

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**S. B. No. 318**

**Senator Tavares**

—

**A B I L L**

To amend sections 2743.51, 2743.56, and 2743.71 of  
the Revised Code to allow an award of reparations  
for psychiatric care and counseling to all  
immediate family members of a crime victim and to  
extend the time within which a minor victim of  
crime may file a claim for reparations.

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

**Section 1.** That sections 2743.51, 2743.56, and 2743.71 of the  
Revised Code be amended to read as follows:

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

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

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

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

(i) A resident of the United States;

(ii) A resident of a foreign country the laws of which permit  
residents of this state to recover compensation as victims of

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| offenses committed in that country.  | 20                                     |
| (b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;   | 21<br>22                               |
| (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; | 23<br>24<br>25<br>26<br>27<br>28<br>29 |
| (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;   | 30<br>31<br>32                         |
| (e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.  | 33<br>34                               |
| (2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:  | 35<br>36                               |
| (a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:  | 37<br>38<br>39<br>40                   |
| (i) Had a permanent place of employment in this state;   | 41                                     |
| (ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;  | 42<br>43<br>44<br>45                   |
| (iii) Was retired and receiving social security or any other retirement income;  | 46<br>47                               |
| (iv) Was sixty years of age or older;  | 48                                     |
| (v) Was temporarily in another state for the purpose of  | 49                                     |

receiving medical treatment; 50

(vi) Was temporarily in another state for the purpose of 51  
performing employment-related duties required by an employer 52  
located within this state as an express condition of employment or 53  
employee benefits; 54

(vii) Was temporarily in another state for the purpose of 55  
receiving occupational, vocational, or other job-related training 56  
or instruction required by an employer located within this state 57  
as an express condition of employment or employee benefits; 58

(viii) Was a full-time student at an academic institution, 59  
college, or university located in another state; 60

(ix) Had not departed the geographical boundaries of this 61  
state for a period exceeding thirty days or with the intention of 62  
becoming a citizen of another state or establishing a permanent 63  
place of residence in another state. 64

(b) A dependent of a deceased victim who is described in 65  
division (A)(2)(a) of this section; 66

(c) A third person, other than a collateral source, who 67  
legally assumes or voluntarily pays the obligations of a victim, 68  
or of a dependent of a victim, who is described in division 69  
(A)(2)(a) of this section, which obligations are incurred as a 70  
result of the criminally injurious conduct that is the subject of 71  
the claim and may include, but are not limited to, medical or 72  
burial expenses; 73

(d) A person who is authorized to act on behalf of any person 74  
who is described in division (A)(2)(a), (b), or (c) of this 75  
section; 76

(e) The estate of a deceased victim who is described in 77  
division (A)(2)(a) of this section. 78

(B) "Collateral source" means a source of benefits or 79

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|---|-----|
| advantages for economic loss otherwise reparable that the victim  | 80  |
| or claimant has received, or that is readily available to the     | 81  |
| victim or claimant, from any of the following sources:            | 82  |
| (1) The offender;   | 83  |
| (2) The government of the United States or any of its             | 84  |
| agencies, a state or any of its political subdivisions, or an     | 85  |
| instrumentality of two or more states, unless the law providing   | 86  |
| for the benefits or advantages makes them excess or secondary to  | 87  |
| benefits under sections 2743.51 to 2743.72 of the Revised Code;   | 88  |
| (3) Social security, medicare, and medicaid;                      | 89  |
| (4) State-required, temporary, nonoccupational disability         | 90  |
| insurance;  | 91  |
| (5) Workers' compensation;  | 92  |
| (6) Wage continuation programs of any employer;                   | 93  |
| (7) Proceeds of a contract of insurance payable to the victim     | 94  |
| for loss that the victim sustained because of the criminally      | 95  |
| injurious conduct;  | 96  |
| (8) A contract providing prepaid hospital and other health        | 97  |
| care services, or benefits for disability;                        | 98  |
| (9) That portion of the proceeds of all contracts of              | 99  |
| insurance payable to the claimant on account of the death of the  | 100 |
| victim that exceeds fifty thousand dollars;                       | 101 |
| (10) Any compensation recovered or recoverable under the laws     | 102 |
| of another state, district, territory, or foreign country because | 103 |
| the victim was the victim of an offense committed in that state,  | 104 |
| district, territory, or country.                                  | 105 |
| "Collateral source" does not include any money, or the            | 106 |
| monetary value of any property, that is subject to sections       | 107 |
| 2969.01 to 2969.06 of the Revised Code or that is received as a   | 108 |
| benefit from the Ohio public safety officers death benefit fund   | 109 |

