

Chapter 15B.

Victims Compensation.

Article 1.

Crime Victim's Compensation Act.

§ 15B-1. Short title.

This Article may be cited as the "North Carolina Crime Victims Compensation Act." (1983, c. 832, s. 1; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 15B-2. Definitions.

As used in this Article, the following definitions apply, unless the context requires otherwise:

- (1) Allowable expense. – 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. Reasonably needed services include (i) counseling for immediate family members of children under the age of 18 who are victims of rape, sexual assault, or domestic violence and (ii) family counseling and grief counseling for immediate family members of homicide victims. The cumulative total for counseling services provided to immediate family members shall not exceed three thousand dollars (\$3,000) per family.

Allowable expense includes a total charge not in excess of five thousand dollars (\$5,000) 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.

Allowable expense for medical care, counseling, rehabilitation, medically-related property, and other remedial treatment and care of a victim shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount usually charged by the provider for the treatment or care. By accepting the compensation paid as allowable expense pursuant to this subdivision, the provider agrees that the compensation is payment in full for the treatment or care and shall not charge or otherwise hold a claimant financially responsible for the cost of services in addition to the amount of allowable expense.

- (2) Claimant. – Any of the following persons who claims an award of compensation under this Article:
 - a. A victim;
 - b. A dependent of a deceased victim;
 - c. A third person who is not a collateral source and who provided benefit to the victim or his family other than in the course or scope of his employment, business, or profession;
 - d. A person who is authorized to act on behalf of a victim, a dependent, or a third person described in sub-subdivision c. of this subdivision;
 - e. A person who was convicted of a first offense under G.S. 14-204 and whose participation in the offense was a result of having been a trafficking victim under G.S. 14-43.11 or G.S. 14-43.13 or a victim of a

severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

The claimant, however, may not be the offender or an accomplice of the offender who committed the criminally injurious conduct, except as provided in sub-subdivision e. of this subdivision.

- (3) Collateral source. – A source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received or that is readily available to the victim or the claimant from any of the following sources:
 - a. The offender.
 - b. The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states.
 - c. Social Security, Medicare, or Medicaid.
 - d. State-required, temporary, nonoccupational disability insurance.
 - e. Worker's compensation.
 - f. Wage continuation programs of any employer.
 - g. Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct.
 - h. A contract providing prepaid hospital and other health care services, or benefits for disability.
 - i. A contract of insurance that will pay for expenses directly related to a funeral, cremation, and burial, including transportation of a body.
 - j. A charitable gift or donation by a third party, including a charity care write-off of expenses by a medical provider, regardless of whether the gift or donation is subsequently rescinded.
- (4) Commission. – The Crime Victims Compensation Commission established by G.S. 15B-3.
- (4a) Consumer reporting agency. – As defined in G.S. 75-61(4).
- (4b) Credit report. – As defined in G.S. 75-61(3).
- (5) Criminally injurious conduct. – Conduct that by its nature poses a substantial threat of personal injury or death, and is punishable by fine or imprisonment or death, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this State. Criminally injurious conduct includes conduct that amounts to an offense involving impaired driving as defined in G.S. 20-4.01(24a), and conduct that amounts to a violation of G.S. 20-166 if the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility impairment device. For purposes of this Article, a mobility impairment device is a device that is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour when the device is being operated by a person with a mobility impairment. 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 other provisions of Chapter 20 of the General Statutes. Criminally injurious conduct shall also include an act of terrorism, as defined in 18 U.S.C.

§ 2331, that is committed outside of the United States against a citizen of this State.

- (6) Dependent. – An individual wholly or substantially dependent upon the victim for care and support and includes a child of the victim born after his death.
- (7) Dependent's economic loss. – Loss after a victim's death of contributions of things of economic value to his dependents, not including services they would have received from the victim if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. Dependent's economic loss will be limited to a 26-week period commencing from the date of the injury, and compensation shall not exceed three hundred dollars (\$300.00) per week.
- (8) Dependent's replacement service loss. – Loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if he had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating dependent's economic loss.
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.
- (9) Director. – The Director of the Commission appointed under G.S. 15B-3(g).
- (10) Economic loss. – Economic detriment consisting only of allowable expense, work loss, replacement services loss, and household support loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement service loss. Noneconomic detriment is not economic loss, but economic loss may be caused by pain and suffering or physical impairment.
- (10a) Household support loss. – The loss of support that a victim would have received from the victim's spouse for the purpose of maintaining a home or residence for the victim and the victim's dependents. A victim may be compensated fifty dollars (\$50.00) per week for each dependent child. Compensation for household support loss shall not exceed three hundred dollars (\$300.00) per week and shall be limited to 26 weeks commencing from the date of the injury. A victim may receive only one compensation for household support loss. Household support loss is only available to an unemployed victim whose spouse is the offender who committed the criminally injurious conduct that is the basis of the victim's claim under this act.
- (11) Noneconomic detriment. – Pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.
- (12) Replacement services loss. – Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

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.

