

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 819  
HOUSE BILL 57

AN ACT TO CREATE THE NORTH CAROLINA CRIME VICTIMS  
COMPENSATION FUND AND TO CLARIFY THE NORTH CAROLINA CRIME  
VICTIMS COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15B-2 is amended by adding a new subsection to read:

"(12a) 'Substantial evidence' means relevant evidence that a reasonable mind might accept as adequate to support a conclusion."

Sec. 2. G.S. 15B-2(1) is rewritten to read:

"(1) 'Allowable expense' means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, medically related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of two thousand dollars (\$2,000) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service."

Sec. 3. G.S. 15B-2(4) is amended by deleting the word "Victim's" and substituting the word "Victims".

Sec. 4. G.S. 15B-2(5) is amended by rewriting the last sentence to read:

"Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle when the conduct is punishable only as a violation of Chapter 20 of the General Statutes."

Sec. 5. G.S. 15B-2(8) is amended by adding the following sentence at the end: "Dependent's replacement service loss will be limited to a 26-week period commencing from the date of the injury and compensation shall not exceed two hundred dollars (\$200.00) per week."

Sec. 6. G.S. 15B-2(9) is rewritten to read:

"(9) 'Director' means the Director of the Commission appointed under G.S. 15B-3(g)."

Sec. 7. G.S. 15B-2(12) is amended by adding the following at the end: "Replacement service loss will be limited to a 26-week period commencing from the date of the injury, and compensation may not exceed two hundred dollars (\$200.00) per week."

Sec. 8. G.S. 15B-2(14) is amended by adding the following at the end: "Compensation for work loss will be limited to 26 weeks commencing from the date of the injury, and compensation may not exceed two hundred dollars (\$200.00) per week."

A claim for work loss will be paid only upon proof that the injured person was gainfully employed at the time of the criminally injurious conduct and, by physician's certificate, that the injured person was unable to work."

Sec. 9. G.S. 15B-3(a) is rewritten to read:

"(a) There is established the Crime Victims Compensation Commission of the Department of Crime Control and Public Safety, consisting of five members as follows:

- (1) One member to be appointed by the Governor;
- (2) One member to be appointed by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121;
- (3) One member to be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121;
- (4) The Attorney General or his designee; and
- (5) The Secretary of the Department of Crime Control and Public Safety or his designee."

Sec. 10. G.S. 15B-3 is amended by adding a new subsection at the end to read:

"(g) The Commission shall name a Director upon the recommendation of the Secretary of Crime Control and Public Safety. The Director shall serve at the pleasure of the Commission. The Department of Crime Control and Public Safety shall provide for the compensation of the Director and shall provide professional and clerical staff necessary for the work of the Commission."

Sec. 11. G.S. 15B-4 is rewritten to read:

"§ 15B-4. **Award of compensation.**— Subject to the limitations in G.S. 15B-22, compensation for criminally injurious conduct shall be awarded to a claimant if substantial evidence establishes that the requirements for an award have been met." Sec.

12. G.S. 15B-6 is rewritten to read:

"§ 15B-6. **Powers of the Commission.**—In addition to powers authorized by this Chapter and Chapter 150B, the Commission may:

- (1) Adopt rules in accordance with Part 3, Article 1 of Chapter 143B and Article 2 of Chapter 150B of the General Statutes necessary to carry out the purposes of this Chapter;
- (2) Establish general policies and guidelines for awarding compensation and provide guidance to the staff assigned by the Secretary of the Department of Crime Control and Public Safety to administer the program;
- (3) Accept for any lawful purpose and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm, or corporation, and may deposit the same to the Crime Victims Compensation Fund."

Sec. 13. G.S. 15B-7 is amended as follows:

- (1) by deleting the phrase "filing fee;" from the catch line;
- (2) by deleting the second sentence of subsection (a); and

- (3) by deleting the word "Commission" in the first sentence of subsection (a) and substituting the word "Director".

Sec. 14. G.S. 15B-8 is amended as follows:

- (1) by deleting the language "; indigent applicants" from the catch line;
- (2) by deleting subsection (b); and
- (3) by rewriting subsection (a) to read:

"(a) The Director shall establish procedures for screening, filing, recording, investigating, and processing applications for an award of compensation. The Director shall also establish the procedures and methods for processing follow-up claims for compensation. The procedures and methods established by the Director under this subsection shall conform to any rules adopted by the Commission."

Sec. 15. G.S. 15B-9 is repealed.

