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Sub. S. B. No. 36

Senators Manning, Huffman, S.

**Cosponsors: Senators Antonio, Blessing, Brenner, Craig, Dolan, Gavarone, Hackett, Hoagland, Hottinger, Huffman, M., Johnson, Kunze, Maharath, McColley, O'Brien, Peterson, Reineke, Schuring, Sykes, Thomas, Williams, Wilson, Yuko
Representatives Baldrige, Boyd, Brent, Brown, Carruthers, Crossman, Cutrona, Denson, Fraizer, Galonski, Ghanbari, Ginter, Gross, Hicks-Hudson, Hillyer, Howse, Humphrey, Ingram, Jarrells, Johnson, Kelly, Lampton, Lanese, LaRe, Leland, Lepore-Hagan, Lightbody, Liston, Manning, Miller, A., Miller, J., O'Brien, Robinson, Russo, Schmidt, Seitz, Sheehy, Skindell, Smith, K., Smith, M., Sobecki, Upchurch, Weinstein, West, White, Young, T., Speaker Cupp**

A BILL

To amend sections 2743.51, 2743.56, 2743.59, 1
2743.60, 2743.65, 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, 2743.56, 2743.59, 6
2743.60, 2743.65, 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 reparations under sections 2743.51 to 2743.72 of the Revised Code: 13
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(a) A victim who was one of the following at the time of the criminally injurious conduct: 16
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(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
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(b) A dependent of a deceased victim who is described in division (A) (1) (a) of this section; 22
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(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
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(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
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(e) The estate of a deceased victim who is described in division (A) (1) (a) of this section. 34
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(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code: 36
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(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and 39
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who, at the time of the criminally injurious conduct, complied	41
with any one of the following:	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 victim for loss that the victim sustained because of the criminally injurious conduct;	97 98 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	116 117 118 119 120 121 122 123 124

applies:	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 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;	128 129 130 131 132
(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;	133 134
(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;	135 136 137 138
(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.	139 140 141 142
(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	143 144 145 146 147 148 149 150 151 152 153

following applies:	154
(a) The person engaging in the conduct intended to cause personal injury or death;	155 156
(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;	157 158 159 160 161 162
(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;	163 164
(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;	165 166 167 168 169 170
(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.	171 172 173 174 175 176
(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.	177 178 179
(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.	180 181 182

(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 of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanently incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct; 303
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(3) A person who suffers trauma so severe that it impedes or prohibits a person from participating in normal daily activities and who is either of the following: 309
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(a) A family member of a victim of criminally injurious conduct that consists of a homicide, or a family member of a victim who, as a result of criminally injurious conduct, has sustained a severe and permanently incapacitating injury resulting in paraplegia or a similar life-altering condition, and who can demonstrate either of the following by a preponderance of the evidence: 312
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(i) The person witnessed the criminally injurious conduct. 319

(ii) The person arrived at the crime scene in its immediate aftermath. 320
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(b) An immediate family member who is a caretaker of a dependent victim of criminally injurious conduct that consists of a sexual assault. 322
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(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, ~~without regard to the conduct's proximity in time or space to~~ which all of the following apply: 325
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(1) The conduct occurred at the time of the criminally injurious conduct, ~~has a causal relationship to~~ that is the 330
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<u>basis of the claim.</u>	332
<u>(2) The conduct itself caused or posed a substantial and</u>	333
<u>imminent threat of causing serious physical harm or death to</u>	334
<u>another.</u>	335
<u>(3) The conduct instigated or proximately caused the</u>	336
criminally injurious conduct that is the basis of the claim.	337
(N) (1) "Funeral expense" means any reasonable charges that	338
are not in excess of seven thousand five hundred dollars per	339
funeral and that are incurred for expenses directly related to a	340
victim's funeral, cremation, or burial and any wages lost or	341
travel expenses incurred by a family member of a victim in order	342
to attend the victim's funeral, cremation, or burial.	343
(2) An award for funeral expenses shall be applied first	344
to expenses directly related to the victim's funeral, cremation,	345
or burial. An award for wages lost or travel expenses incurred	346
by a family member of the victim shall not exceed five hundred	347
dollars for each family member and shall not exceed in the	348
aggregate the difference between seven thousand five hundred	349
dollars and expenses that are reimbursed by the program and that	350
are directly related to the victim's funeral, cremation, or	351
burial.	352
(O) "Unemployment benefits loss" means a loss of	353
unemployment benefits pursuant to Chapter 4141. of the Revised	354
Code when the loss arises solely from the inability of a victim	355
to meet the able to work, available for suitable work, or the	356
actively seeking suitable work requirements of division (A) (4)	357
(a) of section 4141.29 of the Revised Code.	358
(P) "OVI violation" means any of the following:	359
(1) A violation of section 4511.19 of the Revised Code, of	360