created by section 742.62 of the Revised Code. 110

(C) "Criminally injurious conduct" means one of the 111  
following: 112

(1) For the purposes of any person described in division 113  
(A)(1) of this section, any conduct that occurs or is attempted in 114  
this state; poses a substantial threat of personal injury or 115  
death; and is punishable by fine, imprisonment, or death, or would 116  
be so punishable but for the fact that the person engaging in the 117  
conduct lacked capacity to commit the crime under the laws of this 118  
state. Criminally injurious conduct does not include conduct 119  
arising out of the ownership, maintenance, or use of a motor 120  
vehicle, except when any of the following applies: 121

(a) The person engaging in the conduct intended to cause 122  
personal injury or death; 123

(b) The person engaging in the conduct was using the vehicle 124  
to flee immediately after committing a felony or an act that would 125  
constitute a felony but for the fact that the person engaging in 126  
the conduct lacked the capacity to commit the felony under the 127  
laws of this state; 128

(c) The person engaging in the conduct was using the vehicle 129  
in a manner that constitutes an OVI violation; 130

(d) The conduct occurred on or after July 25, 1990, and the 131  
person engaging in the conduct was using the vehicle in a manner 132  
that constitutes a violation of section 2903.08 of the Revised 133  
Code; 134

(e) The person engaging in the conduct acted in a manner that 135  
caused serious physical harm to a person and that constituted a 136  
violation of section 4549.02 or 4549.021 of the Revised Code. 137

(2) For the purposes of any person described in division 138  
(A)(2) of this section, any conduct that occurs or is attempted in 139

another state, district, territory, or foreign country; poses a 140  
substantial threat of personal injury or death; and is punishable 141  
by fine, imprisonment, or death, or would be so punishable but for 142  
the fact that the person engaging in the conduct lacked capacity 143  
to commit the crime under the laws of the state, district, 144  
territory, or foreign country in which the conduct occurred or was 145  
attempted. Criminally injurious conduct does not include conduct 146  
arising out of the ownership, maintenance, or use of a motor 147  
vehicle, except when any of the following applies: 148

(a) The person engaging in the conduct intended to cause 149  
personal injury or death; 150

(b) The person engaging in the conduct was using the vehicle 151  
to flee immediately after committing a felony or an act that would 152  
constitute a felony but for the fact that the person engaging in 153  
the conduct lacked the capacity to commit the felony under the 154  
laws of the state, district, territory, or foreign country in 155  
which the conduct occurred or was attempted; 156

(c) The person engaging in the conduct was using the vehicle 157  
in a manner that constitutes an OVI violation; 158

(d) The conduct occurred on or after July 25, 1990, the 159  
person engaging in the conduct was using the vehicle in a manner 160  
that constitutes a violation of any law of the state, district, 161  
territory, or foreign country in which the conduct occurred, and 162  
that law is substantially similar to a violation of section 163  
2903.08 of the Revised Code; 164

(e) The person engaging in the conduct acted in a manner that 165  
caused serious physical harm to a person and that constituted a 166  
violation of any law of the state, district, territory, or foreign 167  
country in which the conduct occurred, and that law is 168  
substantially similar to section 4549.02 or 4549.021 of the 169  
Revised Code. 170

(3) For the purposes of any person described in division 171  
(A)(1) or (2) of this section, terrorism that occurs within or 172  
outside the territorial jurisdiction of the United States. 173

(D) "Dependent" means an individual wholly or partially 174  
dependent upon the victim for care and support, and includes a 175  
child of the victim born after the victim's death. 176

(E) "Economic loss" means economic detriment consisting only 177  
of allowable expense, work loss, funeral expense, unemployment 178  
benefits loss, replacement services loss, cost of crime scene 179  
cleanup, and cost of evidence replacement. If criminally injurious 180  
conduct causes death, economic loss includes a dependent's 181  
economic loss and a dependent's replacement services loss. 182  
Noneconomic detriment is not economic loss; however, economic loss 183  
may be caused by pain and suffering or physical impairment. 184

