

Celebrating Fifty Years of Crime Victims' Compensation in Delaware

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Today, all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam are in agreement that victims of violent crime should have a standardized way of mitigating financial hardships that result from their victimization. This is accomplished through state-sponsored victims compensation programs. The first such program was implemented by California in 1965. Delaware was an early adopter of this notion, legislatively creating its program on July 18, 1974.

Fifty years ago, the Delaware Legislature made clear this law's purpose was, "to promote the public welfare by establishing a means of meeting the additional hardships imposed upon the innocent victims of certain crimes, and the families and dependents of those victims."¹ Though the organizational form for delivering compensation to these victims has evolved over the past five decades, this mission remains as true now as when it was proclaimed in 1974.

The 1974 legislation created the Victim Compensation Fund and the Delaware Violent Crimes Compensation Board, which began operations in 1975. The Board consisted of five Governor-appointed members and provided tens of millions of dollars in compensation to tens of thousands of victims of crime until 2009. Following a Legislative Sunset Review during fiscal year 2009, the Violent Crimes Compensation Board was restructured into what is now the Victims' Compensation Assistance Program ("VCAP"). Operations moved to the Department of Justice and the Program is currently staffed by eight full-time employees. This statewide initiative remains an important part of Delaware's approach to justice by supporting victims of violent crime and their families. By providing financial compensation for crime-related expenses, VCAP helps victims rebuild their lives and cope with the aftermath of trauma.

VCAP is funded through a mandatory 18% penalty assessment levied on all fines, penalties, and forfeitures imposed and collected by the courts. To supplement its funding, VCAP annually applies for a federal Office of Victims of Crime grant award, which is calculated at 75% of state compensation expenditures from two years prior. In the 2023 fiscal year, VCAP distributed over \$2.3 million in compensation.

Victims of crime must actively apply to VCAP and meet specific eligibility criteria defined by state law. Once an application is submitted, it is assigned to one of four Victim Service Specialists to determine if the applicant is an eligible victim of a qualifying crime. Qualifying crimes are determined by state statute, but the rule of thumb is violent crimes are covered and property crimes are not.² Generally, to be eligible for victims' compensation, victims must report the crime to law-enforcement or another appropriate governmental agency within 72-hours of the occurrence, except in instances of domestic violence or sexual assault.³ Additionally, victims must file their application with VCAP within one year of the date of the crime.⁴ Both of these requirements are waivable at the discretion of the Executive Director. Lastly, victims must give "reasonable cooperation" to state or local-law enforcement.⁵

Once an application is determined to be eligible for compensation, the Victim Service Specialist works with the applicant to determine what compensation can be provided. VCAP can only provide compensation for pecuniary loss which is defined as "expenses actually and necessarily

incurred as a result of personal injury or death resulting from a crime, but it does not include property damage.”⁶ VCAP cannot provide compensation for pain and suffering. There is a monetary limit of \$25,000 per victimization; however, some specific types of compensation have lower monetary caps. The compensation types available are prescribed by state law and include expenses such as medical, mental health counseling, funeral, personal safety property, relocation, and loss of income.⁶

Recently, there has been a national movement to make compensation programs accessible to more victims of crime. Historically, there have been “bright-line” rules mandating that crime victim compensation applications be denied under certain circumstances. Delaware was no exception. However, in 2021, state legislation was introduced with the goal of eliminating the restrictive requirements and opening up access to the program to a broader population of victims, including victims of human trafficking.⁷ This legislation was signed into law on October 21, 2021. Simultaneously, there is a national movement toward reducing or eliminating fines and fees for offenders. This delicate balance between funding victim services through fines and fees and protecting offender rights is an ongoing challenge in criminal justice reform. Awareness and legislative support are crucial for the continuation and expansion of VCAP’s services. By understanding and advocating for resources like VCAP, we can collectively enhance the safety net for victims, paving the way for their recovery and empowerment.

Additionally, community awareness is a crucial part of VCAP’s mission. Outreach programs, educational campaigns, and partnerships with community organizations can enhance awareness and understanding of VCAP’s services and eligibility requirements. Initiatives such as enhancing multilingual support and accessibility features in the application process can ensure that all victims, regardless of background or language proficiency, can access VCAP’s resources. As VCAP works to anticipate the needs of violent crime victims, the integration of innovative partnerships could mark the next chapter in comprehensive victim support. For example, VCAP has partnered with the EVOLV (Empowering Victims of Lived Violence) hospital-based intervention program at ChristianaCare to ensure violent crime victims who have been treated in the trauma department can successfully access victims’ compensation in a trauma-informed way.

As VCAP commemorates 50 years of service, it stands as a testament to Delaware’s unwavering commitment to supporting victims of crime. Through innovative approaches, community engagement, legislative advocacy, and rigorous evaluation, VCAP will continue to evolve and expand its reach, ensuring that victims receive the support and assistance they need to rebuild their lives and pursue justice.

For more information on the Victims’ Compensation Assistance Program or to download a brochure or application, please visit <https://attorneygeneral.delaware.gov/vcap/> Applications can also be submitted through VCAP’s online application portal by visiting <https://ccvcde.org>

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References

1. H.B. 127, 127th Gen. Assemb., Reg. Sess. (Del. 1974).
2. DEL. CODE ANN. tit. 11, § 9002(6).
3. DEL. CODE ANN. tit. 11, § 9010(5).
4. DEL. CODE ANN. tit. 11, § 9010(4).

5. DEL. CODE ANN. tit. 11, § 9010(3).
6. DEL. CODE ANN. tit. 11, § 9002(10).
7. H.B. 182, 151st Gen. Assemb., Reg. Sess. (Del. 2021-22).

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