

As Reported by the Senate Judiciary Committee

134th General Assembly

Regular Session

2021-2022

Sub. S. B. No. 36

Senators Manning, Huffman, S.

A BILL

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

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

Section 1. That sections 2743.51, 2743.59, 2743.60, 5
2743.65, and 2743.71 of the Revised Code be amended to read as 6
follows: 7

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 8
the Revised Code: 9

(A) "Claimant" means both of the following categories of 10
persons: 11

(1) Any of the following persons who claim an award of 12
reparations under sections 2743.51 to 2743.72 of the Revised 13
Code: 14

(a) A victim who was one of the following at the time of 15
the criminally injurious conduct: 16

(i) A resident of the United States; 17

(ii) A resident of a foreign country the laws of which 18
permit residents of this state to recover compensation as 19
victims of offenses committed in that country. 20

(b) A dependent of a deceased victim who is described in 21
division (A) (1) (a) of this section; 22

(c) A third person, other than a collateral source, who 23
legally assumes or voluntarily pays the obligations of a victim, 24
or of a dependent of a victim, who is described in division (A) 25
(1) (a) of this section, which obligations are incurred as a 26
result of the criminally injurious conduct that is the subject 27
of the claim and may include, but are not limited to, medical or 28
burial expenses; 29

(d) A person who is authorized to act on behalf of any 30
person who is described in division (A) (1) (a), (b), or (c) of 31
this section; 32

(e) The estate of a deceased victim who is described in 33
division (A) (1) (a) of this section. 34

(2) Any of the following persons who claim an award of 35
reparations under sections 2743.51 to 2743.72 of the Revised 36
Code: 37

(a) A victim who had a permanent place of residence within 38
this state at the time of the criminally injurious conduct and 39
who, at the time of the criminally injurious conduct, complied 40
with any one of the following: 41

(i) Had a permanent place of employment in this state; 42

(ii) Was a member of the regular armed forces of the 43
United States or of the United States coast guard or was a full- 44
time member of the Ohio organized militia or of the United 45

States army reserve, naval reserve, or air force reserve;	46
(iii) Was retired and receiving social security or any other retirement income;	47 48
(iv) Was sixty years of age or older;	49
(v) Was temporarily in another state for the purpose of receiving medical treatment;	50 51
(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;	52 53 54 55
(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;	56 57 58 59 60
(viii) Was a full-time student at an academic institution, college, or university located in another state;	61 62
(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.	63 64 65 66
(b) A dependent of a deceased victim who is described in division (A) (2) (a) of this section;	67 68
(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) (2) (a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject	69 70 71 72 73

of the claim and may include, but are not limited to, medical or	74
burial expenses;	75
(d) A person who is authorized to act on behalf of any	76
person who is described in division (A) (2) (a), (b), or (c) of	77
this section;	78
(e) The estate of a deceased victim who is described in	79
division (A) (2) (a) of this section.	80
(B) "Collateral source" means a source of benefits or	81
advantages for economic loss otherwise reparable that the victim	82
or claimant has received, or that is readily available to the	83
victim or claimant, from any of the following sources:	84
(1) The offender;	85
(2) The government of the United States or any of its	86
agencies, a state or any of its political subdivisions, or an	87
instrumentality of two or more states, unless the law providing	88
for the benefits or advantages makes them excess or secondary to	89
benefits under sections 2743.51 to 2743.72 of the Revised Code;	90
(3) Social security, medicare, and medicaid;	91
(4) State-required, temporary, nonoccupational disability	92
insurance;	93
(5) Workers' compensation;	94
(6) Wage continuation programs of any employer;	95
(7) Proceeds of a contract of insurance payable to the	96
victim for loss that the victim sustained because of the	97
criminally injurious conduct;	98
(8) A contract providing prepaid hospital and other health	99
care services, or benefits for disability;	100

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

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

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

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

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

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

(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	130
under the laws of this state;	131
(c) The person engaging in the conduct was using the	132
vehicle in a manner that constitutes an OVI violation;	133
(d) The conduct occurred on or after July 25, 1990, and	134
the person engaging in the conduct was using the vehicle in a	135
manner that constitutes a violation of section 2903.08 of the	136
Revised Code;	137
(e) The person engaging in the conduct acted in a manner	138
that caused serious physical harm to a person and that	139
constituted a violation of section 4549.02 or 4549.021 of the	140
Revised Code.	141
(2) For the purposes of any person described in division	142
(A) (2) of this section, any conduct that occurs or is attempted	143
in another state, district, territory, or foreign country; poses	144
a substantial threat of personal injury or death; and is	145
punishable by fine, imprisonment, or death, or would be so	146
punishable but for the fact that the person engaging in the	147
conduct lacked capacity to commit the crime under the laws of	148
the state, district, territory, or foreign country in which the	149
conduct occurred or was attempted. Criminally injurious conduct	150
does not include conduct arising out of the ownership,	151
maintenance, or use of a motor vehicle, except when any of the	152
following applies:	153
(a) The person engaging in the conduct intended to cause	154
personal injury or death;	155
(b) The person engaging in the conduct was using the	156
vehicle to flee immediately after committing a felony or an act	157
that would constitute a felony but for the fact that the person	158

engaging in the conduct lacked the capacity to commit the felony 159
under the laws of the state, district, territory, or foreign 160
country in which the conduct occurred or was attempted; 161

