

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 30\*

Committee Substitute Favorable 2/9/94

Committee Substitute Favorable #2 2/10/94

Senate Select Committee on Courts Committee Substitute Adopted 2/16/94

Short Title: Clarify Victims Comp.

(Public)

Sponsors:

Referred to: Appropriations.

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE CRIME VICTIMS COMPENSATION COMMISSION AND ITS DIRECTOR TO DENY A CLAIM OF A PERSON WHO WAS PARTICIPATING IN A FELONY OR A NONTRAFFIC MISDEMEANOR AT OR ABOUT THE TIME THE PERSON'S INJURY OCCURRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15B-11 reads as rewritten:

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

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

(1) The claimant fails to file his an application for an award within one year after the date of the criminally injurious conduct that caused the injury or death for which he 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;

1 (3) The criminally injurious conduct was not reported to a law  
2 enforcement officer or agency within 72 hours of its occurrence, and  
3 there was no good cause for the delay;

4 (4) The award would benefit the offender or ~~his~~the offender's accomplice,  
5 unless a determination is made that the interests of justice require that  
6 an award be approved in a particular case; ~~or~~

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

11 (6) The victim was participating in a felony or a nontraffic misdemeanor  
12 at or about the time that the victim's injury occurred.

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

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

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

23 An award that has been approved shall nevertheless be denied or reduced to the  
24 extent that the economic loss upon which the claim is based is or will be recouped from  
25 a collateral source. If an award is reduced or a claim is denied because of the expected  
26 recoupment of all or part of the economic loss of the claimant from a collateral source,  
27 the amount of the award or the denial of the claim shall be conditioned upon the  
28 claimant's economic loss being recouped by the collateral source. If it is thereafter  
29 determined that the claimant will not receive all or part of the expected recoupment, the  
30 claim shall be reopened and an award shall be approved in an amount equal to the  
31 amount of expected recoupment that it is determined the claimant will not receive from  
32 the collateral source, subject to the limitations set forth in subsections (f) and (g).

33 (e) Compensation may not be awarded if the economic loss is less than one  
34 hundred dollars (\$100.00).

35 (f) Compensation for work loss, replacement services loss, dependent's economic  
36 loss, and dependent's replacement services loss may not exceed two hundred dollars  
37 (\$200.00) per week.

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

42 (h) The right to reconsider or reopen a claim does not affect the finality of its  
43 decision for the purpose of judicial review."

1                   Sec. 2. This act is effective upon ratification and applies to victims' claims  
2 that are pending or are in litigation on or after the date of ratification.