



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 197

130th General Assembly
(As Reported by H. Health & Aging)

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

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.
- Creates the Survivors of Abduction Educational Assistance Program and requires the Board of Trustees of Cleveland State University to assist in the admissions process and provide a survivor of abduction with at least five academic years of instruction at Cleveland State University at no cost to the survivor.
- Directs the Ohio Board of Regents to pay the living expenses of a survivor of abduction who is enrolled at Cleveland State University.
- Permits a survivor of abduction to submit, on an annual basis, an accounting and description of health care needs and expenses to the Governor for review.
- Requires the Governor, on receipt of such an accounting or description, to review it and determine an amount to be provided to the survivor to meet anticipated health care expenses and needs.
- 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 the number of years that the survivor was restrained. These funds are payable from the Reparations Fund. A "survivor of

abduction" is a person who is a victim of the crime of kidnapping who regained freedom on May 6, 2013, after having been (1) restrained by force or threat for at least eight years between August 2002 and May 2013 and (2) subjected to unwanted sexual activity or serious physical harm.

A survivor of abduction also includes any child born to a survivor of abduction as a proximate result of the kidnapping.¹ The crime of kidnapping under existing law prohibits a person, by force, threat, or deception, from removing another from the place where the other person is found or restraining the liberty of the other person, for any of the following purposes:

- (1) To hold for ransom, or as a shield or hostage;
- (2) To facilitate the commission of any felony or flight thereafter;
- (3) To terrorize or to inflict serious physical harm on the victim or another;
- (4) To engage in sexual activity with the victim against the victim's will;
- (5) To hinder, impede, or obstruct a function of government, or to force any action or concession on the part of governmental authority;
- (6) To hold in a condition of involuntary servitude.²

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.³ 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, imprisonment, or death under the laws of the state, district, territory, or foreign country where the conduct occurred or was attempted.⁴

¹ R.C. 2743.51(Y).

² R.C. 2905.01(A).

³ R.C. 2743.51(E), (F), (G), (H), and (I).

⁴ 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.

The Attorney General is charged with investigating claims for reparations and awarding moneys out of the Reparations Fund.⁵ Claims are limited to \$50,000.⁶

Procedures

A claim for an award of reparations is commenced by filing an application with the Attorney General.⁷

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.⁸ 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.⁹ 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.¹⁰ 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.¹¹

Claims of survivors of abduction

Under the bill, before conducting the required investigation, the Attorney General must determine whether the claimant is a survivor of abduction. If the Attorney General finds that the claimant is a survivor of abduction, the Attorney General must award the claimant \$25,000 annually for a period of years lasting the number of years that the claimant was restrained. The Attorney General is not required to make a written finding of fact and decision concerning a claimant who is a survivor of abduction. The bill provides that the amount received by a claimant who is a

⁵ R.C. 2743.51 to 2743.72. See also Ohio Attorney General, *Apply for Victims Compensation* (last visited January 22, 2014), available at <www.ohioattorneygeneral.gov/Individuals-and-Families/Victims/Apply-for-Victims-Compensation.aspx>.

⁶ R.C. 2743.60(I).

⁷ R.C. 2743.56(A).

⁸ R.C. 2743.51(A).

⁹ R.C. 2743.60.

¹⁰ R.C. 2743.59(B).

¹¹ R.C. 2743.59.

survivor of abduction must be reduced by any other award from the Reparations Fund for the same criminally injurious conduct.¹²

The bill also specifies that any of the following established on behalf of a survivor of abduction are not claimants under the law governing the Reparations Fund: (1) a private fund not in the custody of the state treasurer or part of the state treasury, (2) a nonprofit organization, or (3) a trust.¹³

Educational expenses

The bill establishes the Survivors of Abduction Educational Assistance Program within Cleveland State University (CSU) to provide academic services and instruction to any survivor of abduction. CSU's Board of Trustees is required to administer the program but may delegate any of its duties to CSU officers and employees. CSU must assist each survivor of abduction in the admissions process and, once enrolled, provide at least five academic years of instruction at no cost to the survivor. The bill also specifies that, if remedial instruction is needed prior to enrollment, CSU must coordinate this instruction with a local community college and ensure that it is provided at no cost to the survivor.¹⁴

If a survivor of abduction enrolls at CSU, the bill requires that the Chancellor of the Board of Regents disburse to CSU an amount sufficient to cover the survivor's living expenses. CSU must disburse those funds directly to the survivor each semester.¹⁵ 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 Chancellor that an admitted or enrolled student is a survivor of abduction.

Health care expenses

The bill permits a survivor of abduction to submit to the Governor, on an annual basis, an accounting of physical and mental health care expenses for the immediately preceding 12-month period, as well as a description of any anticipated physical and mental health care needs for the next year.

If the Governor receives such an accounting or description, the Governor must review it. After completing the review and based on the survivor's health care expenses

¹² R.C. 2743.59(A)(2).

¹³ R.C. 2743.51(A).

¹⁴ R.C. 3344.07.

¹⁵ R.C. 3333.27(A).



and needs, the Governor must determine an amount to be provided to meet anticipated needs and expenses for the upcoming year in the form of reimbursement for copayments and coinsurance or premium assistance.¹⁶

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."¹⁷

HISTORY

ACTION	DATE
Introduced	06-05-13
Reported, H. Health & Aging	10-17-13

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¹⁶ R.C. 107.64.

¹⁷ R.C. 2743.59(F).