(c) The person engaging in the conduct was using the 162
vehicle in a manner that constitutes an OVI violation; 163

(d) The conduct occurred on or after July 25, 1990, the 164
person engaging in the conduct was using the vehicle in a manner 165
that constitutes a violation of any law of the state, district, 166
territory, or foreign country in which the conduct occurred, and 167
that law is substantially similar to a violation of section 168
2903.08 of the Revised Code; 169

(e) The person engaging in the conduct acted in a manner 170
that caused serious physical harm to a person and that 171
constituted a violation of any law of the state, district, 172
territory, or foreign country in which the conduct occurred, and 173
that law is substantially similar to section 4549.02 or 4549.021 174
of the Revised Code. 175

(3) For the purposes of any person described in division 176
(A) (1) or (2) of this section, terrorism that occurs within or 177
outside the territorial jurisdiction of the United States. 178

(D) "Dependent" means an individual wholly or partially 179
dependent upon the victim for care and support, and includes a 180
child of the victim born after the victim's death. 181

(E) "Economic loss" means economic detriment consisting 182
only of allowable expense, work loss, funeral expense, 183
unemployment benefits loss, replacement services loss, cost of 184
crime scene cleanup, and cost of evidence replacement. If 185
criminally injurious conduct causes death, economic loss 186
includes a dependent's economic loss and a dependent's 187

replacement services loss. Noneconomic detriment is not economic 188
loss; however, economic loss may be caused by pain and suffering 189
or physical impairment. 190

(F) (1) ~~"Allowable~~ For a victim described in division (L) 191
(1) of this section, "allowable expense" means reasonable 192
charges incurred for reasonably needed products, services, and 193
accommodations, including those for medical care, 194
rehabilitation, rehabilitative occupational training, and other 195
remedial treatment and care and including replacement costs for 196
hearing aids; dentures, retainers, and other dental appliances; 197
canes, walkers, and other mobility tools; and eyeglasses and 198
other corrective lenses. It does not include that portion of a 199
charge for a room in a hospital, clinic, convalescent home, 200
nursing home, or any other institution engaged in providing 201
nursing care and related services in excess of a reasonable and 202
customary charge for semiprivate accommodations, unless 203
accommodations other than semiprivate accommodations are 204
medically required. 205

(2) ~~An immediate family member of~~ For a victim of 206
~~criminally injurious conduct that consists of a homicide, a~~ 207
~~sexual assault, domestic violence, or a severe and permanent~~ 208
~~incapacitating injury resulting in paraplegia or a similar life-~~ 209
~~altering condition, who requires~~ described in division (L) (2) of 210
this section, "allowable expense" means reasonable charges 211
incurred for psychiatric care or counseling reasonably needed as 212
a result of the criminally injurious conduct, ~~may be reimbursed~~ 213
~~for that care or counseling as an allowable expense through the~~ 214
~~victim's application. The cumulative allowable~~ No other type of 215
expense for care or counseling of that nature shall not exceed 216
~~two thousand five hundred dollars for each immediate family~~ 217
~~member of a victim of that type and seven thousand five hundred~~ 218

~~dollars in the aggregate is compensable under section 2743.51 to 219~~
~~2743.72 of the Revised Code for all immediate family members of 220~~
a victim of that type. 221

(3) For a victim described in division (L)(3) of this 222
section, "allowable expense" means work loss and reasonable 223
charges incurred for psychiatric care or counseling reasonably 224
needed as a result of the criminally injurious conduct. No other 225
type of expense is compensable under sections 2743.51 to 2743.72 226
of the Revised Code for a victim of that type. 227

(4) A family member of a victim who died as a proximate 228
result of criminally injurious conduct may be reimbursed as an 229
allowable expense through the victim's application for wages 230
lost and travel expenses incurred in order to attend criminal 231
justice proceedings arising from the criminally injurious 232
conduct. The cumulative allowable expense for wages lost and 233
travel expenses incurred by a family member to attend criminal 234
justice proceedings shall not exceed five hundred dollars for 235
each family member of the victim and two thousand dollars in the 236
aggregate for all family members of the victim. 237

~~(4)(a) "Allowable~~ (5) For a victim described in division 238
(L)(1) of this section, "allowable expense" includes reasonable 239
both of the following: 240

(a) Reasonable expenses and fees necessary to obtain a 241
guardian's bond pursuant to section 2109.04 of the Revised Code 242
when the bond is required to pay an award to a fiduciary on 243
behalf of a minor or other incompetent. 244

~~"Allowable expense" includes attorney's~~ Attorney's 245
fees not exceeding one thousand dollars, at a rate not exceeding 246
one hundred dollars per hour, incurred to successfully obtain a 247

restraining order, custody order, or other order to physically 248
separate a victim from an offender. Attorney's fees for the 249
services described in this division may include an amount for 250
reasonable travel time incurred to attend court hearings, not 251
exceeding three hours' round-trip for each court hearing, 252
assessed at a rate not exceeding thirty dollars per hour. 253

(G) "Work loss" means loss of income from work that the 254
injured person would have performed if the person had not been 255
injured and expenses reasonably incurred by the person to obtain 256
services in lieu of those the person would have performed for 257
income, reduced by any income from substitute work actually 258
performed by the person, or by income the person would have 259
earned in available appropriate substitute work that the person 260
was capable of performing but unreasonably failed to undertake. 261