(F)(1) "Allowable expense" means reasonable charges incurred 185  
for reasonably needed products, services, and accommodations, 186  
including those for medical care, rehabilitation, rehabilitative 187  
occupational training, and other remedial treatment and care and 188  
including replacement costs for hearing aids; dentures, retainers, 189  
and other dental appliances; canes, walkers, and other mobility 190  
tools; and eyeglasses and other corrective lenses. It does not 191  
include that portion of a charge for a room in a hospital, clinic, 192  
convalescent home, nursing home, or any other institution engaged 193  
in providing nursing care and related services in excess of a 194  
reasonable and customary charge for semiprivate accommodations, 195  
unless accommodations other than semiprivate accommodations are 196  
medically required. 197

(2) An immediate family member of a victim of criminally 198  
injurious conduct that consists of a homicide, a sexual assault, 199  
domestic violence, or a severe and permanent incapacitating injury 200  
resulting in paraplegia or a similar life-altering condition, who 201  
requires psychiatric care or counseling as a result of the 202

criminally injurious conduct, may be reimbursed for that care or 203  
counseling as an allowable expense through the victim's 204  
application. The cumulative allowable expense for care or 205  
counseling of that nature shall not exceed two thousand five 206  
hundred dollars for each immediate family member of a victim of 207  
that type and seven thousand five hundred dollars in the aggregate 208  
for all immediate family members of a victim of that type. 209

(3) A family member of a victim who died as a proximate 210  
result of criminally injurious conduct may be reimbursed as an 211  
allowable expense through the victim's application for wages lost 212  
and travel expenses incurred in order to attend criminal justice 213  
proceedings arising from the criminally injurious conduct. The 214  
cumulative allowable expense for wages lost and travel expenses 215  
incurred by a family member to attend criminal justice proceedings 216  
shall not exceed five hundred dollars for each family member of 217  
the victim and two thousand dollars in the aggregate for all 218  
family members of the victim. 219

(4)(a) "Allowable expense" includes reasonable expenses and 220  
fees necessary to obtain a guardian's bond pursuant to section 221  
2109.04 of the Revised Code when the bond is required to pay an 222  
award to a fiduciary on behalf of a minor or other incompetent. 223

(b) "Allowable expense" includes attorney's fees not 224  
exceeding one thousand dollars, at a rate not exceeding one 225  
hundred dollars per hour, incurred to successfully obtain a 226  
restraining order, custody order, or other order to physically 227  
separate a victim from an offender. Attorney's fees for the 228  
services described in this division may include an amount for 229  
reasonable travel time incurred to attend court hearings, not 230  
exceeding three hours' round-trip for each court hearing, assessed 231  
at a rate not exceeding thirty dollars per hour. 232

(G) "Work loss" means loss of income from work that the 233  
injured person would have performed if the person had not been 234



injured and expenses reasonably incurred by the person to obtain 235  
services in lieu of those the person would have performed for 236  
income, reduced by any income from substitute work actually 237  
performed by the person, or by income the person would have earned 238  
in available appropriate substitute work that the person was 239  
capable of performing but unreasonably failed to undertake. 240

(H) "Replacement services loss" means expenses reasonably 241  
incurred in obtaining ordinary and necessary services in lieu of 242  
those the injured person would have performed, not for income, but 243  
for the benefit of the person's self or family, if the person had 244  
not been injured. 245

(I) "Dependent's economic loss" means loss after a victim's 246  
death of contributions of things of economic value to the victim's 247  
dependents, not including services they would have received from 248  
the victim if the victim had not suffered the fatal injury, less 249  
expenses of the dependents avoided by reason of the victim's 250  
death. If a minor child of a victim is adopted after the victim's 251  
death, the minor child continues after the adoption to incur a 252  
dependent's economic loss as a result of the victim's death. If 253  
the surviving spouse of a victim remarries, the surviving spouse 254  
continues after the remarriage to incur a dependent's economic 255  
loss as a result of the victim's death. 256

(J) "Dependent's replacement services loss" means loss 257  
reasonably incurred by dependents after a victim's death in 258  
obtaining ordinary and necessary services in lieu of those the 259  
victim would have performed for their benefit if the victim had 260  
not suffered the fatal injury, less expenses of the dependents 261  
avoided by reason of the victim's death and not subtracted in 262  
calculating the dependent's economic loss. If a minor child of a 263  
victim is adopted after the victim's death, the minor child 264  
continues after the adoption to incur a dependent's replacement 265  
services loss as a result of the victim's death. If the surviving 266

spouse of a victim remarries, the surviving spouse continues after 267  
the remarriage to incur a dependent's replacement services loss as 268  
a result of the victim's death. 269

