
exceed five thousand dollars. Reparations payable to a victim 724
described in division (L) (3) of section 2743.51 of the Revised 725
Code shall not exceed fifteen thousand dollars. If the attorney 726
general or the court of claims reduces an award under division 727
(F) of this section, the maximum aggregate amount of reparations 728
payable under this division shall be reduced proportionately to 729
the reduction under division (F) of this section. 730

(J) Nothing in this section shall be construed to prohibit 731
an award to a claimant whose claim is based on the claimant's 732
being a victim of a violation of section 2905.32 of the Revised 733
Code if the claimant was less than eighteen years of age when 734
the criminally injurious conduct occurred. 735

Sec. 2743.65. (A) The attorney general shall determine, 736
and the state shall pay, in accordance with this section 737
attorney's fees, commensurate with services rendered, to the 738
attorney representing a claimant under sections 2743.51 to 739
2743.72 of the Revised Code. The attorney shall submit on an 740
application form an itemized fee bill at the rate of sixty 741

dollars per hour upon receipt of the final decision on the 742
claim. Attorney's fees paid pursuant to this section are subject 743
to the following maximum amounts: 744

(1) A maximum of seven hundred twenty dollars for claims 745
resolved without the filing of an appeal to the court of claims; 746

(2) A maximum of one thousand twenty dollars for claims in 747
which an appeal to the court of claims is filed plus, at the 748
request of an attorney whose main office is not in Franklin 749
county, Delaware county, Licking county, Fairfield county, 750
Pickaway county, Madison county, or Union county, an amount for 751
the attorney's travel time to attend the oral hearing before the 752
court of claims at the rate of thirty dollars per hour; 753

(3) A maximum of one thousand three hundred twenty dollars 754
for claims in which an appeal to the court of claims is filed 755
plus, at the request of an attorney whose main office is not in 756
Franklin county, Delaware county, Licking county, Fairfield 757
county, Pickaway county, Madison county, or Union county, an 758
amount for the attorney's travel time to attend the oral hearing 759
before the court at the rate of thirty dollars per hour; 760

(4) A maximum of seven hundred twenty dollars for a 761
supplemental reparations application; 762

(5) A maximum of two hundred dollars if the claim is 763
denied on the basis of a claimant's or victim's conviction of a 764
felony offense prior to the filing of the claim. If the claimant 765
or victim is convicted of a felony offense during the pendency 766
of the claim, the two hundred dollars maximum does not apply. If 767
the attorney had knowledge of the claimant's or victim's felony 768
conviction prior to the filing of the application for the claim, 769
the attorney general may determine that the filing of the claim 770

was frivolous and may deny attorney's fees. 771

(B) The attorney general may determine that an attorney be 772
reimbursed for fees incurred in the creation of a guardianship 773
if the guardianship is required in order for an individual to 774
receive an award of reparations, and those fees shall be 775
reimbursed at a rate of sixty dollars per hour. 776

(C) (1) The attorney general shall forward an application 777
form for attorney's fees to a claimant's attorney before or when 778
the final decision on a claim is rendered. The application form 779
for attorney's fees shall do all of the following: 780

(a) Inform the attorney of the requirements of this 781
section; 782

(b) Require a verification statement comporting with the 783
law prohibiting falsification; 784

(c) Require an itemized fee statement; 785

(d) Require a verification statement that the claimant was 786
served a copy of the completed application form; 787

(e) Include notice that the claimant may oppose the 788
application by notifying the attorney general in writing within 789
ten days. 790

(2) The attorney general shall forward a copy of this 791
section to the attorney with the application form for attorney's 792
fees. The attorney shall file the application form with the 793
attorney general. The attorney general's decision with respect 794
to an award of attorney's fees is final ten days after the 795
attorney general renders the decision and mails a copy of the 796
decision to the attorney at the address provided by the 797
attorney. The attorney may request reconsideration of the 798

decision on grounds that it is insufficient or calculated 799
incorrectly. The attorney general's decision on the request for 800
reconsideration is final. 801