- (12a) Substantial evidence. – Relevant evidence that a reasonable mind might accept as adequate to support a conclusion.
- (13) Victim. – A person who suffers personal injury or death proximately caused by criminally injurious conduct.
- (14) Work loss. – Loss of income from work that the injured person would have performed if he had not been injured and expenses reasonably incurred by him to obtain services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him, or by income he would have earned in available appropriate substitute work that he was capable of performing but unreasonably failed to undertake.

Compensation for work loss will be limited to 26 weeks commencing from the date of the injury, and compensation shall not exceed three hundred dollars (\$300.00) 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. (1983, c. 832, s. 1; 1987, c. 819, ss. 1-8; 1989, c. 322, s. 1; c. 679, s. 1; 1991, c. 301, s. 1; 1997-227, ss. 1, 2; 1998-212, s. 19.4(*I*); 2004-124, s. 18.1; 2004-159, s. 1; 2006-183, ss. 1, 2; 2009-355, s. 5; 2011-267, s. 1; 2013-368, s. 15; 2017-57, s. 16.6(a).)

§ 15B-3. Crime Victims Compensation Commission.

(a) There is established the Crime Victims Compensation Commission of the Department of Public Safety, consisting of seven 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 Pro Tempore 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 the Attorney General's designee;
- (5) The Secretary of the Department of Public Safety or the Secretary's designee; and
- (6) Two members to be appointed by the Secretary of the Department of Public Safety.

(b) Members shall serve terms of four years. A member shall continue to serve until his successor is duly appointed, but a holdover under this provision does not affect the expiration date of the succeeding term.

(c) In case of a vacancy on the Commission before the expiration of a member's term, a successor shall be appointed within 30 days of the vacancy for the remainder of the unexpired term by the appropriate official pursuant to subsection (a). Vacancies in legislative appointments shall be filled under G.S. 120-122.

(d) The Commission shall elect one of its members as chairman to serve until the expiration of his term.

(e) A majority of the Commission constitutes a quorum to transact business.

(f) Members shall receive compensation and reimbursement for expenses as provided in G.S. 138-5.

(g) The Commission shall name a Director upon the recommendation of the Secretary of Public Safety. The Director shall serve at the pleasure of the Commission. The Department of Public Safety shall provide for the compensation of the Director and shall provide professional and clerical staff necessary for the work of the Commission. (1983, c. 832, s. 1; 1987, c. 819, ss. 9, 10; 1991, c. 301, s. 1; 1995, c. 490, s. 14; 1999-269, s. 1; 2004-159, s. 1; 2011-145, s. 19.1(g).)

§ 15B-4. Award of compensation.

(a) 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. Compensation shall only be paid for economic loss and not for noneconomic detriment. The Commission shall follow the rules of liability applicable to civil tort law in North Carolina.

(b) Compensation shall only be awarded for criminally injurious conduct that occurs or is attempted in this State except that criminally injurious conduct that occurs or is attempted against a resident of this State while in another state which does not have a victims compensation program of any type may be a basis of compensation. (1983, c. 832, s. 1; 1987, c. 819, s. 11; 1989, c. 322, s. 2; 1991, c. 301, s. 1; 2004-159, s. 1; 2006-183, s. 3.)

§ 15B-5. Attorney General to represent State.

The Attorney General shall represent the interest of the State when:

- (1) A decision of the Commission is appealed to the courts; and
- (2) When the State is sued or when it brings or enters a lawsuit pursuant to this Article. (1983, c. 832, s. 1; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 15B-6. Powers of the Commission and Director.

(a) In addition to powers authorized by this Article and Chapter 150B, the Commission may:

- (1) Adopt rules in accordance with Part 3, Article 1 of Chapter 143B and Article 2A of Chapter 150B of the General Statutes necessary to carry out the purposes of this Article;
- (2) Establish general policies and guidelines for awarding compensation and provide guidance to the staff assigned by the Secretary of the Department of Public Safety to administer the program;
- (3) Accept for any lawful purpose and functions under this Article 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.