(H) "Replacement services loss" means expenses reasonably 262
incurred in obtaining ordinary and necessary services in lieu of 263
those the injured person would have performed, not for income, 264
but for the benefit of the person's self or family, if the 265
person had not been injured. 266

(I) "Dependent's economic loss" means loss after a 267
victim's death of contributions of things of economic value to 268
the victim's dependents, not including services they would have 269
received from the victim if the victim had not suffered the 270
fatal injury, less expenses of the dependents avoided by reason 271
of the victim's death. If a minor child of a victim is adopted 272
after the victim's death, the minor child continues after the 273
adoption to incur a dependent's economic loss as a result of the 274
victim's death. If the surviving spouse of a victim remarries, 275
the surviving spouse continues after the remarriage to incur a 276
dependent's economic loss as a result of the victim's death. 277

(J) "Dependent's replacement services loss" means loss 278
reasonably incurred by dependents after a victim's death in 279
obtaining ordinary and necessary services in lieu of those the 280
victim would have performed for their benefit if the victim had 281
not suffered the fatal injury, less expenses of the dependents 282
avoided by reason of the victim's death and not subtracted in 283
calculating the dependent's economic loss. If a minor child of a 284
victim is adopted after the victim's death, the minor child 285
continues after the adoption to incur a dependent's replacement 286
services loss as a result of the victim's death. If the 287
surviving spouse of a victim remarries, the surviving spouse 288
continues after the remarriage to incur a dependent's 289
replacement services loss as a result of the victim's death. 290

(K) "Noneconomic detriment" means pain, suffering, 291
inconvenience, physical impairment, or other nonpecuniary 292
damage. 293

(L) "Victim" means a one of the following: 294

(1) A person who suffers personal injury or death as a 295
result of any of the following: 296

~~(1)~~ (a) Criminally injurious conduct; 297

~~(2)~~ (b) The good faith effort of any person to prevent 298
criminally injurious conduct; 299

~~(3)~~ (c) The good faith effort of any person to apprehend a 300
person suspected of engaging in criminally injurious conduct. 301

(2) A person who is an immediate family member of a victim 302
of criminally injurious conduct that consists of a homicide, a 303
sexual assault, domestic violence, or a severe and permanently 304
incapacitating injury resulting in paraplegia or a similar life- 305
altering condition, who requires psychiatric care or counseling 306

<u>as a result of the criminally injurious conduct;</u>	307
<u>(3) A person who suffers trauma so severe that it impedes</u>	308
<u>or prohibits a person from participating in normal daily</u>	309
<u>activities and who is either of the following:</u>	310
<u>(a) A family member of a victim of criminally injurious</u>	311
<u>conduct that consists of a homicide, or a family member of a</u>	312
<u>victim who, as a result of criminally injurious conduct, has</u>	313
<u>sustained a severe and permanently incapacitating injury</u>	314
<u>resulting in paraplegia or a similar life-altering condition,</u>	315
<u>and who can demonstrate either of the following by a</u>	316
<u>preponderance of the evidence:</u>	317
<u>(i) The person witnessed the criminally injurious conduct.</u>	318
<u>(ii) The person arrived at the crime scene in its</u>	319
<u>immediate aftermath.</u>	320
<u>(b) An immediate family member who is a caretaker of a</u>	321
<u>dependent victim of criminally injurious conduct that consists</u>	322
<u>of a sexual assault.</u>	323
(M) "Contributory misconduct" means any conduct of the	324
claimant or of the victim through whom the claimant claims an	325
award of reparations that is unlawful or intentionally tortious	326
and that, without regard to the conduct's proximity in time or	327
space <u>to which all of the following apply:</u>	328
<u>(1) The conduct occurred at the time of the criminally</u>	329
<u>injurious conduct, has a causal relationship to <u>that is the</u></u>	330
<u>basis of the claim.</u>	331
<u>(2) The conduct itself caused or posed a substantial and</u>	332
<u>imminent threat of causing serious physical harm or death to</u>	333
<u>another.</u>	334

(3) The conduct instigated or proximately caused the 335
criminally injurious conduct that is the basis of the claim. 336

(N) (1) "Funeral expense" means any reasonable charges that 337
are not in excess of seven thousand five hundred dollars per 338
funeral and that are incurred for expenses directly related to a 339
victim's funeral, cremation, or burial and any wages lost or 340
travel expenses incurred by a family member of a victim in order 341
to attend the victim's funeral, cremation, or burial. 342

(2) An award for funeral expenses shall be applied first 343
to expenses directly related to the victim's funeral, cremation, 344
or burial. An award for wages lost or travel expenses incurred 345
by a family member of the victim shall not exceed five hundred 346
dollars for each family member and shall not exceed in the 347
aggregate the difference between seven thousand five hundred 348
dollars and expenses that are reimbursed by the program and that 349
are directly related to the victim's funeral, cremation, or 350
burial. 351

(O) "Unemployment benefits loss" means a loss of 352
unemployment benefits pursuant to Chapter 4141. of the Revised 353
Code when the loss arises solely from the inability of a victim 354
to meet the able to work, available for suitable work, or the 355
actively seeking suitable work requirements of division (A) (4) 356
(a) of section 4141.29 of the Revised Code. 357