any municipal ordinance prohibiting the operation of a vehicle 361
while under the influence of alcohol, a drug of abuse, or a 362
combination of them, or of any municipal ordinance prohibiting 363
the operation of a vehicle with a prohibited concentration of 364
alcohol, a controlled substance, or a metabolite of a controlled 365
substance in the whole blood, blood serum or plasma, breath, or 366
urine; 367

(2) A violation of division (A)(1) of section 2903.06 of 368
the Revised Code; 369

(3) A violation of division (A)(2), (3), or (4) of section 370
2903.06 of the Revised Code or of a municipal ordinance 371
substantially similar to any of those divisions, if the offender 372
was under the influence of alcohol, a drug of abuse, or a 373
combination of them, at the time of the commission of the 374
offense; 375

(4) For purposes of any person described in division (A) 376
(2) of this section, a violation of any law of the state, 377
district, territory, or foreign country in which the criminally 378
injurious conduct occurred, if that law is substantially similar 379
to a violation described in division (P)(1) or (2) of this 380
section or if that law is substantially similar to a violation 381
described in division (P)(3) of this section and the offender 382
was under the influence of alcohol, a drug of abuse, or a 383
combination of them, at the time of the commission of the 384
offense. 385

(Q) "Pendency of the claim" for an original reparations 386
application or supplemental reparations application means the 387
period of time from the date the criminally injurious conduct 388
upon which the application is based occurred until the date a 389
final decision, order, or judgment concerning that original 390

reparations application or supplemental reparations application	391
is issued.	392
(R) "Terrorism" means any activity to which all of the	393
following apply:	394
(1) The activity involves a violent act or an act that is	395
dangerous to human life.	396
(2) The act described in division (R)(1) of this section	397
is committed within the territorial jurisdiction of the United	398
States and is a violation of the criminal laws of the United	399
States, this state, or any other state or the act described in	400
division (R)(1) of this section is committed outside the	401
territorial jurisdiction of the United States and would be a	402
violation of the criminal laws of the United States, this state,	403
or any other state if committed within the territorial	404
jurisdiction of the United States.	405
(3) The activity appears to be intended to do any of the	406
following:	407
(a) Intimidate or coerce a civilian population;	408
(b) Influence the policy of any government by intimidation	409
or coercion;	410
(c) Affect the conduct of any government by assassination	411
or kidnapping.	412
(4) The activity occurs primarily outside the territorial	413
jurisdiction of the United States or transcends the national	414
boundaries of the United States in terms of the means by which	415
the activity is accomplished, the person or persons that the	416
activity appears intended to intimidate or coerce, or the area	417
or locale in which the perpetrator or perpetrators of the	418

activity operate or seek asylum. 419

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States. 420
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(T) "Cost of crime scene cleanup" means any of the following: 424
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(1) The replacement cost for items of clothing removed from a victim in order to make an assessment of possible physical harm or to treat physical harm; 426
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(2) Reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim. 429
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(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim. 434
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(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense. 438
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(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to the victim by affinity or consanguinity. 441
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(X) "Family member" means an individual who is related to a victim by affinity or consanguinity. 445
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Sec. 2743.56. (A) A claim for an award of reparations 447
shall be commenced by filing an application for an award of 448
reparations with the attorney general. The application may be 449
filed by mail. If the application is filed by mail, the post- 450
marked date of the application shall be considered the filing 451
date of the application. The application shall be in a form 452
prescribed by the attorney general and shall include a release 453
authorizing the attorney general and the court of claims to 454
obtain any report, document, or information that relates to the 455
determination of the claim for an award of reparations that is 456
requested in the application. 457

(B) All applications for an award of reparations may be 458
filed at any time within three years after the occurrence of the 459
criminally injurious conduct, except as provided in divisions 460
(A) (2) (b) to (d) of section 2743.60 of the Revised Code. 461