(b) The Director shall have the following authority:

- (1) With the consent of the district attorney, to request that law enforcement officers employed by the State or any political subdivision provide copies of any information or data gathered in the investigation of criminally injurious conduct that is the basis of any claim to enable the Director or Commission to

- determine whether, and the extent to which, a claimant qualifies for an award of compensation;
- (2) With the consent of the district attorney, to request that prosecuting attorneys, law enforcement officers, and State agencies conduct investigations and provide information necessary to enable the Director or Commission to determine whether, and the extent to which, a claimant qualifies for an award of compensation; and
 - (3) To require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports pertaining to the injury for which the award of compensation is claimed.

Information obtained pursuant to this subsection is subject to the same privilege against public disclosure that may be asserted by the providing source. (1983, c. 832, s. 1; 1987, c. 819, s. 12; 1989, c. 679, s. 2; 1991, c. 301, s. 1; 2000-189, s. 3; 2004-159, s. 1; 2011-145, s. 19.1(g).)

§ 15B-7. Filing of application for compensation award; contents.

(a) A claim for an award of compensation is commenced by filing an application for an award with the Director. The application shall be in a form prescribed by the Commission and shall contain the following information:

- (1) The name and address of the victim of the criminally injurious conduct, the name and address of the claimant, and the relationship of the claimant to the victim;
- (2) If the victim is deceased, the name and address of each dependent of the victim and the extent to which each is dependent upon the victim for care and support;
- (3) The nature of the criminally injurious conduct that is the basis for the claim and the date on which the conduct occurred;
- (4) The law-enforcement agency or officer to whom the criminally injurious conduct was reported and the date on which it was reported;
- (5) The nature and extent of the injuries that the victim sustained from the criminally injurious conduct for which compensation is sought, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;
- (6) The total amount of the economic loss that the victim, a dependent, or the claimant sustained as a result of the criminally injurious conduct, without regard to the financial limitations set forth in G.S. 15B-11(f) and (g).
- (7) The amount of benefits or advantages that the victim, a dependent, or other claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct, and the name of each collateral source;
- (8) Whether the claimant is the spouse, parent, child, brother, or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;
- (9) A release authorizing the Commission and the Commission's staff to obtain any report, document, or information that relates to the determination of the claim for an award of compensation;

(10) Any additional relevant information that the Commission may require. The Commission may require the claimant to submit, with the application, materials to substantiate the facts that are stated in the application.

(b) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or a State officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent application is guilty of a Class 1 misdemeanor if the application is for a claim of not more than four hundred dollars (\$400.00). If the application is for a claim of more than four hundred dollars (\$400.00), the person is guilty of a Class I felony. (1983, c. 832, s. 1; 1987, c. 819, s. 13; 1991, c. 301; 1993, c. 539, s. 303; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 15B-8. Procedure for filing application.

(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.

(b) Repealed by Session Laws 1987, c. 819, s. 14. (1983, c. 832, s. 1; 1987, c. 819, s. 14; 1991, c. 301, s. 1.)

§ 15B-8.1. Privilege and records of the Commission.

(a) In a proceeding under this Article, the privileges set forth in G.S. 8-53, 8-53.3, 8-53.4, 8-53.7, 8-53.8, and 8-56 do not apply to communications or records concerning the physical, mental or emotional condition of the claimant or victim if that condition is relevant to a claim for compensation.

(b) All medical information relating to the mental, physical, or emotional condition of a victim or claimant and all law enforcement records and information and any juvenile records shall be held confidential by the Commission and Director. All personal information, as that term is defined in 18 U.S.C. § 2725(3), of victims and claimants and all information concerning the disposition of claims for compensation, except for the total amount awarded a victim or claimant, shall be held confidential by the Commission and Director. Except for information held confidential under this subsection, the records of the Division shall be open to public inspection. (1989, c. 679, s. 3; 2004-159, s. 1; 2011-267, s. 2.)

§ 15B-9. Repealed by Session Laws 1987, c. 819, s. 15, effective August 13, 1987.

§ 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 twelve thousand five hundred dollars (\$12,500) 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 twelve thousand five hundred dollars (\$12,500) 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. (1983, c. 832, s. 1; 1987, c. 819, s. 16; 1991, c. 301, s. 1; 1999-269, s. 2; 2004-159, s. 1; 2009-354, s. 3.)

§ 15B-11. Grounds for denial of claim or reduction of award.

