



Ohio Revised Code

Section 2743.59 Investigating claim for award of reparations.

Effective: September 30, 2011

Legislation: House Bill 86 - 129th General Assembly

(A) The attorney general shall fully investigate a claim for an award of reparations, regardless of whether any person is prosecuted for or convicted of committing the criminally injurious conduct alleged in the application. After completing the investigation, the attorney general shall make a written finding of fact and decision concerning an award of reparations.

(B)(1) The attorney general may require the claimant to supplement the application for an award of reparations with any further information or documentary materials, including any medical report readily available, that may lead to any relevant facts in the determination of whether, and the extent to which, a claimant qualifies for an award of reparations. The attorney general may depose any witness, including the claimant, pursuant to Civil Rules 28, 30, and 45.

(2)(a) For the purpose of determining whether, and the extent to which, a claimant qualifies for an award of reparations, the attorney general may issue subpoenas and subpoenas duces tecum to compel any person or entity, including any collateral source, that provided, will provide, or would have provided to the victim any income, benefit, advantage, product, service, or accommodation, including any medical care or other income, benefit, advantage, product, service, or accommodation that might qualify as an allowable expense or a funeral expense, to produce materials to the attorney general that are relevant to the income, benefit, advantage, product, service, or accommodation that was, will be, or would have been so provided and to the attorney general's determination.

(b) If the attorney general issues a subpoena or subpoena duces tecum under division (B)(2)(a) of this section and if the materials that the attorney general requires to be produced are located outside this state, the attorney general may designate one or more representatives, including officials of the state in which the materials are located, to inspect the materials on the attorney general's behalf, and the attorney general may respond to similar requests from officials of other states. The person or entity subpoenaed may make the materials available to the attorney general at a convenient location within the state.



(c) At any time before the return day specified in the subpoena or subpoena duces tecum issued under division (B)(2)(a) of this section or within twenty days after the subpoena or subpoena duces tecum has been served, whichever period is shorter, the person or entity subpoenaed may file with a judge of the court of claims a petition to extend the return day or to modify or quash the subpoena or subpoena duces tecum. The petition shall state good cause.

(d) A person or entity who is subpoenaed under division (B)(2)(a) of this section shall comply with the terms of the subpoena or subpoena duces tecum unless otherwise provided by an order of a judge of the court of claims entered prior to the day for return contained in the subpoena or as extended by the court. If a person or entity fails without lawful excuse to obey a subpoena or subpoena duces tecum issued under division (B)(2)(a) of this section or to produce relevant materials, the attorney general may apply to a judge of the court of claims for and obtain an order adjudging the person or entity in contempt of court.

(C) The finding of fact and decision that is issued by the attorney general pursuant to division (A) of this section shall contain all of the following:

(1) Whether the criminally injurious conduct that is the basis for the application did occur, the date on which the conduct occurred, and the exact nature of the conduct;

(2) Whether the criminally injurious conduct was reported to a law enforcement officer or agency, the date on which the conduct was reported, the name of the person who reported the conduct, and the reasons why the conduct was not reported to a law enforcement officer or agency;

(3) The exact nature of the injuries that the victim sustained as a result of the criminally injurious conduct;

(4) A specific list of the economic loss that was sustained as a result of the criminally injurious conduct by the victim, the claimant, or a dependent;

(5) A specific list of any benefits or advantages that the victim, the claimant, or a dependent has received or is entitled to receive from any collateral source for economic loss that resulted from the conduct and whether a collateral source would have reimbursed the claimant for a particular expense



if a timely claim had been made, and the extent to which the expenses likely would have been reimbursed by the collateral source;

(6) A description of any evidence in support of contributory misconduct by the claimant or by the victim through whom the claimant claims an award of reparations, whether the victim has been convicted of a felony or has a record of felony arrests under the laws of this state, another state, or the United States, whether disqualifying conditions exist under division (E) of section 2743.60 of the Revised Code, and whether there is evidence that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim;

(7) Whether the victim of the criminally injurious conduct was a minor;

(8) If the victim of the criminally injurious conduct was a minor, whether a complaint, indictment, or information was filed against the alleged offender and, if such a filing occurred, its date;

(9) Any information that is relevant to the claim for an award of reparations.

(D) The decision that is issued by the attorney general pursuant to division (A) of this section shall contain all of the following:

(1) A statement as to whether a claimant is eligible for an award of reparations, whether payments made pursuant to the award are to be made to the claimant, to a provider, or jointly to the claimant and a provider, and the amount of the payments to the claimant or provider;

(2) A statement as to whether any of the payments made pursuant to the award should be paid in a lump sum or in installments;

(3) If the attorney general decides that an award not be made to the claimant, the reasons for that decision.

(E) The attorney general shall make a written finding of fact and decision in accordance with sections 2743.51 to 2743.72 of the Revised Code within one hundred twenty days after receiving the



claim application. The attorney general may extend the one-hundred-twenty-day time limit and shall record in writing specific reasons to justify the extension. The attorney general shall notify the claimant of the extension and of the reasons for the extension. The attorney general shall serve a copy of its written finding of fact and decision upon the claimant.