(P) "OVI violation" means any of the following: 358

(1) A violation of section 4511.19 of the Revised Code, of 359
any municipal ordinance prohibiting the operation of a vehicle 360
while under the influence of alcohol, a drug of abuse, or a 361
combination of them, or of any municipal ordinance prohibiting 362
the operation of a vehicle with a prohibited concentration of 363

alcohol, a controlled substance, or a metabolite of a controlled 364
substance in the whole blood, blood serum or plasma, breath, or 365
urine; 366

(2) A violation of division (A)(1) of section 2903.06 of 367
the Revised Code; 368

(3) A violation of division (A)(2), (3), or (4) of section 369
2903.06 of the Revised Code or of a municipal ordinance 370
substantially similar to any of those divisions, if the offender 371
was under the influence of alcohol, a drug of abuse, or a 372
combination of them, at the time of the commission of the 373
offense; 374

(4) For purposes of any person described in division (A) 375
(2) of this section, a violation of any law of the state, 376
district, territory, or foreign country in which the criminally 377
injurious conduct occurred, if that law is substantially similar 378
to a violation described in division (P)(1) or (2) of this 379
section or if that law is substantially similar to a violation 380
described in division (P)(3) of this section and the offender 381
was under the influence of alcohol, a drug of abuse, or a 382
combination of them, at the time of the commission of the 383
offense. 384

(Q) "Pendency of the claim" for an original reparations 385
application or supplemental reparations application means the 386
period of time from the date the criminally injurious conduct 387
upon which the application is based occurred until the date a 388
final decision, order, or judgment concerning that original 389
reparations application or supplemental reparations application 390
is issued. 391

(R) "Terrorism" means any activity to which all of the 392

following apply:	393
(1) The activity involves a violent act or an act that is dangerous to human life.	394 395
(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.	396 397 398 399 400 401 402 403 404
(3) The activity appears to be intended to do any of the following:	405 406
(a) Intimidate or coerce a civilian population;	407
(b) Influence the policy of any government by intimidation or coercion;	408 409
(c) Affect the conduct of any government by assassination or kidnapping.	410 411
(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.	412 413 414 415 416 417 418
(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of	419 420

the United States in addition to occurring within the 421
territorial jurisdiction of the United States. 422

(T) "Cost of crime scene cleanup" means any of the 423
following: 424

(1) The replacement cost for items of clothing removed 425
from a victim in order to make an assessment of possible 426
physical harm or to treat physical harm; 427

(2) Reasonable and necessary costs of cleaning the scene 428
and repairing, for the purpose of personal security, property 429
damaged at the scene where the criminally injurious conduct 430
occurred, not to exceed seven hundred fifty dollars in the 431
aggregate per claim. 432

(U) "Cost of evidence replacement" means costs for 433
replacement of property confiscated for evidentiary purposes 434
related to the criminally injurious conduct, not to exceed seven 435
hundred fifty dollars in the aggregate per claim. 436

(V) "Provider" means any person who provides a victim or 437
claimant with a product, service, or accommodations that are an 438
allowable expense or a funeral expense. 439

(W) "Immediate family member" means an individual who 440
resided in the same permanent household as a victim at the time 441
of the criminally injurious conduct and who is related to the 442
victim by affinity or consanguinity. 443

(X) "Family member" means an individual who is related to 444
a victim by affinity or consanguinity. 445

Sec. 2743.59. (A) The attorney general shall fully 446
investigate a claim for an award of reparations, regardless of 447
whether any person is prosecuted for or convicted of committing 448

the criminally injurious conduct alleged in the application. 449
After completing the investigation, the attorney general shall 450
make a written finding of fact and decision concerning an award 451
of reparations. 452

(B) (1) The attorney general may require the claimant to 453
supplement the application for an award of reparations with any 454
further information or documentary materials, including any 455
medical report readily available, that may lead to any relevant 456
facts in the determination of whether, and the extent to which, 457
a claimant qualifies for an award of reparations. The attorney 458
general may depose any witness, including the claimant, pursuant 459
to Civil Rules 28, 30, and 45. 460

(2) (a) For the purpose of determining whether, and the 461
extent to which, a claimant qualifies for an award of 462
reparations, the attorney general may issue subpoenas and 463
subpoenas duces tecum to compel any person or entity, including 464
any collateral source, that provided, will provide, or would 465
have provided to the victim any income, benefit, advantage, 466
product, service, or accommodation, including any medical care 467
or other income, benefit, advantage, product, service, or 468
accommodation that might qualify as an allowable expense or a 469
funeral expense, to produce materials to the attorney general 470
that are relevant to the income, benefit, advantage, product, 471
service, or accommodation that was, will be, or would have been 472
so provided and to the attorney general's determination. 473

(b) If the attorney general issues a subpoena or subpoena 474
duces tecum under division (B) (2) (a) of this section and if the 475
materials that the attorney general requires to be produced are 476
located outside this state, the attorney general may designate 477
one or more representatives, including officials of the state in 478

which the materials are located, to inspect the materials on the 479
attorney general's behalf, and the attorney general may respond 480
to similar requests from officials of other states. The person 481
or entity subpoenaed may make the materials available to the 482
attorney general at a convenient location within the state. 483