(a) An award of compensation shall be denied if:

- (1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant 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, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years 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 or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;
- (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; or
- (6) The victim was participating in a felony at or about the time that the victim's injury occurred.

(b) A claim may be denied or an award of compensation may be reduced if:

- (1) The victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred; or
- (2) The claimant or a victim through whom the claimant claims engaged in contributory misconduct.

(b1) The Commission or Director, whichever has the authority to decide a claim under G.S. 15B-10, shall exercise discretion in determining whether to deny a claim under subsection (b) of this section. In exercising discretion, the Commission or Director shall consider whether any proximate cause exists between the injury and the misdemeanor or contributory misconduct, when applicable. The Director or Commission shall deny claims upon a finding that there was contributory misconduct that is a proximate cause of

becoming a victim. However, contributory misconduct that is not a proximate cause of becoming a victim shall not lead to an automatic denial of a claim.

(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, without good cause, has not fully cooperated with appropriate law enforcement agencies or in the prosecution of criminal cases with regard to the criminally injurious conduct that is the basis for the award.

(c1) A claim may be denied upon a finding that the claimant has been convicted of any felony classified as a Class A, B1, B2, C, D, or E felony under the laws of the State of North Carolina and that such felony was committed within 3 years of the time the victim's injury occurred.

(d) After reaching a decision to approve an award of compensation, but before notifying the claimant, the Director shall require the claimant to submit current information as to collateral sources on forms prescribed by the Commission.

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. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitations set forth in subsections (f) and (g).

(e) Repealed by Session Laws 1998-212, s. 19.4(m), effective December 1, 1998.

(f) Repealed by Session Laws 2011-267, s. 3, effective July 1, 2011.

(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 thirty thousand dollars (\$30,000) in the aggregate in addition to allowable funeral, cremation, and burial expenses.

(h) The right to reconsider or reopen a claim does not affect the finality of its decision for the purpose of judicial review. (1983, c. 832, s. 1; 1987, c. 819, ss. 17-21; 1989 (Reg. Sess., 1990), c. 898, s. 1; c. 1066, s. 131; 1991, c. 301, s. 1; 1994, Ex. Sess., c. 3, s. 1; 1997-227, s. 3; 1998-212, s. 19.4(m); 1999-269, s. 3; 2004-159, s. 1; 2006-183, ss. 4, 5; 2009-354, s. 4; 2011-267, s. 3; 2011-326, s. 3.)

§ 15B-12. Evidence in contested cases.

(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.

(b) In a proceeding under this Article, the privileges set forth in G.S. 8-53, 8-53.3, 8-53.4, 8-53.7, 8-53.8, and 8-56 do not apply to communications or records concerning the physical, mental or emotional condition of the claimant or victim if that condition is relevant to a claim for compensation.

(c) If the mental, physical, or emotional condition of a victim or claimant is material to a claim for an award of compensation, the administrative law judge may order the victim or claimant

to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the administrative law judge a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis, and other conclusions, and reports of earlier examinations of the same conditions. On request of the person examined, the administrative law judge shall furnish him a copy of the report. If the victim is deceased, the administrative law judge on request, shall furnish the claimant a copy of the report.

(d) The administrative law judge may request that law-enforcement officers employed by the State or any political subdivision thereof provide it with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The administrative law judge may also request that prosecuting attorneys, law-enforcement officers, and State agencies conduct investigations and provide information necessary to enable the administrative law judge to determine whether, and the extent to which, a claimant qualifies for an award of compensation. Information obtained pursuant to this subsection is subject to the same privilege against public disclosure that may be asserted by the providing source.

(e) The administrative law judge may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

(f) The administrative law judge may not request the victim or the claimant to supply any evidence that would not be admissible at a trial under G.S. 8C-1, Rule 412.

(g) Notwithstanding any provision to the contrary relating to the confidentiality of juvenile records, the administrative law judge shall have access to the records of juvenile proceedings which bear upon an application for compensation, but to the extent possible, it shall maintain the confidentiality of those records.

(h) The administrative law judge may exclude from a hearing of any matter at issue all persons, except those engaged in the hearing, during the taking of medical information and law-enforcement investigative records and information as evidence.

(i) Except for information held confidential by the administrative law judge, the official record in a contested case under this Article is open to public inspection. (1983, c. 832, s. 1; 1987, c. 819, s. 22; 1989, c. 679, ss. 4, 5; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 15B-13. Repealed by Session Laws 1987, c. 819, s. 23.