(D) The attorney general shall review all application 802
forms for attorney's fees that are submitted by a claimant's 803
attorney and shall issue an order approving the amount of fees 804
to be paid to the attorney within sixty days after receipt of 805
the application form. 806

(E) No attorney's fees shall be paid for the following: 807

(1) Estate work or representation of a claimant against a 808
collateral source; 809

(2) Duplication of investigative work required to be 810
performed by the attorney general; 811

(3) Performance of unnecessary criminal investigation of 812
the offense; 813

(4) Presenting or appealing an issue that has been 814
repeatedly ruled upon by the highest appellate authority, unless 815
a unique set of facts or unique issue of law exists that 816
distinguishes it; 817

(5) Representing a victim of the type described in 818
division (L) (2) or (3) of section 2743.51 of the Revised Code; 819

(6) A fee request that is unreasonable, is not 820
commensurate with services rendered, violates the Ohio code of 821
professional responsibility, or is based upon services that are 822
determined to be frivolous. 823

(F) (1) The attorney general may reduce or deny the payment 824
of attorney's fees to an attorney who has filed a frivolous 825
claim. Subject to division (A) (5) of this section, the denial of 826

a claim on the basis of a felony conviction, felony conduct, or 827
contributory misconduct does not constitute a frivolous claim. 828

(2) As used in this section, "frivolous claim" means a 829
claim in which there is clearly no legal grounds under the 830
existing laws of this state to support the filing of a claim on 831
behalf of the claimant or victim. 832

(G) The attorney general may determine that a lesser 833
number of hours should have been required in a given case. 834
Additional reimbursement may be made where the attorney 835
demonstrates to the attorney general that the nature of the 836
particular claim required the expenditure of an amount in excess 837
of that allowed. 838

(H) No attorney shall receive payment under this section 839
for assisting a claimant with an application for an award of 840
reparations under sections 2743.51 to 2743.72 of the Revised 841
Code if that attorney's fees have been allowed as an expense in 842
accordance with division (F) ~~(4)~~ (5) of section 2743.51 of the 843
Revised Code. 844

(I) A contract or other agreement between an attorney and 845
any person that provides for the payment of attorney's fees or 846
other payments in excess of the attorney's fees allowed under 847
this section for representing a claimant under sections 2743.51 848
to 2743.72 of the Revised Code shall be void and unenforceable. 849

(J) Each witness who appears in a hearing on a claim for 850
an award of reparations shall receive compensation in an amount 851
equal to that received by witnesses under section 119.094 of the 852
Revised Code. 853

Sec. 2743.66. (A) A decision of the attorney general or 854
order or judgment of the court of claims granting an award of 855

reparations may provide for the payment of the award in a lump 856
sum or in installments. The part of an award equal to the amount 857
of economic loss accrued to the date of the award shall be paid 858
in a lump sum. An award for allowable expense that would accrue 859
after the award is made shall not be paid in a lump sum. Except 860
as provided in division (B) of this section, the part of an 861
award not paid in a lump sum shall be paid in installments. 862

(B) Upon the motion of the claimant, the attorney general 863
may commute future economic loss, other than allowable expense, 864
to a lump sum but only upon a finding that either of the 865
following applies: 866

(1) The award in a lump sum will promote the interests of 867
the claimant. 868

(2) The present value of all future economic loss, other 869
than allowable expense, does not exceed one thousand dollars. 870

(C) The attorney general may make an award for future 871
economic loss payable in installments only for a period as to 872
which future economic loss reasonably can be determined. An 873
award for future economic loss payable in installments may be 874
reconsidered and modified upon a finding that a material and 875
substantial change of circumstances has occurred. 876

(D) An award is not subject to execution, attachment, 877
garnishment, or other process, except that, upon receipt of an 878
award by a claimant: 879

(1) The part of the award that is for allowable expense or 880
funeral expense is not exempt from such action by a creditor to 881
the extent that the creditor provided products, services, or 882
accommodations the costs of which are included in the award. 883