Sec. 2743.59. (A) The attorney general shall fully 462
investigate a claim for an award of reparations, regardless of 463
whether any person is prosecuted for or convicted of committing 464
the criminally injurious conduct alleged in the application. 465
After completing the investigation, the attorney general shall 466
make a written finding of fact and decision concerning an award 467
of reparations. 468

(B) (1) The attorney general may require the claimant to 469
supplement the application for an award of reparations with any 470
further information or documentary materials, including any 471
medical report readily available, that may lead to any relevant 472
facts in the determination of whether, and the extent to which, 473
a claimant qualifies for an award of reparations. The attorney 474
general may depose any witness, including the claimant, pursuant 475
to Civil Rules 28, 30, and 45. 476

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

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

(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 508
(B) (2) (a) of this section shall comply with the terms of the 509
subpoena or subpoena duces tecum unless otherwise provided by an 510
order of a judge of the court of claims entered prior to the day 511
for return contained in the subpoena or as extended by the 512
court. If a person or entity fails without lawful excuse to obey 513
a subpoena or subpoena duces tecum issued under division (B) (2) 514
(a) of this section or to produce relevant materials, the 515
attorney general may apply to a judge of the court of claims for 516
and obtain an order adjudging the person or entity in contempt 517
of court. 518

(C) ~~The~~ If the attorney general decides to make an award 519
of reparations, the finding of fact and decision that is issued 520
by the attorney general pursuant to division (A) of this section 521
shall contain all of the following: 522

(1) Whether the criminally injurious conduct that is the 523
basis for the application did occur, the date on which the 524
conduct occurred, and the exact nature of the conduct; 525

(2) Whether the criminally injurious conduct was reported 526
to a law enforcement officer or agency, ~~and~~ the date on which the 527
~~conduct was reported, the name of the person who reported the~~ 528
~~conduct, and the reasons why the conduct was not reported to a~~ 529
~~law enforcement officer or agency;~~ 530

(3) ~~The exact nature~~ A description of the injuries that 531
the victim sustained as a result of the criminally injurious 532
conduct; 533

(4) A specific list of the economic loss that was 534
sustained as a result of the criminally injurious conduct by the 535
victim, the claimant, or a dependent; 536

(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;

(6) A description of any evidence in support of a reduction of the award total on the basis of contributory misconduct or failure to cooperate 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;~~

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

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

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

(8) A statement as to whether payments made pursuant to the award are to be made to the claimant, to a provider, or

jointly to the claimant and provider, and the amount of the 566
payments. 567

(D) ~~The~~ If the attorney general decides to deny an award 568
to the claimant, the finding of fact and decision that is issued 569
by the attorney general pursuant to division (A) of this section 570
shall contain ~~all~~ both of the following: 571

(1) ~~A statement as to whether a claimant is eligible for~~ 572
~~an award of reparations, whether payments made pursuant to the~~ 573
~~award are to be made to the claimant, to a provider, or jointly~~ 574
~~to the claimant and a provider, and the amount of the payments~~ 575
~~to the claimant or provider;~~ 576

~~(2) A statement as to whether any of the payments made~~ 577
~~pursuant to the award should be paid in a lump sum or in~~ 578
~~installments;~~ 579

~~(3) If the attorney general decides that an award not be~~ 580
~~made to the claimant, the~~ The reasons for that decision; 581

(2) A description of any disqualifying conditions that 582
exist under section 2743.60 of the Revised Code. 583

(E) The attorney general shall make a written finding of 584
fact and decision in accordance with sections 2743.51 to 2743.72 585
of the Revised Code within one hundred twenty days after 586
receiving the claim application. The attorney general may extend 587
the one-hundred-twenty-day time limit and shall record in 588
writing specific reasons to justify the extension. The attorney 589
general shall notify the claimant of the extension and of the 590
reasons for the extension. The attorney general shall serve a 591
copy of its written finding of fact and decision upon the 592
claimant. 593

Sec. 2743.60. ~~(A)~~ (A) (1) The attorney general or the court 594

of claims shall not make or order an award of reparations to a claimant if the criminally injurious conduct upon which the claimant bases a claim never was reported to a law enforcement officer or agency.