§ 15B-14. Effect of prosecution or conviction of offender.

(a) An award of compensation may be approved whether or not any person is prosecuted or convicted for committing the conduct that is the basis of the award. Proof of conviction of a person whose conduct gave rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction, or a writ of certiorari is pending, or a rehearing or new trial has been ordered.

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

(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. (1983, c. 832, s. 1; 1987, c. 819, s. 24; 1991, c. 301, s. 1; 2004-159, s. 1; 2011-267, s. 4.)

§ 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. (1983, c. 832, s. 1; 1987, c. 819, s. 25; 1991, c. 301, s. 1.)

§ 15B-16. Manner of payment; non-assignability and exemptions.

(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.

(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.

(d) An order on reconsideration of an award may not require refund of amounts previously paid unless the award was obtained by fraud.

(e) The Director, even after an award made by the Commission, may negotiate with any service provider in order to obtain a reduction of the amount claimed by the provider in exchange for a full release of any claim against a claimant. (1983, c. 832, s. 1; 1987, c. 819, s. 26; 1989, c. 679, s. 6; 1991, c. 301, s. 1; 2004-159, s.1.)

§ 15B-17. Award not subject to taxation or execution.

(a) An award is exempt from taxation.

(b) An award is not subject to execution, attachment, garnishment, or other process, except that, upon receipt of an award by a claimant, the part of the award that is for allowable expense is not exempt from such an action by a creditor to the extent that he provides products, services, or accommodations the costs of which are included in the award, and the part of the award that is for work loss is not exempt from such an action to secure payment of alimony, maintenance, or child support. (1983, c. 832, s. 1; 1991, c. 301, s. 1.)

§ 15B-18. Subrogation by State.

(a) If compensation is awarded, the Crime Victims Compensation Fund is subrogated to all the claimant's rights to receive or recover benefits or advantages for economic loss from a

source that is, or if readily available to the victim or claimant would be, a collateral source, to the extent of the compensation awarded.

(b) The Crime Victims Compensation Fund is an eligible recipient for restitution under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(c) As a prerequisite to bringing an action to recover damages related to criminally injurious conduct for which compensation is claimed or awarded, the claimant shall give the Commission prior written notice of the proposed action. After receiving the notice the Commission shall immediately notify the Attorney General who shall promptly:

- (1) Join in the action as a party plaintiff to recover compensation awarded;
- (2) Require that the claimant bring the action in his individual name as a trustee in behalf of the State to recover compensation awarded; or
- (3) Reserve its rights and do neither in the proposed action. If, as requested by the Attorney General, the claimant brings the action as trustee and recovers compensation awarded from the Crime Victims Compensation Fund, he may deduct from the compensation recovered in behalf of the State the reasonable expenses, including attorney fees, allocable by the court for that recovery.

(d) If a judgment or verdict separately indicates economic loss and noneconomic detriment, payments on the judgment shall be allocated between them in proportion to the amounts indicated. In an action in a court of this State arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict, indicating separately the awards for noneconomic detriment, punitive damages, and economic loss.

(e) Any funds recovered by the Crime Victims Compensation Fund pursuant to this section shall be paid to the general fund.

(f) The Director may pursue any claim of the Crime Victim's Compensation Fund or the Commission set forth in this Article. At the request of the Director, or otherwise, the Attorney General is authorized to assert the rights of the Crime Victim's Compensation Fund or Commission before any administrative or judicial tribunal for purposes of enforcing a claim or right set forth in this Article. (1983, c. 832, s. 1; 1987, c. 819, s. 27; 1989, c. 679, s. 6; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 15B-19. Subrogation by collateral sources prohibited.

Subrogation rights that a collateral source may have may not extend to a recovery from a claimant of all or any part of an award made under this Article. A collateral source may not apply in the name of a claimant or otherwise for an award of compensation based upon injury to a claimant to whose rights the collateral source may be subrogated. (1983, c. 832, s. 1; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 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. (1983, c. 832, s. 1; 1987, c. 819, s. 28; 1991, c. 301, s. 1.)

§ 15B-21. Annual report.

