

ACT 219

S.B. NO. 1448

A Bill for an Act Relating to Criminal Injuries Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 351-13, Hawaii Revised Statutes, is amended to read as follows:

“§351-13 Powers and procedures of commission. (a) [Upon] Except for cases assigned to the administrator pursuant to subsection (c), upon an application [made to the criminal injuries compensation commission] for compensation under this chapter, the commission shall fix a time and place for a hearing on the application and shall cause notice thereof to be given to the applicant. The commission may hold hearings, sit and act at times and places, and take testimony as it may deem advisable. Any two members shall constitute a quorum, but the concurring vote of the two members shall be necessary to take any action. Any member may administer oaths or affirmations to witnesses appearing before the commission. The commission shall have the same powers of subpoena and compulsion of attendance of witnesses and production of documents[,] and of examination of witnesses as a circuit court. Subpoenas shall be issued under the signature of the chairperson or by majority vote of the commission members. The circuit court of any circuit in which a subpoena is issued or served or in which the attendance or production is required, upon the application of the commission, may enforce the attendance and testimony of any witness and the production of any document so subpoenaed. Subpoena and witness fees and mileage shall be the same as in criminal cases in the circuit courts[,] and shall be payable from funds appropriated for expenses of administration. The orders shall be signed by the chairperson[,] or, in the absence of the chairperson, by the other two members.

(b) Notwithstanding any other provision, the commission may delegate to the administrator the authority to sign any order approved by the commission.

(c) The commission may assign cases to the administrator for determination of eligibility and any order of compensation if:

(1) The case can be adjudicated appropriately on the basis of available records and documents; and

(2) The applicant has waived a hearing before the commission.

(d) If the applicant is dissatisfied with the determination by the administrator, the applicant may appeal to the commission for a hearing, and the commission shall review the case as if it was not heard before and as if no decision had been previously rendered. In such an event, the commission's decision shall be final.”

SECTION 2. Section 351-14, Hawaii Revised Statutes, is amended to read as follows:

“§351-14 Hearings and evidence. [Where any application is made to the criminal injuries compensation commission under this chapter,] For those applications that will be heard by the commission, the applicant and the commission's legal adviser shall be entitled to appear and be heard. Any other person may appear and be heard who [satisfied] satisfies the commission that the person has a substantial interest in the proceedings. In any case in which the person entitled to make an application is a child, the application may be made on the child's behalf by any person acting as the child's parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made

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on the person's behalf by the person's guardian or [such] any other individual authorized to administer the person's estate.

Where, under this chapter, any person is entitled to appear and be heard by the commission, that person may appear in person or be represented by the person's attorney. All hearings shall be open to the public, unless in a particular case, the commission determines that the hearing, or a portion thereof, should be held in private, [having regard to the fact that] because the offender has not been convicted or [to] in the interest of the victim of an alleged sexual offense.

Every person appearing under this section shall have the right to produce evidence and to cross-examine witnesses. The commission may receive in evidence any statement, document, information, or matter that [may], in the opinion of the commission, may contribute to its functions under this chapter, whether or not [such] the statement, document, information, or matter would be admissible in a court of law.

If any person has been convicted of any offense with respect to an act or omission on which a claim under this chapter is based, proof of that conviction [shall], unless an appeal against the conviction or a petition for a rehearing in respect of the charge is pending or a new trial or rehearing has been ordered, shall be taken as conclusive evidence that the offense has been committed."

SECTION 3. Section 351-62.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Funds received pursuant to section 354D-12(b)(1) and amounts received pursuant to sections 351-35 and 351-63 shall be deposited into the criminal injuries compensation fund.”

SECTION 4. This Act does not affect the rights and duties that were matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 10, 1993.)