(2) (a) Except as provided in division (A) (2) (b), (c), or (d) of this section, the attorney general or court of claims shall not make or order an award of reparations to a claimant if the claim is based on criminally injurious conduct that occurred more than three years before the claim was filed or if the claim was denied under the law as it existed prior to the effective date of this amendment.

(b) If the claimant was under twenty-one years of age at the time of the criminally injurious conduct, the claim is not barred under division (A) (2) (a) of this section until after the claimant's twenty-fourth birthday.

(c) If the claim is based on criminally injurious conduct that occurred prior to the effective date of this section and was denied under the law as it existed prior to the effective date of this amendment, the claim is not barred under division (A) (2) (a) of this section and the claimant is eligible to reapply for relief under this section until more than three years have passed since the criminally injurious conduct that gave rise to the claim.

(d) Notwithstanding divisions (A) (2) (a), (b), and (c) of this section, the attorney general is permitted to make an award of reparations at any time for good cause shown.

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

(a) The claimant is the offender or an accomplice of the 624
offender who committed the criminally injurious conduct, or the 625
award would unjustly benefit the offender or accomplice. 626

(b) Except as provided in division (B) (2) of this section, 627
both of the following apply: 628

(i) The victim was a passenger in a motor vehicle and knew 629
or reasonably should have known that the driver was under the 630
influence of alcohol, a drug of abuse, or both. 631

(ii) The claimant is seeking compensation for injuries 632
proximately caused by the driver described in division (B) (1) (b) 633
(i) of this section being under the influence of alcohol, a drug 634
of abuse, or both. 635

(c) Both of the following apply: 636

(i) The victim was under the influence of alcohol, a drug 637
of abuse, or both and was a passenger in a motor vehicle and, if 638
sober, should have reasonably known that the driver was under 639
the influence of alcohol, a drug of abuse, or both. 640

(ii) The claimant is seeking compensation for injuries 641
proximately caused by the driver described in division (B) (1) (b) 642
(i) of this section being under the influence of alcohol, a drug 643
of abuse, or both. 644

(2) Division (B) (1) (b) of this section does not apply if 645
on the date of the occurrence of the criminally injurious 646
conduct, the victim was under sixteen years of age or was at 647
least sixteen years of age but less than eighteen years of age 648
and was riding with a parent, guardian, or care-provider. 649

(C) The attorney general or the court of claims, upon a 650
finding that the claimant or victim has not fully cooperated 651

with appropriate law enforcement agencies, may deny a claim or 652
reconsider and reduce an award of reparations. 653

(D) The attorney general or the court of claims shall 654
reduce an award of reparations or deny a claim for an award of 655
reparations that is otherwise payable to a claimant to the 656
extent that the economic loss upon which the claim is based is 657
recouped from other persons, including collateral sources. If an 658
award is reduced or a claim is denied because of the expected 659
recoupment of all or part of the economic loss of the claimant 660
from a collateral source, the amount of the award or the denial 661
of the claim shall be conditioned upon the claimant's economic 662
loss being recouped by the collateral source. If the award or 663
denial is conditioned upon the recoupment of the claimant's 664
economic loss from a collateral source and it is determined that 665
the claimant did not unreasonably fail to present a timely claim 666
to the collateral source and will not receive all or part of the 667
expected recoupment, the claim may be reopened and an award may 668
be made in an amount equal to the amount of expected recoupment 669
that it is determined the claimant will not receive from the 670
collateral source. 671

If the claimant recoups all or part of the economic loss 672
upon which the claim is based from any other person or entity, 673
including a collateral source, the attorney general may recover 674
pursuant to section 2743.72 of the Revised Code the part of the 675
award that represents the economic loss for which the claimant 676
received the recoupment from the other person or entity. 677

~~(E) (1) Except as otherwise provided in division (E) (2) of 678
this section, the attorney general or the court of claims shall 679
not make an award to a claimant if any of the following applies: 680~~