(K) "Noneconomic detriment" means pain, suffering, 270  
inconvenience, physical impairment, or other nonpecuniary damage. 271

(L) "Victim" means a person who suffers personal injury or 272  
death as a result of any of the following: 273

(1) Criminally injurious conduct; 274

(2) The good faith effort of any person to prevent criminally 275  
injurious conduct; 276

(3) The good faith effort of any person to apprehend a person 277  
suspected of engaging in criminally injurious conduct. 278

(M) "Contributory misconduct" means any conduct of the 279  
claimant or of the victim through whom the claimant claims an 280  
award of reparations that is unlawful or intentionally tortious 281  
and that, without regard to the conduct's proximity in time or 282  
space to the criminally injurious conduct, has a causal 283  
relationship to the criminally injurious conduct that is the basis 284  
of the claim. 285

(N)(1) "Funeral expense" means any reasonable charges that 286  
are not in excess of seven thousand five hundred dollars per 287  
funeral and that are incurred for expenses directly related to a 288  
victim's funeral, cremation, or burial and any wages lost or 289  
travel expenses incurred by a family member of a victim in order 290  
to attend the victim's funeral, cremation, or burial. 291

(2) An award for funeral expenses shall be applied first to 292  
expenses directly related to the victim's funeral, cremation, or 293  
burial. An award for wages lost or travel expenses incurred by a 294  
family member of the victim shall not exceed five hundred dollars 295  
for each family member and shall not exceed in the aggregate the 296

difference between seven thousand five hundred dollars and 297  
expenses that are reimbursed by the program and that are directly 298  
related to the victim's funeral, cremation, or burial. 299

(O) "Unemployment benefits loss" means a loss of unemployment 300  
benefits pursuant to Chapter 4141. of the Revised Code when the 301  
loss arises solely from the inability of a victim to meet the able 302  
to work, available for suitable work, or the actively seeking 303  
suitable work requirements of division (A)(4)(a) of section 304  
4141.29 of the Revised Code. 305

(P) "OVI violation" means any of the following: 306

(1) A violation of section 4511.19 of the Revised Code, of 307  
any municipal ordinance prohibiting the operation of a vehicle 308  
while under the influence of alcohol, a drug of abuse, or a 309  
combination of them, or of any municipal ordinance prohibiting the 310  
operation of a vehicle with a prohibited concentration of alcohol, 311  
a controlled substance, or a metabolite of a controlled substance 312  
in the whole blood, blood serum or plasma, breath, or urine; 313

(2) A violation of division (A)(1) of section 2903.06 of the 314  
Revised Code; 315

(3) A violation of division (A)(2), (3), or (4) of section 316  
2903.06 of the Revised Code or of a municipal ordinance 317  
substantially similar to any of those divisions, if the offender 318  
was under the influence of alcohol, a drug of abuse, or a 319  
combination of them, at the time of the commission of the offense; 320

(4) For purposes of any person described in division (A)(2) 321  
of this section, a violation of any law of the state, district, 322  
territory, or foreign country in which the criminally injurious 323  
conduct occurred, if that law is substantially similar to a 324  
violation described in division (P)(1) or (2) of this section or 325  
if that law is substantially similar to a violation described in 326  
division (P)(3) of this section and the offender was under the 327

influence of alcohol, a drug of abuse, or a combination of them, 328  
at the time of the commission of the offense. 329

(Q) "Pendency of the claim" for an original reparations 330  
application or supplemental reparations application means the 331  
period of time from the date the criminally injurious conduct upon 332  
which the application is based occurred until the date a final 333  
decision, order, or judgment concerning that original reparations 334  
application or supplemental reparations application is issued. 335

(R) "Terrorism" means any activity to which all of the 336  
following apply: 337

(1) The activity involves a violent act or an act that is 338  
dangerous to human life. 339

(2) The act described in division (R)(1) of this section is 340  
committed within the territorial jurisdiction of the United States 341  
and is a violation of the criminal laws of the United States, this 342  
state, or any other state or the act described in division (R)(1) 343  
of this section is committed outside the territorial jurisdiction 344  
of the United States and would be a violation of the criminal laws 345  
of the United States, this state, or any other state if committed 346  
within the territorial jurisdiction of the United States. 347

(3) The activity appears to be intended to do any of the 348  
following: 349

(a) Intimidate or coerce a civilian population; 350

(b) Influence the policy of any government by intimidation or 351  
coercion; 352

(c) Affect the conduct of any government by assassination or 353  
kidnapping. 354

(4) The activity occurs primarily outside the territorial 355  
jurisdiction of the United States or transcends the national 356  
boundaries of the United States in terms of the means by which the 357

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.