Sec. 16. G.S. 15B-10 is rewritten to read:

**"§ 15B-10. Awarding claims.**—(a) The Director shall decide the award of compensation for an initial claim or follow-up claim when the claim does not exceed five thousand dollars (\$5,000) and does not include future economic loss. The Director shall report all awards under this subsection to the Commission.

(b) The Director shall recommend the award of compensation for an initial claim or follow-up claim when the claim exceeds five thousand dollars (\$5,000) or involves future economic loss. The Commission shall decide the award of compensation for a claim based on a review of written evidence submitted to the Commission by the Director.

(c) In reporting a decision under subsection (a) or recommending a decision under subsection (b), the Director shall submit to the Commission documentation to establish the economic loss of the claimant by substantial evidence.

(d) The Director shall send each claimant a written statement of a decision made under subsection (a) or (b) that gives the reasons for the decision. A claimant who is dissatisfied with a decision may commence a contested case under Article 3 of Chapter 150B of the General Statutes."

Sec. 17. G.S. 15B-11(a) is rewritten to read:

"(a) An award of compensation will be denied if:

- (1) The claimant fails to file his application for an award within one year after the date of the criminally injurious conduct that caused the injury or death for which he seeks the award;
- (2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;
- (3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;
- (4) The award would benefit the offender, his accomplice, a spouse of or a person living in the same household with the offender or his accomplice, or a parent, child, brother, or sister of the offender or his

accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case; or

- (5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility."

Sec. 18. G.S. 15B-11(b) and (c) are rewritten to read:

"(b) A claim may be denied and an award of compensation may be reduced upon finding contributory misconduct by the claimant or a victim through whom he claims.

(c) A claim may be denied, an award of compensation may be reduced, and a claim that has already been decided may be reconsidered upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies with regard to the criminally injurious conduct that is the basis for the award."

Sec. 19. G.S. 15B-11(d) is amended as follows:

- (1) by deleting the word "Commission" the first time it appears in the first sentence of the subsection and substituting the word "Director"; and
- (2) by rewriting the second sentence of the subsection to read:

"An award that has been approved shall nevertheless be denied or reduced to the extent that the economic loss upon which the claim is based is or will be recouped from a collateral source."

Sec. 20. G.S. 15B-11(g) is rewritten to read:

"(g) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to, or the death of, that victim may not exceed twenty thousand dollars (\$20,000) in the aggregate in addition to allowable funeral, cremation, and burial expenses."

Sec. 21. G.S. 15B-11(h) is amended by deleting the word "Commission's".

Sec. 22. G.S. 15B-12 is amended as follows:

- (1) by rewriting the catch line to read: "**Evidence in contested cases.**";
- (2) by rewriting subsection (a) to read:

"(a) Except as provided in this section, evidence in a contested case shall be taken in accordance with Article 3 of Chapter 150B of the General Statutes.";

- (3) by deleting the word "Commission" each time it appears in subsections (c) through (h) and substituting the words "administrative law judge"; and

- (4) by rewriting subsection (i) to read:

"(i) Except for information held confidential by the administrative law judge, the official record in a contested case under this Chapter is open to public inspection."

Sec. 23. G.S. 15B-13 is repealed.

Sec. 24. G.S. 15B-14 is amended as follows:

- (1) by deleting in subsection (a) the words "The Commission may approve an award of compensation" and substituting the words "An award of compensation may be approved";
- (2) by rewriting subsection (b) to read:

"(b) Upon a request of the Attorney General, the proceedings in a claim for an award of compensation may be suspended pending disposition of a criminal prosecution that has been commenced or is imminent."; and

(3) by adding a new subsection to read:

"(c) In making an award, any specific statement of loss to a victim that a trial court has included in its judgment in the case may be considered."

Sec. 25. G.S. 15B-15 is rewritten to read:

**"§ 15B-15. Clerks of court to be notified.**—The Director shall notify in writing the clerk of superior court of the county in which the offense occurred of any award made from the Crime Victims Compensation Fund to the victim. The clerk shall place the notice in the case file of any defendant charged with the offense that gave rise to the award to the victim."

Sec. 26. G.S. 15B-16 is amended as follows:

(1) by rewriting subsection (a) to read:

"(a) The Director shall pay award payments directly to the service provider on behalf of the claimant. Eligible out-of-pocket costs borne by the claimant shall be paid directly to the victim only if such costs can be documented and verified."; and

(2) by rewriting subsections (b) and (c) to read:

"(b) Upon request of the claimant, future economic loss, other than allowable expense, may be commuted to a lump sum only on a finding that:

(1) The award in a lump sum will promote the interests of the claimant; or

(2) The present value of all future economic loss other than allowable expense does not exceed one thousand dollars (\$1,000).