(c) At any time before the return day specified in the 484
subpoena or subpoena duces tecum issued under division (B) (2) (a) 485
of this section or within twenty days after the subpoena or 486
subpoena duces tecum has been served, whichever period is 487
shorter, the person or entity subpoenaed may file with a judge 488
of the court of claims a petition to extend the return day or to 489
modify or quash the subpoena or subpoena duces tecum. The 490
petition shall state good cause. 491

(d) A person or entity who is subpoenaed under division 492
(B) (2) (a) of this section shall comply with the terms of the 493
subpoena or subpoena duces tecum unless otherwise provided by an 494
order of a judge of the court of claims entered prior to the day 495
for return contained in the subpoena or as extended by the 496
court. If a person or entity fails without lawful excuse to obey 497
a subpoena or subpoena duces tecum issued under division (B) (2) 498
(a) of this section or to produce relevant materials, the 499
attorney general may apply to a judge of the court of claims for 500
and obtain an order adjudging the person or entity in contempt 501
of court. 502

(C) ~~The~~ If the attorney general decides to make an award 503
of reparations, the finding of fact and decision that is issued 504
by the attorney general pursuant to division (A) of this section 505
shall contain all of the following: 506

(1) Whether the criminally injurious conduct that is the 507
basis for the application did occur, the date on which the 508

conduct occurred, and the exact nature of the conduct;	509
(2) Whether the criminally injurious conduct was reported	510
to a law enforcement officer or agency, <u>and</u> the date on which the	511
conduct was reported, the name of the person who reported the	512
conduct, and the reasons why the conduct was not reported to a	513
law enforcement officer or agency;	514
(3) The exact nature <u>A description</u> of the injuries that	515
the victim sustained as a result of the criminally injurious	516
conduct;	517
(4) A specific list of the economic loss that was	518
sustained as a result of the criminally injurious conduct by the	519
victim, the claimant, or a dependent;	520
(5) A specific list of any benefits or advantages that the	521
victim, the claimant, or a dependent has received or is entitled	522
to receive from any collateral source for economic loss that	523
resulted from the conduct and whether a collateral source would	524
have reimbursed the claimant for a particular expense if a	525
timely claim had been made, and the extent to which the expenses	526
likely would have been reimbursed by the collateral source;	527
(6) A description of any evidence in support of <u>a</u>	528
<u>reduction of the award total on the basis of contributory</u>	529
<u>misconduct or failure to cooperate</u> by the claimant or by the	530
victim through whom the claimant claims an award of reparations, —	531
whether the victim has been convicted of a felony or has a	532
record of felony arrests under the laws of this state, another	533
state, or the United States, whether disqualifying conditions	534
exist under division (E) of section 2743.60 of the Revised Code, —	535
and whether there is evidence that the victim engaged in an	536
ongoing course of criminal conduct within five years or less of	537

the criminally injurious conduct that is the subject of the	538
claim;	539
(7) Whether the victim of the criminally injurious conduct	540
was a minor;	541
(8) If the victim of the criminally injurious conduct was	542
a minor, whether a complaint, indictment, or information was	543
filed against the alleged offender and, if such a filing	544
occurred, its date;	545
(9) Any information that is relevant to the claim for an	546
award of reparations;	547
<u>(8) A statement as to whether payments made pursuant to</u>	548
<u>the award are to be made to the claimant, to a provider, or</u>	549
<u>jointly to the claimant and provider, and the amount of the</u>	550
<u>payments.</u>	551
(D) <u>The</u> <u>If the attorney general decides to deny an award</u>	552
<u>to the claimant, the finding of fact and decision that is issued</u>	553
by the attorney general pursuant to division (A) of this section	554
shall contain <u>all</u> <u>both</u> of the following:	555
(1) A statement as to whether a claimant is eligible for	556
an award of reparations, whether payments made pursuant to the	557
award are to be made to the claimant, to a provider, or jointly	558
to the claimant and a provider, and the amount of the payments	559
to the claimant or provider;	560
(2) A statement as to whether any of the payments made	561
pursuant to the award should be paid in a lump sum or in	562
installments;	563
(3) If the attorney general decides that an award not be	564
made to the claimant, <u>The</u> reasons for that decision;	565

(2) A description of any disqualifying conditions that 566
exist under section 2743.60 of the Revised Code. 567

(E) The attorney general shall make a written finding of 568
fact and decision in accordance with sections 2743.51 to 2743.72 569
of the Revised Code within one hundred twenty days after 570
receiving the claim application. The attorney general may extend 571
the one-hundred-twenty-day time limit and shall record in 572
writing specific reasons to justify the extension. The attorney 573
general shall notify the claimant of the extension and of the 574
reasons for the extension. The attorney general shall serve a 575
copy of its written finding of fact and decision upon the 576
claimant. 577

Sec. 2743.60. (A) The attorney general or the court of 578
claims shall not make or order an award of reparations to a 579
claimant if the criminally injurious conduct upon which the 580
claimant bases a claim never was reported to a law enforcement 581
officer or agency. 582

(B) (1) The attorney general or the court of claims shall 583
not make or order an award of reparations to a claimant if any 584
of the following apply: 585

(a) The claimant is the offender or an accomplice of the 586
offender who committed the criminally injurious conduct, or the 587
award would unjustly benefit the offender or accomplice. 588