The Commission shall, by March 15 each year, prepare and transmit to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and to the chairs of the

House and Senate Appropriations Committees on Justice and Public Safety a report of its activities in the prior fiscal year and the current fiscal year to date. The report shall include:

- (1) The number of claims filed;
- (2) The number of awards made;
- (2a) The number of pending cases by year received;
- (3) The amount of each award;
- (4) A statistical summary of claims denied and awards made;
- (5) The administrative costs of the Commission, including the compensation of commissioners;
- (6) The current unencumbered balance of the North Carolina Crime Victims Compensation Fund;
- (7) The amount of funds carried over from the prior fiscal year;
- (8) The amount of funds received in the prior fiscal year from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.; and
- (9) The amount of funds expected to be received in the current fiscal year, as well as the amount actually received in the current fiscal year on the date of the report, from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

The Attorney General and State Auditor shall assist the Commission in the preparation of the report required by this section. (1983, c. 832, s. 1; 1987, c. 819, s. 29; 1991, c. 301, s. 1; 1999-237, s. 20.2; 2001-424, s. 26.5; 2004-159, s. 1; 2011-145, s. 19.1(h); 2015-241, s. 16A.2; 2017-186, s. 2(ffff).)

§ 15B-22. Disbursements.

If compensation awarded under this Article 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. (1983, c. 832, s. 1; 1987, c. 819, s. 31; 1991, c. 301, s. 1; 2004-159, s. 1.)

§ 15B-23. Crime Victims Compensation Fund.

There is established the Crime Victims Compensation Fund. Revenue in the Crime Victims Compensation Fund includes amounts credited to the Fund under G.S. 148-2 and other funds. 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. (1987, c. 819, s. 30; 1993 (Reg. Sess., 1994), c. 769, s. 21.5(b); 2004-159, s. 1.)

§ 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. (1987, C. 819, S. 33.)

§ 15B-25. Compensation limits.

This Article 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 that purpose. (1987, c. 819, s. 36; 2004-159, s. 1.)

§ 15B-26. Crime victims credit protection.

(a) A creditor that is owed money for services provided to a victim as a result of the criminally injurious conduct inflicted on the victim shall not communicate any information about the debt to a consumer reporting agency during the pendency of an application for an award filed pursuant to G.S. 15B-7 or during the pendency of an appeal from a decision related to such an application.

(b) The victim bears the burden of notifying the creditor that the debt is subject to subsection (a) of this section.

(c) A creditor may request monthly verification from the Commission that the application or appeal is still pending, and the Commission shall provide this verification. (2009-355, s. 6.)

§ 15B-27: Reserved for future codification purposes.

§ 15B-28: Reserved for future codification purposes.

§ 15B-29: Reserved for future codification purposes.

Article 2.

The Crime Victims Financial Recovery Assistance Act.

§ 15B-30. Declaration of policy and purpose.

The General Assembly of North Carolina hereby declares as a matter of public policy that:

- (1) No person who commits a crime should thereafter gain monetary profit as the result of committing the crime.
- (2) Victims of crime have a special relationship to any profit from the crime committed against them, including the personal belongings and memorabilia of a convicted felon whose criminal actions and resulting notoriety enhance the value of those belongings and memorabilia.
- (3) To the extent profit from crime would not have been realized but for an offender's commission of illegal acts, an offender does not have an equitable interest in the profit and allowing the offender to retain the profit would result in the offender's unjust enrichment.

The General Assembly finds that the State has a compelling interest in ensuring that persons convicted of crimes do not profit from those crimes, and that victims of crime are compensated by those who have harmed them.

The General Assembly further finds that crime victims have difficulty satisfying restitution orders or civil judgments entered against their offenders because the victims often lack the expertise and resources to identify or locate assets that an offender may have.

In order to carry out this public policy and to satisfy these compelling interests, the General Assembly has enacted the provisions of this Article providing a mechanism by which crime victims are notified of the existence of an offender's assets and are authorized to bring an action to recover those assets. (2004-159, s. 2.)

§ 15B-31. Definitions.

The following definitions apply in this Article:

- (1) Commission. – The Crime Victims Compensation Commission established under G.S. 15B-3.
- (2) Convicted. – A finding or verdict of guilty by a jury or by entry of a plea of guilty or no contest, or a finding of not guilty by reason of insanity.
- (3) Crime memorabilia. – Any tangible property belonging to or that belonged to an offender prior to conviction, the value of which is increased by the notoriety gained from the conviction of a felony.
- (4) Earned income. – Income derived from one's own labor or through active participation in a business, as distinguished from income including dividends or investments.
- (5) Eligible person. – Any of the following:
 - a. A victim of the crime for which the offender was convicted.
 - b. A surviving spouse, parent, or child of a deceased victim of the crime for which the offender was convicted.
 - c. Any other person dependent for the person's principal support upon a deceased victim of the crime for which the offender was convicted.However, "eligible person" does not include the offender or an accomplice to the offender.
- (6) Felony. – An offense defined as a felony by any North Carolina or United States statute that was committed in North Carolina and that resulted in physical or emotional injury, or death, to another person.
- (7) Funds of an offender. – All funds and property received from any source by an offender, excluding child support and earned income, where the offender:
 - a. Is an inmate serving a sentence with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a prisoner confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff, or municipal official receives on behalf of an inmate or prisoner and deposits in an inmate account to the credit of the inmate or deposits in a prisoner account to the credit of the prisoner; or
 - b. Is not an inmate or prisoner but who is serving a sentence of probation, conditional discharge, or post-release supervision.
- (8) Offender. – A person who has been convicted of a felony or that person's legal representative or assignee.
- (9) Profit from crime. – Any income, assets, or property obtained through or generated from the commission of a crime for which the offender was

convicted, including any income, assets, or property generated from the sale of crime memorabilia or obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of the crime, as well as any gain from the sale, conversion, or exchange of the income, assets, or property. "Profit from crime" does not include voluntary donations or contributions to an offender used to assist in the appeal of a conviction, provided the donation or contribution is not given in exchange for something of material value.

- (10) Victim. – Any natural person who suffers physical or emotional injury, or the threat of physical or emotional injury, as the result of the commission of a felony. (2004-159, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(gggg).)

§ 15B-32. Notice of contract or agreement to pay.

(a) Notice to Commission. –

- (1) Every person, firm, corporation, partnership, association, or other legal entity, or representative of a person, firm, corporation, partnership, association, or entity that knowingly contracts for, pays, or agrees to pay to an offender (i) profit from crime or (ii) funds of an offender where the value or aggregate value of the payment or payments exceeds ten thousand dollars (\$10,000) shall submit to the Commission a copy of the contract or reduce to writing the terms of any oral agreement or obligation to pay as soon as practicable after discovering the payment or intended payment constitutes profit from crime or funds of an offender.
- (2) Whenever the payment or obligation to pay involves funds of an offender that a superintendent, sheriff, or municipal officer (i) receives or will receive on behalf of an inmate serving a sentence with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a prisoner confined at a local correctional facility, (ii) deposits or will deposit in an inmate account to the credit of an inmate or prisoner, and (iii) the value of such funds exceeds or will exceed ten thousand dollars (\$10,000), the State or subdivision of the State shall also give written notice to the Commission.
- (3) Whenever the State or a subdivision of the State makes a payment or has an obligation to pay funds of an offender and the value of such funds exceeds or will exceed ten thousand dollars (\$10,000), the State or subdivision of the State shall also give written notice to the Commission.
- (4) In all other instances where the payment or obligation to pay involves funds of an offender and the value or aggregate value of the funds exceeds or will exceed ten thousand dollars (\$10,000), the offender who receives or will receive the funds shall give written notice to the Commission.

(b) Notice to Eligible Persons. – The Commission shall, upon receipt of a notice of a contract, an agreement to pay, or payment of profit from crime or funds of an offender, notify in writing by certified mail, return receipt requested, all known eligible persons where the eligible persons' names and addresses are known to the Commission. The Commission may, in its discretion, provide for additional notice as it deems necessary. (2004-159, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(hhhh).)

§ 15B-33. Penalties.

(a) **Assessment and Civil Penalty for Failure to Give Notice.** – Any person or entity, other than the State, a subdivision of the State, or a person who is a superintendent, sheriff, or municipal official, who willfully fails to give notice as required by G.S. 15B-32 is subject to an assessment of up to the amount of the payment or obligation to pay and a civil penalty of up to one thousand dollars (\$1,000) or ten percent (10%) of the payment or obligation to pay, whichever is greater.

(b) **Notice and Opportunity to Be Heard Required.** – After providing notice and opportunity to be heard in accordance with the provisions of Chapter 150B of the General Statutes, the Commission may order the respondent to pay the assessment and civil penalty imposed by this section.

(c) **Failure to Pay.** – If a respondent fails to pay the assessment and civil penalty imposed by this section within sixty (60) days of being ordered to pay, the assessment and civil penalty may be recovered from the respondent by an action brought by the attorney general, upon the request of the Commission, in any court of competent jurisdiction.