~~(a) The victim was convicted of a felony within ten years 681~~

~~prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.~~ 682
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~~(b) The claimant was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.~~ 685
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~~(c) It is proved by a preponderance of the evidence that the victim or the claimant engaged, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim, in an offense of violence, a violation of section 2925.03 of the Revised Code, or any substantially similar offense that also would constitute a felony under the laws of this state, another state, or the United States.~~ 689
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~~(d) The claimant was convicted of a violation of section 2919.22 or 2919.25 of the Revised Code, or of any state law or municipal ordinance substantially similar to either section, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim.~~ 697
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~~(e) It is proved by a preponderance of the evidence that the victim at the time of the criminally injurious conduct that gave rise to the claim engaged in conduct that was a felony violation of section 2925.11 of the Revised Code or engaged in any substantially similar conduct that would constitute a felony under the laws of this state, another state, or the United States.~~ 702
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~~(2) The attorney general or the court of claims may make an award to a minor dependent of a deceased victim for~~ 709
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~~dependent's economic loss or for counseling pursuant to division- 711
(F) (2) of section 2743.51 of the Revised Code if the minor- 712
dependent is not ineligible under division (E) (1) of this- 713
section due to the minor dependent's criminal history and if the- 714
victim was not killed while engaging in illegal conduct that- 715
contributed to the criminally injurious conduct that gave rise- 716
to the claim. For purposes of this section, the use of illegal- 717
drugs by the deceased victim shall not be deemed to have- 718
contributed to the criminally injurious conduct that gave rise- 719
to the claim. 720~~

~~(F) In Except as otherwise provided in division (E) (2) of 721
this section, in determining whether to make an award of 722
reparations pursuant to this section, the attorney general or 723
the court of claims shall consider whether there was 724
contributory misconduct by the victim or the claimant. The 725
attorney general or the court of claims shall reduce an award of 726
reparations or deny a claim for an award of reparations to the 727
extent it is determined to be reasonable because of the 728
contributory misconduct of the claimant or the victim. 729~~

~~When the attorney general decides whether a claim should- 730
be denied because of an allegation of contributory misconduct,- 731
the burden of proof on the issue of that alleged contributory- 732
misconduct shall be upon the claimant, if either of the- 733
following apply: 734~~

~~(1) The victim was convicted of a felony more than ten- 735
years prior to the criminally injurious conduct that is the- 736
subject of the claim or has a record of felony arrests under the- 737
laws of this state, another state, or the United States. 738~~

~~(2) There is good cause to believe that the victim engaged- 739
in an ongoing course of criminal conduct within five years or- 740~~

~~less of the criminally injurious conduct that is the subject of~~ 741
~~the claim.~~ Notwithstanding division (E) (1) of this section, in 742
determining whether to make an award of reparations pursuant to 743
this section, if the criminally injurious conduct upon which the 744
claim is based resulted in a victim's death, the attorney 745
general and the court of claims shall not consider whether there 746
was contributory misconduct by the deceased victim. The attorney 747
general or the court of claims shall not reduce an award of 748
reparations or deny a claim for an award of reparations based on 749
contributory misconduct of a deceased victim. 750

~~(G)~~ (F) The attorney general or the court of claims shall 751
not make an award of reparations to a claimant if the criminally 752
injurious conduct that caused the injury or death that is the 753
subject of the claim occurred to a victim who was an adult and 754
while the victim, after being convicted of or pleading guilty to 755
an offense, was serving a sentence of imprisonment in any 756
detention facility, as defined in section 2921.01 of the Revised 757
Code. 758

~~(H)~~ (G) If a claimant unreasonably fails to present a 759
claim timely to a source of benefits or advantages that would 760
have been a collateral source and that would have reimbursed the 761
claimant for all or a portion of a particular expense, the 762
attorney general or the court of claims may reduce an award of 763
reparations or deny a claim for an award of reparations to the 764
extent that it is reasonable to do so. 765

~~(I)~~ (H) Reparations payable to a victim described in 766
division (L) (1) of section 2743.51 of the Revised Code and to 767
all other claimants sustaining economic loss because of injury 768
to or the death of that victim shall not exceed fifty thousand 769
dollars in the aggregate. Reparations payable to a victim 770

described in division (L) (2) of section 2743.51 of the Revised 771
Code shall not exceed five thousand dollars. Reparations payable 772
to a victim described in division (L) (3) of section 2743.51 of 773
the Revised Code shall not exceed fifteen thousand dollars. If 774
the attorney general or the court of claims reduces an award 775
under division ~~(F)~~(E) of this section, the maximum aggregate 776
amount of reparations payable under this division shall be 777
reduced proportionately to the reduction under division ~~(F)~~(E) 778
of this section. 779

~~(J)~~(I) Reparations otherwise payable to a victim under 780
this section shall not be payable to the victim during any 781
period that the victim is incarcerated. 782