(b) Except as provided in division (B) (2) of this section, 589
both of the following apply: 590

(i) The victim was a passenger in a motor vehicle and knew 591
or reasonably should have known that the driver was under the 592
influence of alcohol, a drug of abuse, or both. 593

(ii) The claimant is seeking compensation for injuries 594

proximately caused by the driver described in division (B) (1) (b) 595
(i) of this section being under the influence of alcohol, a drug 596
of abuse, or both. 597

(c) Both of the following apply: 598

(i) The victim was under the influence of alcohol, a drug 599
of abuse, or both and was a passenger in a motor vehicle and, if 600
sober, should have reasonably known that the driver was under 601
the influence of alcohol, a drug of abuse, or both. 602

(ii) The claimant is seeking compensation for injuries 603
proximately caused by the driver described in division (B) (1) (b) 604
(i) of this section being under the influence of alcohol, a drug 605
of abuse, or both. 606

(2) Division (B) (1) (b) of this section does not apply if 607
on the date of the occurrence of the criminally injurious 608
conduct, the victim was under sixteen years of age or was at 609
least sixteen years of age but less than eighteen years of age 610
and was riding with a parent, guardian, or care-provider. 611

(C) The attorney general or the court of claims, upon a 612
finding that the claimant or victim has not fully cooperated 613
with appropriate law enforcement agencies, may deny a claim or 614
reconsider and reduce an award of reparations. 615

(D) The attorney general or the court of claims shall 616
reduce an award of reparations or deny a claim for an award of 617
reparations that is otherwise payable to a claimant to the 618
extent that the economic loss upon which the claim is based is 619
recouped from other persons, including collateral sources. If an 620
award is reduced or a claim is denied because of the expected 621
recoupment of all or part of the economic loss of the claimant 622
from a collateral source, the amount of the award or the denial 623

of the claim shall be conditioned upon the claimant's economic 624
loss being recouped by the collateral source. If the award or 625
denial is conditioned upon the recoupment of the claimant's 626
economic loss from a collateral source and it is determined that 627
the claimant did not unreasonably fail to present a timely claim 628
to the collateral source and will not receive all or part of the 629
expected recoupment, the claim may be reopened and an award may 630
be made in an amount equal to the amount of expected recoupment 631
that it is determined the claimant will not receive from the 632
collateral source. 633

If the claimant recoups all or part of the economic loss 634
upon which the claim is based from any other person or entity, 635
including a collateral source, the attorney general may recover 636
pursuant to section 2743.72 of the Revised Code the part of the 637
award that represents the economic loss for which the claimant 638
received the recoupment from the other person or entity. 639

~~(E) (1) Except as otherwise provided in division (E) (2) of 640
this section, the attorney general or the court of claims shall 641
not make an award to a claimant if any of the following applies: 642~~

~~(a) The victim was convicted of a felony within ten years 643
prior to the criminally injurious conduct that gave rise to the 644
claim or is convicted of a felony during the pendency of the 645
claim. 646~~

~~(b) The claimant was convicted of a felony within ten 647
years prior to the criminally injurious conduct that gave rise 648
to the claim or is convicted of a felony during the pendency of 649
the claim. 650~~

~~(c) It is proved by a preponderance of the evidence that 651
the victim or the claimant engaged, within ten years prior to 652~~

~~the criminally injurious conduct that gave rise to the claim or~~ 653
~~during the pendency of the claim, in an offense of violence, a~~ 654
~~violation of section 2925.03 of the Revised Code, or any~~ 655
~~substantially similar offense that also would constitute a~~ 656
~~felony under the laws of this state, another state, or the~~ 657
~~United States.~~ 658

~~(d) The claimant was convicted of a violation of section~~ 659
~~2919.22 or 2919.25 of the Revised Code, or of any state law or~~ 660
~~municipal ordinance substantially similar to either section,~~ 661
~~within ten years prior to the criminally injurious conduct that~~ 662
~~gave rise to the claim or during the pendency of the claim.~~ 663

~~(e) It is proved by a preponderance of the evidence that~~ 664
~~the victim at the time of the criminally injurious conduct that~~ 665
~~gave rise to the claim engaged in conduct that was a felony~~ 666
~~violation of section 2925.11 of the Revised Code or engaged in~~ 667
~~any substantially similar conduct that would constitute a felony~~ 668
~~under the laws of this state, another state, or the United~~ 669
~~States.~~ 670

~~(2) The attorney general or the court of claims may make~~ 671
~~an award to a minor dependent of a deceased victim for~~ 672
~~dependent's economic loss or for counseling pursuant to division~~ 673
~~(F) (2) of section 2743.51 of the Revised Code if the minor~~ 674
~~dependent is not ineligible under division (E) (1) of this~~ 675
~~section due to the minor dependent's criminal history and if the~~ 676
~~victim was not killed while engaging in illegal conduct that~~ 677
~~contributed to the criminally injurious conduct that gave rise~~ 678
~~to the claim. For purposes of this section, the use of illegal~~ 679
~~drugs by the deceased victim shall not be deemed to have~~ 680
~~contributed to the criminally injurious conduct that gave rise~~ 681
~~to the claim.~~ 682