(d) **Establishment of Escrow Account; Notice to Eligible Persons.** – The Commission shall deposit the assessment in an escrow account pending the expiration of the three-year statute of limitations authorized by G.S. 15B-34 to preserve the funds to satisfy a civil judgment in favor of an eligible person to whom the failure to give notice relates. The Commission shall notify any eligible person who may have a claim against the offender of the existence of the funds being held in escrow. The notice shall instruct the eligible person that the person may have a right to commence a civil action against the offender as well as any other information deemed necessary by the Commission.

(e) **Satisfaction of Judgment from Escrow Account.** – Upon an eligible person's presentation to the Commission of a civil judgment for damages arising out of the offense for which the offender was convicted, the Commission shall satisfy up to one hundred percent (100%) of that judgment, including costs and disbursements as taxed by the clerk of the court, with the escrowed fund obtained pursuant to this section, but in no event shall the amount of all judgments, costs, and disbursements satisfied from the escrowed funds exceed the amount in escrow. If more than one eligible person indicates to the Commission that the eligible person intends to commence or has commenced a civil action against the offender, the Commission shall delay satisfying any judgment, costs, and disbursements until the claims of all eligible persons are reduced to judgment. If the aggregate of all judgments, costs, and disbursement obtained exceeds the amount of escrowed funds, the amount used to partially satisfy each judgment shall be reduced to a pro rata share.

(f) **Return of Unclaimed Escrowed Funds.** – After the expiration of the three-year statute of limitations period established in G.S. 15B-34, the Commission shall review all judgments that have been satisfied from the escrowed funds. In the event no claim was filed prior to the expiration of the three-year statute of limitations, the Commission shall return the escrowed amount to the respondent. In the event a claim or claims are pending at the expiration of the statute of limitations, the funds shall remain escrowed until the final determination of all claims to allow the Commission to satisfy any judgment which may be obtained by the eligible person after which time any remaining escrowed amount shall be returned to the respondent.

(g) **Remittance of Proceeds from Civil Penalty.** – The Commission shall remit the clear proceeds of the civil penalty of up to one thousand dollars (\$1,000) or ten percent (10%) of the payment or obligation to pay, whichever is greater, assessed under this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2004-159, s. 2.)

§ 15B-34. Civil action to recover profits or funds; responsibilities of the Commission.

(a) Civil Action. – Notwithstanding any inconsistent provision of law with respect to the timely bringing of an action, an eligible person may, within three years of the discovery of any profit from crime or funds of an offender, bring a civil action in a court of competent jurisdiction against an offender for damages arising out of the offense for which the offender was convicted.

(b) Notice by Eligible Persons. – Upon filing an action under subsection (a) of this section, the eligible person shall give notice to the Commission of the filing by delivering a copy of the summons and complaint to the Commission. The eligible person may also give notice to the Commission prior to filing the action so as to allow the Commission to apply for any appropriate provisional remedies, which are otherwise authorized to be invoked prior to the commencement of an action.

(c) Responsibilities of Commission. – Upon receipt of a copy of a summons and complaint, or upon receipt of notice from the eligible person prior to filing an action, the Commission shall immediately take action to:

- (1) Notify all other known eligible persons of the filing of the civil action by certified mail, return receipt requested, where the eligible persons' names and addresses are known to the Commission.
- (2) Provide, in its discretion, for additional notice as it deems necessary.
- (3) Avoid the wasting of the assets identified in the complaint as the profit from crime or funds of an offender in any manner consistent with subsection (d) of this section.

(d) Standing; Authority to Avoid Wasting of Assets. – The Commission has standing and, acting on its own behalf or on behalf of all eligible persons, shall have the right to apply for any and all provisional remedies that are also otherwise available to the plaintiff in the civil action brought under subsection (a) of this section, including attachment, injunction, constructive trust, and receivership. On a motion for a provisional remedy, the moving party shall state whether any other provisional remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled. (2004-159, s. 2.)

§ 15B-35. Subrogation by the Crime Victims Compensation Fund.

Claims on profit from crime or funds of an offender are subject to subrogation by the Crime Victims Compensation Fund pursuant to G.S. 15B-18. (2004-159, s. 2.)

§ 15B-36. Conviction overturned or pardon issued.

If profit from crime is subject to a provisional remedy on behalf of eligible persons and the conviction for the criminal offense from which profit from crime is realized is reversed, vacated, or set aside, or if the offender has been granted an unconditional pardon of innocence for the criminal offense, those funds shall be returned to the rightful owner. (2004-159, s. 2.)

§ 15B-37. Evasive action void.

Any action taken by an offender, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this Article shall be void as against the public policy of this State. (2004-159, s. 2.)

