



Ohio Revised Code

Section 2743.72 Right of reimbursement, repayment, and subrogation in favor of reparations fund.

Effective: July 1, 2000

Legislation: Senate Bill 153 - 123rd General Assembly

(A) The payment of an award of reparations from the reparations fund established by section 2743.191 of the Revised Code creates a right of reimbursement, repayment, and subrogation in favor of the reparations fund from an individual who is convicted of the offense that is the basis of the award of reparations. For purposes of establishing an individual's liability under this provision, a certified judgment of the individual's conviction together with the related indictment is admissible as evidence to prove the individual's liability.

(B) The payment of an award of reparations from the reparations fund creates a right of reimbursement, repayment, and subrogation in favor of the reparations fund from a third party who, because of an express or implied contractual or other legal relationship, had an obligation to pay any expenses for which an award of reparations was made.

(C) If an award of reparations is made to a claimant under sections 2743.51 to 2743.72 of the Revised Code and if it is discovered that the claimant actually was not eligible for the award or that the award otherwise should not have been made under the standards and criteria set forth in sections 2743.51 to 2743.72 of the Revised Code, the fund is entitled to recover the award from the claimant.

(D) If an award of reparations is made to a claimant under sections 2743.51 to 2743.72 of the Revised Code and if the claimant receives compensation from any other person or entity, including a collateral source, for an expense that is included within the award, the fund is entitled to recover from the claimant the part of the award that represents the expense for which the claimant received the compensation from the other person or entity.

(E) The reparations fund is an eligible recipient for payment of restitution.

(F) The subrogation right of the reparations fund includes the amount of an award of reparations actually paid to a claimant or to another person on the claimant's behalf and a right of prepayment for



the anticipated future payment of an award of reparations to be paid by reason of criminally injurious conduct.

(G) The subrogation right of the reparations fund is enforceable through the filing of an action in the Franklin county court of common pleas within six years of the date of the last payment of any part of an award of reparations from the fund. The time of an offender's imprisonment shall not be computed as any part of this period of limitation. This subrogation right may be established and enforced in the Franklin county court of common pleas as against the heirs and assigns of a subrogation debtor.

(H) As a prerequisite to bringing an action to recover an award related to criminally injurious conduct upon which compensation is claimed or awarded, the claimant must give the attorney general prior written notice of the proposed action. If an action is initiated prior to a claimant filing a reparations claim or supplemental reparations claim, the claimant must give the attorney general written notice of the existence of the action. After receiving either notice, the attorney general promptly shall do one of the following:

- (1) Join in the action as a party plaintiff to recover any reparations awarded;
- (2) Require the claimant to bring the action in the claimant's individual name as trustee on behalf of the state to recover any reparations awarded;
- (3) Reserve the rights described in division (H)(1) or (2) of this section.

If, as requested by the attorney general, the claimant brings the action as trustee and the claimant recovers compensation awarded by the reparations fund, the claimant may deduct from the compensation recovered on behalf of the state the reasonable expenses including attorney's fees allocable by the court for that recovery.

(I) A claimant shall not settle or resolve any action arising out of criminally injurious conduct without written authorization from the attorney general to do so. Any attempt by a third party or an offender, or an agent, an insurer, or attorneys of third parties or offenders, to settle an action is void and shall result in no release from liability to the reparations fund.



(J) If there is more than one offender in connection with an instance of criminally injurious conduct, each offender is jointly and severally liable to pay to the reparations fund the full amount of the reparations award.

(K) The right of the reparations fund to repayment, reimbursement, and subrogation under sections 2743.711 and 2743.72 of the Revised Code is automatic, regardless of whether the reparations fund is joined as a party in an action by a claimant against an offender or third party in connection with criminally injurious conduct.

(L) The reparations fund, through the attorney general, may assert its repayment, reimbursement, or subrogation rights through correspondence with the claimant, offender, or third party, or their legal representatives. The assertion is not to be considered the assertion of a consumer debt.

(M) The reparations fund, through the attorney general, may institute and pursue legal proceedings against an offender, third party, or overpaid claimant. In actions against an offender or third party, the claimant and victim are not necessary parties to the action.

(N) The costs and attorney's fees of the attorney general in enforcing the reparations fund's reimbursement, repayment, or subrogation rights are fully recoverable from the liable offender, third party, or overpaid claimant.

(O) All moneys that are collected by the state pursuant to its rights of subrogation as provided in this section or pursuant to the attorney general's authority to recover some or all of an award of reparations that is granted pursuant to this section shall be deposited in the reparations fund.