



Ohio Legislative Service Commission

Bill Analysis

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H.B. 197

130th General Assembly
(As Introduced)

Reps. Barnes and Grossman, Antonio, Mallory, Patmon, Schuring, Wachtmann

BILL SUMMARY

- Requires the Attorney General to award a survivor of abduction \$25,000 annually for a period of years payable from the Reparations Fund.
- Provides that a survivor of abduction admitted to a state university or college is not required to pay undergraduate tuition or student fees.
- Directs the Ohio Board of Regents to pay the living expenses of a survivor of abduction who is enrolled at a state university or college.
- Requires the Medical Assistance Director to seek a waiver from the U.S. Department of Health and Human Services that authorizes a survivor of abduction to receive Medicaid for life.
- Designates the act as the "Michelle Knight, Amanda Berry, and Gina DeJesus Survivors of Abduction Act."

CONTENT AND OPERATION

Reparations awarded to survivors of abduction

Under the bill, the Attorney General must award to a survivor of abduction \$25,000 annually for a period of years lasting at least the number of years that the survivor was restrained or held in a condition of involuntary servitude. These funds are

* This corrected version removes an inadvertent reference to a one-time payment of \$100,000 from the Reparations Fund that is not included in the bill.

payable from the Reparations Fund. A "survivor of abduction" is a person who is a victim of the crime of abduction and has been restrained or held in a condition of involuntary servitude for at least eight years and subsequently regains his or her freedom.

A survivor of abduction also includes any child born to a survivor of abduction as a proximate result of the abduction and involuntary servitude.¹ The crime of abduction under existing law prohibits a person from knowingly doing any of the following:

(1) By force or threat, removing another from the place where the other person is found;

(2) By force or threat, restraining the liberty of another person under circumstances that create a risk of physical harm to the victim or place the other person in fear;

(3) Holding another in a condition of involuntary servitude.²

It further prohibits a person from doing any of the above with a sexual motivation (a purpose to gratify the person's sexual needs or desires).³ Finally, "involuntary servitude" is defined by the bill as being compelled to perform labor or services for another against one's will.⁴

Reparations Fund

Ohio law provides that certain crime victims and others may obtain financial reparations for economic losses suffered as a result of criminally injurious conduct. Economic losses include lost income, funeral and burial expenses, unemployment benefits losses, medical and counseling expenses, replacement costs, and other allowable expenses.⁵ In general, criminally injurious conduct is any conduct that (1) occurs or is attempted in Ohio, another state, district, territory, or foreign country, (2) poses a substantial threat of personal injury or death, and (3) is punishable by a fine,

¹ R.C. 2743.51(Y).

² R.C. 2905.02(A).

³ R.C. 2905.02(B) and 2971.01(J).

⁴ R.C. 2905.02(D) and 2905.31(A).

⁵ R.C. 2743.51(E), (F), (G), (H), and (I).



imprisonment, or death under the laws of the state, district, territory, or foreign country where the conduct occurred or was attempted.⁶

The Attorney General is charged with investigating claims for reparations and awarding moneys out of the Reparations Fund.⁷ Claims are limited to \$50,000.⁸

Procedures

A claim for an award of reparations is commenced by filing an application with the Attorney General.⁹

Existing law unchanged by the bill specifies who is eligible to seek an award from the Reparations Fund in terms of residency status and relationship to the victim.¹⁰ When a claim for reparations is filed, the Attorney General must fully investigate it, regardless of whether any person is prosecuted for, or convicted of, the conduct alleged in the claim.¹¹ As part of its investigation, the Attorney General may depose the claimant and require the claimant to provide certain documentation. The Attorney General also has subpoena powers to compel third parties to provide documents and appear for deposition.¹² After completing an investigation, and within 120 days of receiving an application for an award, the Attorney General must make a written finding of fact and decision concerning an award of reparations.¹³

Claims of survivors of abduction

Under the bill, after conducting the required investigation and finding that the claimant is a survivor of abduction, the Attorney General's decision must include a statement that the person must receive \$25,000 annually for a period of years lasting at

⁶ R.C. 2743.51(C)(1) and (2). It also includes conduct that would be punishable by fine, imprisonment, or death except for the fact that the offender lacked the capacity to commit the crime under the laws of the state, district, territory, or foreign country where the conduct occurred.

⁷ R.C. 2743.51 to 2743.72. See also Ohio Attorney General, *Apply for Victims Compensation* (last visited June 6, 2013), available at <www.ohioattorneygeneral.gov/Individuals-and-Families/Victims/Apply-for-Victims-Compensation.aspx>.

⁸ R.C. 2743.60(I).

⁹ R.C. 2743.56(A).

¹⁰ R.C. 2743.51(A).

¹¹ R.C. 2743.60.

¹² R.C. 2743.59(B).

¹³ R.C. 2743.59.

least the number of years that the person was restrained or held in a condition of involuntary servitude.¹⁴

Payment of educational expenses

Under the bill, a survivor of abduction who is admitted to any state university or college,¹⁵ community college, state community college, university branch, or technical school cannot be required to pay any tuition or any student fee for up to five academic years of education at the undergraduate level.¹⁶ If a survivor of abduction enrolls at such a school, the bill requires that the Chancellor of the Board of Regents appropriate to that school an amount sufficient to cover the survivor's living expenses. The school must disburse those funds directly to the survivor each semester.¹⁷ The bill does not specify how the Chancellor is to determine what amount is sufficient to cover the survivor's living expenses or include a process for notifying the school or Chancellor that an admitted or enrolled student is a survivor of abduction.

Medicaid

The bill requires that the Medical Assistance Director submit a request to the U.S. Secretary of Health and Human Services seeking approval of a waiver that would permit a survivor of abduction to receive Medicaid for the duration of the survivor's life.¹⁸ The bill does not include a process for notifying the office of Medical Assistance that an individual is a survivor of abduction.

Act designation

The bill provides that the act is to be known as the "Michelle Knight, Amanda Berry, and Gina DeJesus Survivors of Abduction Act."¹⁹

¹⁴ R.C. 2743.66(F).

¹⁵ R.C. 3333.27(B). "State university or college" includes the following schools: University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, Youngstown State University, and the Northeast Ohio Medical University. R.C. 3345.12 and 3345.011.

¹⁶ R.C. 3333.27(A).

¹⁷ R.C. 3333.27(A).

¹⁸ R.C. 5111.82.

¹⁹ R.C. 2743.59(F).



HISTORY

ACTION

DATE

Introduced

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