(2) The part of the award that is for work loss shall not 884

be exempt from such action to secure payment of spousal support, 885
other maintenance, or child support. 886

(3) The attorney general may recover the award pursuant to 887
section 2743.72 of the Revised Code if it is discovered that the 888
claimant actually was not eligible for the award or that the 889
award otherwise should not have been made under the standards 890
and criteria set forth in sections 2743.51 to 2743.72 of the 891
Revised Code. 892

(4) If the claimant receives compensation from any other 893
person or entity, including a collateral source, for an expense 894
that is included within the award, the attorney general may 895
recover pursuant to section 2743.72 of the Revised Code the part 896
of the award that represents the expense for which the claimant 897
received the compensation from the other person or entity. 898

(E) If a person entitled to an award of reparations is 899
under eighteen years of age and if the amount of the award 900
exceeds one thousand dollars, the order providing for the 901
payment of the award shall specify that the award be paid either 902
to the guardian of the estate of the minor appointed pursuant to 903
Chapter 2111. of the Revised Code or to the person or depository 904
designated by the probate court under section 2111.05 of the 905
Revised Code. If a person entitled to an award of reparations is 906
under eighteen years of age and if the amount of the award is 907
one thousand dollars or less, the order providing for the 908
payment of the award may specify that the award be paid to an 909
adult member of the family of the minor who is legally 910
responsible for the minor's care or to any other person 911
designated by the attorney general or the court of claims. 912

(F) If a person entitled to an award of reparations is 913
incarcerated, subject to community control sanctions, or subject 914

to probation, parole, or any post-release control sanction, no 915
compensation shall be paid until after the completion of any 916
sentence imposed and final discharge by the court or department 917
of rehabilitation and correction. 918

Sec. 2743.71. (A) Any law enforcement agency that 919
investigates, and any prosecuting attorney, city director of 920
law, village solicitor, or similar prosecuting authority who 921
prosecutes, an offense committed in this state shall, upon first 922
contact with the victim, as defined in division (L)(1) of 923
section 2743.51 of the Revised Code, or the victim's family or 924
dependents, give the victim or the victim's family or dependents 925
a copy of an information card or other printed material provided 926
by the attorney general pursuant to division (B) of this section 927
and explain, upon request, the information on the card or 928
material to the victim or the victim's family or dependents. 929

(B) The attorney general shall have printed, and shall 930
provide to law enforcement agencies, prosecuting attorneys, city 931
directors of law, village solicitors, and similar prosecuting 932
authorities, cards or other materials that contain information 933
explaining awards of reparations. The information on the cards 934
or other materials shall include, but shall not be limited to, 935
the following statements: 936

(1) Awards of reparations are limited to losses that are 937
caused by physical injury resulting from criminally injurious 938
conduct; 939

(2) Reparations applications may be filed at any time 940
after the occurrence of the criminally injurious conduct; 941

(3) An attorney who represents an applicant for an award 942
of reparations cannot charge the applicant for the services 943

rendered in relation to that representation but is required to 944
apply to the attorney general for payment for the 945
representation; 946

(4) Applications for awards of reparations may be obtained 947
from the attorney general, law enforcement agencies, and victim 948
assistance agencies and are to be filed with the attorney 949
general. 950

(C) The attorney general may order that a reasonable 951
amount of money be paid out of the reparations fund, subject to 952
the limitation imposed by division (D) of this section, for use 953
by the attorney general to publicize the availability of awards 954
of reparations. 955

(D) During any fiscal year, the total expenditure for the 956
printing and providing of information cards or other materials 957
pursuant to division (B) of this section and for the publicizing 958
of the availability of awards of reparations pursuant to 959
division (C) of this section shall not exceed two per cent of 960
the total of all court costs deposited, in accordance with 961
section 2743.70 of the Revised Code, in the reparations fund 962
during the immediately preceding fiscal year. 963

Section 2. That existing sections 2743.51, 2743.59, 964
2743.60, 2743.65, 2743.66, and 2743.71 of the Revised Code are 965
hereby repealed. 966