(c) An award for future economic loss payable in installments may be made only for a period as to which future economic loss can reasonably be determined. An award for future economic loss payable in installments may be reconsidered and modified upon a finding that a material and substantial change of circumstances has occurred."

Sec. 27. G.S. 15B-18 is amended as follows:

(1) by deleting from subsections (a), (b), and (e) the word "State" and substituting the term "Crime Victims Compensation Fund" and

(2) by deleting from subdivision (c)(3) the term "by the Commission" and substituting the term "from the Crime Victims Compensation Fund".

Sec. 28. G.S. 15B-20 is rewritten to read:

**"§ 15B-20. Publicity.**—Law enforcement agencies responsible for investigating offenses committed in the State may provide information to victims of those offenses and to their dependents concerning the existence of the Crime Victims Compensation Fund and the source of applications for compensation from the Fund."

Sec. 29. G.S. 15B-21 is amended by rewriting the second sentence to read:

"The report shall include the number of claims filed, the number of awards made, the amount of each award, a statistical summary of claims denied and awards made, and the administrative costs of the Commission, including the compensation of commissioners."

Sec. 30. Chapter 15B of the North Carolina General Statutes is amended by adding a new section 15B-23 to read:

**"§ 15B-23. Crime Victims Compensation Fund.**—There is established the Crime Victims Compensation Fund. Any surplus in the Crime Victims Compensation Fund shall not revert. The Crime Victims Compensation Fund shall be kept on deposit with the State Treasurer, as in the case of other State funds, and may be invested by the State Treasurer in any lawful security for the investment of State money. The Crime Victims Compensation Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

Sec. 31. G.S. 15B-22 is rewritten to read:

**"§ 15B-22. Disbursements.**—If compensation awarded under this Chapter cannot be paid due to insufficient funds in the Crime Victims Compensation Fund, payment shall be delayed until sufficient funds are available and no further awards of compensation shall be made until sufficient funds are available."

Sec. 32. G.S. 15A-1343(d) is amended as follows:

(1) by rewriting the seventh sentence to read:

"As used herein 'aggrieved party' includes individuals, firms, corporations, associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23."; and

(2) by rewriting the last sentence to read:

"Restitution or reparation measures are ancillary remedies to promote rehabilitation of criminal offenders, to provide for compensation to victims of crime, and to reimburse the Crime Victims Compensation Fund established by G.S. 15B-23, and shall not be construed to be a fine or other punishment as provided for in the Constitution and laws of this State."

Sec. 33. Chapter 15B of the General Statutes is amended by adding a new section to read:

**"§ 15B-24. Requiring defendant to pay restitution encouraged.**—Pursuant to a Court's power to require restitution as a condition of probation, parole or work-release privileges, a Court may require a defendant to pay restitution to a victim, regardless of whether the victim receives compensation from the Crime Victims Compensation Fund, or to the Fund. It is the intent of the General Assembly that a victim's receipt of compensation from the Fund shall not discourage a Court from considering, where appropriate, payment of restitution by the defendant and alternatives to incarceration of the defendant."

Sec. 34. The provisions of this act are severable. If a provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act that can be given effect without the invalid provision.

Sec. 35. Notwithstanding G.S. 150B-13, the Crime Victims Compensation Commission may, until six months from the effective date of this act, adopt temporary rules to carry out the purposes of Chapter 15B of the General Statutes without prior notice or hearing or upon any abbreviated notice or hearing the Commission finds practicable. The Commission shall begin normal rule-making procedures on permanent rules in accordance with Article 2 of Chapter 150B at the same time it adopts a temporary rule. Temporary rules adopted under this section shall be published by the

Director of the Office of Administrative Hearings in the North Carolina Register and shall be effective for a period of not longer than 180 days.

Sec. 36. G.S. 15B-25. Compensation limits. - This act shall not be construed to create a right to receive compensation. Compensation payable under Chapter 15B shall only be available to the extent that the General Assembly appropriates funds for that purpose.

Sec. 37. This act is effective upon ratification. Victims of offenses occurring on or after that date may be eligible to receive awards under the act only if the 1987 General Assembly appropriates money for the Crime Victims Compensation Fund.

In the General Assembly read three times and ratified this the 13th day of August, 1987.