

49.390 Reduction of award -- Determination of victim's contribution -- Basis of denial of claim.

- (1) Any award made pursuant to KRS 49.270 to 49.490 shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:
 - (a) From or on behalf of the person who committed the crime;
 - (b) Under insurance programs mandated by law;
 - (c) From public funds;
 - (d) Under any contract of insurance wherein the claimant is the insured or beneficiary;
 - (e) As an emergency award pursuant to KRS 49.360; and
 - (f) From donations made on behalf of the victim or claimant toward expenses incurred as a result of the crime.
- (2) In determining the amount of an award, the commission or commission member shall determine whether, because of his or her conduct, the claimant or the victim of such crime contributed to the infliction of the victim's injury, and shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; however, the commission or commission member may disregard for this purpose the responsibility of the claimant or the victim for the victim's injury where the record shows that such responsibility was attributable to efforts by the claimant or victim to prevent a crime or an attempted crime from occurrence in his or her presence or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony. The commission or commission members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The commission or commission member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.
- (3) The commission or commission member may consider whether the victim's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the commission or commission member finds that the claimant will not suffer serious financial hardship if not granted financial assistance pursuant to KRS 49.270 to 49.490, the commission or commission member shall deny an award. In determining such serious financial hardship, the commission or commission member shall consider all of the financial resources of the claimant. The commission shall establish specific standards by rule for determining such serious financial hardships.

Effective: June 29, 2017

History: Repealed, reenacted, renumbered, and amended 2017 Ky. Acts ch. 74, sec. 39, effective June 29, 2017. -- Amended 2013 Ky. Acts ch. 69, sec. 5, effective June 25, 2013. -- Amended 1980 Ky. Acts ch. 172, sec. 5, effective July 15, 1980. -- Created 1976 Ky. Acts ch. 263, sec. 14.

Formerly codified as KRS 346.140.