(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.

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

(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;

(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.

(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.

(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.

(W) "Immediate family member" means ~~an~~ either of the  
following:

(1) 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;

(2) A spouse, parent, child, sibling, grandparent, or  
grandchild of the victim.

(X) "Family member" means an individual who is related to a 388  
victim by affinity or consanguinity. 389

**Sec. 2743.56.** (A) A claim for an award of reparations shall 390  
be commenced by filing an application for an award of reparations 391  
with the attorney general. The application may be filed by mail. 392  
If the application is filed by mail, the post-marked date of the 393  
application shall be considered the filing date of the 394  
application. The application shall be in a form prescribed by the 395  
attorney general and shall include a release authorizing the 396  
attorney general and the court of claims to obtain any report, 397  
document, or information that relates to the determination of the 398  
claim for an award of reparations that is requested in the 399  
application. 400

(B) ~~All applications~~ An application for an award of 401  
reparations ~~shall~~ may be filed ~~as follows:~~ 402

~~(1) If the victim of the criminally injurious conduct was a 403  
minor, within two years of the victim's eighteenth birthday or 404  
within two years from the date a complaint, indictment, or 405  
information is filed against the alleged offender, whichever is 406  
later. This division does not require that a complaint, 407  
indictment, or information be filed against an alleged offender in 408  
order for an application for an award of reparations to be filed 409  
pertaining to a victim who was a minor if the application is filed 410  
within two years of the victim's eighteenth birthday, and does not 411  
affect the provisions of section 2743.64 of the Revised Code. 412~~

~~(2) If the victim of the criminally injurious conduct was an 413  
adult, at any time after the occurrence of the criminally 414  
injurious conduct. 415~~

**Sec. 2743.71.** (A) Any law enforcement agency that 416  
investigates, and any prosecuting attorney, city director of law, 417

village solicitor, or similar prosecuting authority who 418  
prosecutes, an offense committed in this state shall, upon first 419  
contact with the victim or the victim's family or dependents, give 420  
the victim or the victim's family or dependents a copy of an 421  
information card or other printed material provided by the 422  
attorney general pursuant to division (B) of this section and 423  
explain, upon request, the information on the card or material to 424  
the victim or the victim's family or dependents. 425

(B) The attorney general shall have printed, and shall 426  
provide to law enforcement agencies, prosecuting attorneys, city 427  
directors of law, village solicitors, and similar prosecuting 428  
authorities, cards or other materials that contain information 429  
explaining awards of reparations. The information on the cards or 430  
other materials shall include, but shall not be limited to, the 431  
following statements: 432

(1) Awards of reparations are limited to losses that are 433  
caused by physical injury resulting from criminally injurious 434  
conduct; 435

(2) ~~Reparations applications are required to~~ may be filed 436  
~~within two years at any time~~ after the date occurrence of the 437  
criminally injurious conduct ~~if the victim was an adult, or within~~ 438  
~~the period provided by division (C)(1) of section 2743.56 of the~~ 439  
~~Revised Code if the victim of the criminally injurious conduct was~~ 440  
~~a minor;~~ 441

(3) An attorney who represents an applicant for an award of 442  
reparations cannot charge the applicant for the services rendered 443  
in relation to that representation but is required to apply to the 444  
attorney general for payment for the representation; 445

(4) Applications for awards of reparations may be obtained 446  
from the attorney general, law enforcement agencies, and victim 447  
assistance agencies and are to be filed with the attorney general. 448

(C) The attorney general may order that a reasonable amount 449  
of money be paid out of the reparations fund, subject to the 450  
limitation imposed by division (D) of this section, for use by the 451  
attorney general to publicize the availability of awards of 452  
reparations. 453

(D) During any fiscal year, the total expenditure for the 454  
printing and providing of information cards or other materials 455  
pursuant to division (B) of this section and for the publicizing 456  
of the availability of awards of reparations pursuant to division 457  
(C) of this section shall not exceed two per cent of the total of 458  
all court costs deposited, in accordance with section 2743.70 of 459  
the Revised Code, in the reparations fund during the immediately 460  
preceding fiscal year. 461

**Section 2.** That existing sections 2743.51, 2743.56, and 462  
2743.71 of the Revised Code are hereby repealed. 463