(J) Nothing in this section shall be construed to prohibit 783
an award to a claimant whose claim is based on the claimant's 784
being a victim of a violation of section 2905.32 of the Revised 785
Code if the claimant was less than eighteen years of age when 786
the criminally injurious conduct occurred. 787

Sec. 2743.65. (A) The attorney general shall determine, 788
and the state shall pay, in accordance with this section 789
attorney's fees, commensurate with services rendered, to the 790
attorney representing a claimant under sections 2743.51 to 791
2743.72 of the Revised Code. The attorney shall submit on an 792
application form an itemized fee bill at the rate of sixty 793
dollars per hour upon receipt of the final decision on the 794
claim. Attorney's fees paid pursuant to this section are subject 795
to the following maximum amounts: 796

(1) A maximum of seven hundred twenty dollars for claims 797
resolved without the filing of an appeal to the court of claims; 798

(2) A maximum of one thousand twenty dollars for claims in 799

which an appeal to the court of claims is filed plus, at the 800
request of an attorney whose main office is not in Franklin 801
county, Delaware county, Licking county, Fairfield county, 802
Pickaway county, Madison county, or Union county, an amount for 803
the attorney's travel time to attend the oral hearing before the 804
court of claims at the rate of thirty dollars per hour; 805

(3) A maximum of one thousand three hundred twenty dollars 806
for claims in which an appeal to the court of claims is filed 807
plus, at the request of an attorney whose main office is not in 808
Franklin county, Delaware county, Licking county, Fairfield 809
county, Pickaway county, Madison county, or Union county, an 810
amount for the attorney's travel time to attend the oral hearing 811
before the court at the rate of thirty dollars per hour; 812

(4) A maximum of seven hundred twenty dollars for a 813
supplemental reparations application; 814

~~(5) A maximum of two hundred dollars if the claim is 815
denied on the basis of a claimant's or victim's conviction of a 816
felony offense prior to the filing of the claim. If the claimant 817
or victim is convicted of a felony offense during the pendency 818
of the claim, the two hundred dollars maximum does not apply. If 819
the attorney had knowledge of the claimant's or victim's felony 820
conviction prior to the filing of the application for the claim, 821
the attorney general may determine that the filing of the claim 822
was frivolous and may deny attorney's fees. 823~~

(B) The attorney general may determine that an attorney be 824
reimbursed for fees incurred in the creation of a guardianship 825
if the guardianship is required in order for an individual to 826
receive an award of reparations, and those fees shall be 827
reimbursed at a rate of sixty dollars per hour. 828

(C) (1) The attorney general shall forward an application 829
form for attorney's fees to a claimant's attorney before or when 830
the final decision on a claim is rendered. The application form 831
for attorney's fees shall do all of the following: 832

(a) Inform the attorney of the requirements of this 833
section; 834

(b) Require a verification statement comports with the 835
law prohibiting falsification; 836

(c) Require an itemized fee statement; 837

(d) Require a verification statement that the claimant was 838
served a copy of the completed application form; 839

(e) Include notice that the claimant may oppose the 840
application by notifying the attorney general in writing within 841
ten days. 842

(2) The attorney general shall forward a copy of this 843
section to the attorney with the application form for attorney's 844
fees. The attorney shall file the application form with the 845
attorney general. The attorney general's decision with respect 846
to an award of attorney's fees is final ten days after the 847
attorney general renders the decision and mails a copy of the 848
decision to the attorney at the address provided by the 849
attorney. The attorney may request reconsideration of the 850
decision on grounds that it is insufficient or calculated 851
incorrectly. The attorney general's decision on the request for 852
reconsideration is final. 853

(D) The attorney general shall review all application 854
forms for attorney's fees that are submitted by a claimant's 855
attorney and shall issue an order approving the amount of fees 856
to be paid to the attorney within sixty days after receipt of 857

the application form. 858

(E) No attorney's fees shall be paid for the following: 859

(1) Estate work or representation of a claimant against a 860
collateral source; 861

(2) Duplication of investigative work required to be 862
performed by the attorney general; 863

(3) Performance of unnecessary criminal investigation of 864
the offense; 865

(4) Presenting or appealing an issue that has been 866
repeatedly ruled upon by the highest appellate authority, unless 867
a unique set of facts or unique issue of law exists that 868
distinguishes it; 869