~~(F) In Except as otherwise provided in division (E) (2) of
this section, in determining whether to make an award of
reparations 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
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 years or
less of the criminally injurious conduct that is the subject of
the claim. Notwithstanding division (E) (1) of this section, in
determining whether to make an award of reparations pursuant to
this section, if the criminally injurious conduct upon which the
claim is based resulted in a victim's death, the attorney
general and the court of claims shall not consider whether there
was contributory misconduct by the deceased victim. The attorney
general or the court of claims shall not reduce an award of
reparations or deny a claim for an award of reparations based on
contributory misconduct of a deceased victim.~~

~~(G)~~ (F) The attorney general or the court of claims shall 713
not make an award of reparations to a claimant if the criminally 714
injurious conduct that caused the injury or death that is the 715
subject of the claim occurred to a victim who was an adult and 716
while the victim, after being convicted of or pleading guilty to 717
an offense, was serving a sentence of imprisonment in any 718
detention facility, as defined in section 2921.01 of the Revised 719
Code. 720

~~(H)~~ (G) If a claimant unreasonably fails to present a 721
claim timely to a source of benefits or advantages that would 722
have been a collateral source and that would have reimbursed the 723
claimant for all or a portion of a particular expense, the 724
attorney general or the court of claims may reduce an award of 725
reparations or deny a claim for an award of reparations to the 726
extent that it is reasonable to do so. 727

~~(I)~~ (H) Reparations payable to a victim described in 728
division (L) (1) of section 2743.51 of the Revised Code and to 729
all other claimants sustaining economic loss because of injury 730
to or the death of that victim shall not exceed fifty thousand 731
dollars in the aggregate. Reparations payable to a victim 732
described in division (L) (2) of section 2743.51 of the Revised 733
Code shall not exceed five thousand dollars. Reparations payable 734
to a victim described in division (L) (3) of section 2743.51 of 735
the Revised Code shall not exceed fifteen thousand dollars. If 736
the attorney general or the court of claims reduces an award 737
under division ~~(F)~~ (E) of this section, the maximum aggregate 738
amount of reparations payable under this division shall be 739
reduced proportionately to the reduction under division ~~(F)~~ (E) 740
of this section. 741

~~(J)~~ (I) Nothing in this section shall be construed to 742

prohibit an award to a claimant whose claim is based on the 743
claimant's being a victim of a violation of section 2905.32 of 744
the Revised Code if the claimant was less than eighteen years of 745
age when the criminally injurious conduct occurred. 746

Sec. 2743.65. (A) The attorney general shall determine, 747
and the state shall pay, in accordance with this section 748
attorney's fees, commensurate with services rendered, to the 749
attorney representing a claimant under sections 2743.51 to 750
2743.72 of the Revised Code. The attorney shall submit on an 751
application form an itemized fee bill at the rate of sixty 752
dollars per hour upon receipt of the final decision on the 753
claim. Attorney's fees paid pursuant to this section are subject 754
to the following maximum amounts: 755

(1) A maximum of seven hundred twenty dollars for claims 756
resolved without the filing of an appeal to the court of claims; 757

(2) A maximum of one thousand twenty dollars for claims in 758
which an appeal to the court of claims is filed plus, at the 759
request of an attorney whose main office is not in Franklin 760
county, Delaware county, Licking county, Fairfield county, 761
Pickaway county, Madison county, or Union county, an amount for 762
the attorney's travel time to attend the oral hearing before the 763
court of claims at the rate of thirty dollars per hour; 764

(3) A maximum of one thousand three hundred twenty dollars 765
for claims in which an appeal to the court of claims is filed 766
plus, at the request of an attorney whose main office is not in 767
Franklin county, Delaware county, Licking county, Fairfield 768
county, Pickaway county, Madison county, or Union county, an 769
amount for the attorney's travel time to attend the oral hearing 770
before the court at the rate of thirty dollars per hour; 771

(4) A maximum of seven hundred twenty dollars for a supplemental reparations application; 772
773

~~(5) A maximum of two hundred dollars if the claim is denied on the basis of a claimant's or victim's conviction of a felony offense prior to the filing of the claim. If the claimant or victim is convicted of a felony offense during the pendency of the claim, the two hundred dollars maximum does not apply. If the attorney had knowledge of the claimant's or victim's felony conviction prior to the filing of the application for the claim, the attorney general may determine that the filing of the claim was frivolous and may deny attorney's fees.~~ 774
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(B) The attorney general may determine that an attorney be reimbursed for fees incurred in the creation of a guardianship if the guardianship is required in order for an individual to receive an award of reparations, and those fees shall be reimbursed at a rate of sixty dollars per hour. 783
784
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(C) (1) The attorney general shall forward an application form for attorney's fees to a claimant's attorney before or when the final decision on a claim is rendered. The application form for attorney's fees shall do all of the following: 788
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(a) Inform the attorney of the requirements of this section; 792
793

(b) Require a verification statement comporting with the law prohibiting falsification; 794
795

(c) Require an itemized fee statement; 796

(d) Require a verification statement that the claimant was served a copy of the completed application form; 797
798

(e) Include notice that the claimant may oppose the 799

application by notifying the attorney general in writing within 800
ten days. 801