(5) Representing a victim of the type described in 870
division (L) (2) or (3) of section 2743.51 of the Revised Code; 871

(6) A fee request that is unreasonable, is not 872
commensurate with services rendered, violates the Ohio code of 873
professional responsibility, or is based upon services that are 874
determined to be frivolous. 875

(F) (1) The attorney general may reduce or deny the payment 876
of attorney's fees to an attorney who has filed a frivolous 877
claim. ~~Subject to division (A) (5) of this section, the~~ The 878
denial of a claim on the basis of ~~a felony conviction, felony~~ 879
~~conduct, or contributory misconduct~~ does not constitute a 880
frivolous claim. 881

(2) As used in this section, "frivolous claim" means a 882
claim in which there is clearly no legal grounds under the 883
existing laws of this state to support the filing of a claim on 884
behalf of the claimant or victim. 885

(G) The attorney general may determine that a lesser 886
number of hours should have been required in a given case. 887
Additional reimbursement may be made where the attorney 888
demonstrates to the attorney general that the nature of the 889
particular claim required the expenditure of an amount in excess 890
of that allowed. 891

(H) No attorney shall receive payment under this section 892
for assisting a claimant with an application for an award of 893
reparations under sections 2743.51 to 2743.72 of the Revised 894
Code if that attorney's fees have been allowed as an expense in 895
accordance with division ~~(F) (4)~~ (F) (5) of section 2743.51 of the 896
Revised Code. 897

(I) A contract or other agreement between an attorney and 898
any person that provides for the payment of attorney's fees or 899
other payments in excess of the attorney's fees allowed under 900
this section for representing a claimant under sections 2743.51 901
to 2743.72 of the Revised Code shall be void and unenforceable. 902

(J) Each witness who appears in a hearing on a claim for 903
an award of reparations shall receive compensation in an amount 904
equal to that received by witnesses under section 119.094 of the 905
Revised Code. 906

Sec. 2743.71. (A) Any law enforcement agency that 907
investigates, and any prosecuting attorney, city director of 908
law, village solicitor, or similar prosecuting authority who 909
prosecutes, an offense committed in this state shall, upon first 910
contact with the victim, as defined in division (L) (1) of 911
section 2743.51 of the Revised Code, or the victim's family or 912
dependents, give the victim or the victim's family or dependents 913
a copy of an information card or other printed material provided 914
by the attorney general pursuant to division (B) of this section 915

and explain, upon request, the information on the card or 916
material to the victim or the victim's family or dependents. 917

(B) The attorney general shall have printed, and shall 918
provide to law enforcement agencies, prosecuting attorneys, city 919
directors of law, village solicitors, and similar prosecuting 920
authorities, cards or other materials that contain information 921
explaining awards of reparations. The information on the cards 922
or other materials shall include, but shall not be limited to, 923
the following statements: 924

(1) Awards of reparations are limited to losses that are 925
caused by physical injury resulting from criminally injurious 926
conduct; 927

(2) Reparations applications may be filed at any time 928
within three years after the occurrence of the criminally 929
injurious conduct, except as provided in divisions (A) (2) (b) to 930
(d) of section 2743.60 of the Revised Code; 931

(3) An attorney who represents an applicant for an award 932
of reparations cannot charge the applicant for the services 933
rendered in relation to that representation but is required to 934
apply to the attorney general for payment for the 935
representation; 936

(4) Applications for awards of reparations may be obtained 937
from the attorney general, law enforcement agencies, and victim 938
assistance agencies and are to be filed with the attorney 939
general. 940

(C) The attorney general may order that a reasonable 941
amount of money be paid out of the reparations fund, subject to 942
the limitation imposed by division (D) of this section, for use 943
by the attorney general to publicize the availability of awards 944

of reparations. 945

(D) During any fiscal year, the total expenditure for the 946
printing and providing of information cards or other materials 947
pursuant to division (B) of this section and for the publicizing 948
of the availability of awards of reparations pursuant to 949
division (C) of this section shall not exceed two per cent of 950
the total of all court costs deposited, in accordance with 951
section 2743.70 of the Revised Code, in the reparations fund 952
during the immediately preceding fiscal year. 953

Section 2. That existing sections 2743.51, 2743.56, 954
2743.59, 2743.60, 2743.65, and 2743.71 of the Revised Code are 955
hereby repealed. 956