(2) The attorney general shall forward a copy of this 802
section to the attorney with the application form for attorney's 803
fees. The attorney shall file the application form with the 804
attorney general. The attorney general's decision with respect 805
to an award of attorney's fees is final ten days after the 806
attorney general renders the decision and mails a copy of the 807
decision to the attorney at the address provided by the 808
attorney. The attorney may request reconsideration of the 809
decision on grounds that it is insufficient or calculated 810
incorrectly. The attorney general's decision on the request for 811
reconsideration is final. 812

(D) The attorney general shall review all application 813
forms for attorney's fees that are submitted by a claimant's 814
attorney and shall issue an order approving the amount of fees 815
to be paid to the attorney within sixty days after receipt of 816
the application form. 817

(E) No attorney's fees shall be paid for the following: 818

(1) Estate work or representation of a claimant against a 819
collateral source; 820

(2) Duplication of investigative work required to be 821
performed by the attorney general; 822

(3) Performance of unnecessary criminal investigation of 823
the offense; 824

(4) Presenting or appealing an issue that has been 825
repeatedly ruled upon by the highest appellate authority, unless 826
a unique set of facts or unique issue of law exists that 827
distinguishes it; 828

(5) <u>Representing a victim of the type described in</u>	829
<u>division (L) (2) or (3) of section 2743.51 of the Revised Code;</u>	830
(6) <u>A fee request that is unreasonable, is not</u>	831
commensurate with services rendered, violates the Ohio code of	832
professional responsibility, or is based upon services that are	833
determined to be frivolous.	834
(F) (1) The attorney general may reduce or deny the payment	835
of attorney's fees to an attorney who has filed a frivolous	836
claim. Subject to division (A) (5) of this section, the <u>The</u>	837
denial of a claim on the basis of a felony conviction, felony-	838
conduct, or contributory misconduct does not constitute a	839
frivolous claim.	840
(2) As used in this section, "frivolous claim" means a	841
claim in which there is clearly no legal grounds under the	842
existing laws of this state to support the filing of a claim on	843
behalf of the claimant or victim.	844
(G) The attorney general may determine that a lesser	845
number of hours should have been required in a given case.	846
Additional reimbursement may be made where the attorney	847
demonstrates to the attorney general that the nature of the	848
particular claim required the expenditure of an amount in excess	849
of that allowed.	850
(H) No attorney shall receive payment under this section	851
for assisting a claimant with an application for an award of	852
reparations under sections 2743.51 to 2743.72 of the Revised	853
Code if that attorney's fees have been allowed as an expense in	854
accordance with division (F) (4) <u>(F) (5)</u> of section 2743.51 of the	855
Revised Code.	856
(I) A contract or other agreement between an attorney and	857

any person that provides for the payment of attorney's fees or 858
other payments in excess of the attorney's fees allowed under 859
this section for representing a claimant under sections 2743.51 860
to 2743.72 of the Revised Code shall be void and unenforceable. 861

(J) Each witness who appears in a hearing on a claim for 862
an award of reparations shall receive compensation in an amount 863
equal to that received by witnesses under section 119.094 of the 864
Revised Code. 865

Sec. 2743.71. (A) Any law enforcement agency that 866
investigates, and any prosecuting attorney, city director of 867
law, village solicitor, or similar prosecuting authority who 868
prosecutes, an offense committed in this state shall, upon first 869
contact with the victim, as defined in division (L) (1) of 870
section 2743.51 of the Revised Code, or the victim's family or 871
dependents, give the victim or the victim's family or dependents 872
a copy of an information card or other printed material provided 873
by the attorney general pursuant to division (B) of this section 874
and explain, upon request, the information on the card or 875
material to the victim or the victim's family or dependents. 876

(B) The attorney general shall have printed, and shall 877
provide to law enforcement agencies, prosecuting attorneys, city 878
directors of law, village solicitors, and similar prosecuting 879
authorities, cards or other materials that contain information 880
explaining awards of reparations. The information on the cards 881
or other materials shall include, but shall not be limited to, 882
the following statements: 883

(1) Awards of reparations are limited to losses that are 884
caused by physical injury resulting from criminally injurious 885
conduct; 886

(2) Reparations applications may be filed at any time 887
after the occurrence of the criminally injurious conduct; 888

(3) An attorney who represents an applicant for an award 889
of reparations cannot charge the applicant for the services 890
rendered in relation to that representation but is required to 891
apply to the attorney general for payment for the 892
representation; 893

(4) Applications for awards of reparations may be obtained 894
from the attorney general, law enforcement agencies, and victim 895
assistance agencies and are to be filed with the attorney 896
general. 897

(C) The attorney general may order that a reasonable 898
amount of money be paid out of the reparations fund, subject to 899
the limitation imposed by division (D) of this section, for use 900
by the attorney general to publicize the availability of awards 901
of reparations. 902

(D) During any fiscal year, the total expenditure for the 903
printing and providing of information cards or other materials 904
pursuant to division (B) of this section and for the publicizing 905
of the availability of awards of reparations pursuant to 906
division (C) of this section shall not exceed two per cent of 907
the total of all court costs deposited, in accordance with 908
section 2743.70 of the Revised Code, in the reparations fund 909
during the immediately preceding fiscal year. 910

Section 2. That existing sections 2743.51, 2743.59, 911
2743.60, 2743.65, and 2743.71 of the Revised Code are hereby 912
repealed. 913