

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 60

Short Title: Restrict Victims Comp.

(Public)

Sponsors: Senators Carpenter, Codington, Forrester, Smith, Allran, Cochrane, Shaw; Hartsell and Sands.

Referred to: Courts.

February 10, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON COMMITTING A CRIME WHILE
3 INJURED IS NOT A VICTIM UNDER THE CRIME VICTIMS
4 COMPENSATION ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 15B-2 reads as rewritten:

7 "**§ 15B-2. Definitions.**

8 As used in this Chapter, unless the context requires otherwise:

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

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

18 (2) 'Claimant' means any of the following persons who claims an award of
19 compensation under this Chapter:

20 a. A victim;

21 b. A dependent of a deceased victim;

- 1 c. A third person who is not a collateral source and who provided
2 benefit to the victim or his family other than in the course or
3 scope of his employment, business, or profession;
4 d. A person who is authorized to act on behalf of a victim, a
5 dependent, or a third person described in subdivision c.

6 The claimant, however, may not be the offender or an accomplice of
7 the offender who committed the criminally injurious conduct.

- 8 (3) 'Collateral source' means a source of benefits or advantages for
9 economic loss otherwise compensable that the victim or claimant has
10 received or that is readily available to him from any of the following
11 sources:

- 12 a. The offender;
13 b. The government of the United States or any of its agencies, a
14 state or any of its political subdivisions, or an instrumentality of
15 two or more states;
16 c. Social security, medicare, and medicaid;
17 d. State-required, temporary, nonoccupational disability insurance;
18 e. Worker's compensation;
19 f. Wage continuation programs of any employer;
20 g. Proceeds of a contract of insurance payable to the victim for
21 loss that he sustained because of the criminally injurious
22 conduct;
23 h. A contract providing prepaid hospital and other health care
24 services, or benefits for disability.

- 25 (4) 'Commission' means the Crime Victims Compensation Commission
26 established by G.S. 15B-3.

- 27 (5) 'Criminally injurious conduct' means conduct which by its nature poses
28 a substantial threat of personal injury or death, and is punishable by
29 fine or imprisonment or death, or would be so punishable but for the
30 fact that the person engaging in the conduct lacked the capacity to
31 commit the crime under the laws of this State. Criminally injurious
32 conduct includes conduct which amounts to an offense involving
33 impaired driving as defined in G.S. 20-4.01(24a) but does not include
34 conduct arising out of the ownership, maintenance, or use of a motor
35 vehicle when the conduct is punishable only as a violation of other
36 provisions of Chapter 20 of the General Statutes.

- 37 (6) 'Dependent' means an individual wholly or substantially dependent
38 upon the victim for care and support and includes a child of the victim
39 born after his death.

- 40 (7) 'Dependent's economic loss' means loss after a victim's death of
41 contributions of things of economic value to his dependents, not
42 including services they would have received from the victim if he had
43 not suffered the fatal injury, less expenses of the dependents avoided
44 by reason of the victim's death.

1 (8) 'Dependent's replacement service loss' means loss reasonably incurred
2 by dependents after a victim's death in obtaining ordinary and
3 necessary services in lieu of those the victim would have performed
4 for their benefit if he had not suffered the fatal injury, less expenses of
5 the dependents avoided by reason of the victim's death and not
6 subtracted in calculating dependent's economic loss.

7 Dependent's replacement service loss will be limited to a 26-week
8 period commencing from the date of the injury and compensation shall
9 not exceed two hundred dollars (\$200.00) per week.

10 (9) 'Director' means the Director of the Commission appointed under G.S.
11 15B-3(g).

12 (10) 'Economic loss' means economic detriment consisting only of
13 allowable expense, work loss, and replacement services loss. If
14 criminally injurious conduct causes death, economic loss includes a
15 dependent's economic loss and a dependent's replacement service loss.
16 Noneconomic detriment is not economic loss, but economic loss may
17 be caused by pain and suffering or physical impairment.

18 (11) 'Noneconomic detriment' means pain, suffering, inconvenience,
19 physical impairment, or other nonpecuniary damage.

20 (12) 'Replacement services loss' means expenses reasonably incurred in
21 obtaining ordinary and necessary services in lieu of those the injured
22 person would have performed, not for income but for the benefit of
23 himself or his family, if he had not been injured.

24 Replacement service loss will be limited to a 26-week period
25 commencing from the date of the injury, and compensation may not
26 exceed two hundred dollars (\$200.00) per week.

27 (12a) 'Substantial evidence' means relevant evidence that a reasonable mind
28 might accept as adequate to support a conclusion.

29 (13) 'Victim' means a person who suffers personal injury or death
30 proximately caused by criminally injurious ~~conduct~~ conduct. The
31 victim, however, may not be a person who was committing a crime
32 when the person's injury or death occurred.

33 (14) 'Work loss' means loss of income from work that the injured person
34 would have performed if he had not been injured and expenses
35 reasonably incurred by him to obtain services in lieu of those he would
36 have performed for income, reduced by any income from substitute
37 work actually performed by him, or by income he would have earned
38 in available appropriate substitute work that he was capable of
39 performing but unreasonably failed to undertake.

40 Compensation for work loss will be limited to 26 weeks
41 commencing from the date of the injury, and compensation may not
42 exceed two hundred dollars (\$200.00) per week. A claim for work
43 loss will be paid only upon proof that the injured person was gainfully

1 employed at the time of the criminally injurious conduct and, by
2 physician's certificate, that the injured person was unable to work."

3 Sec. 2. G.S. 15B-11(a) reads as rewritten:

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

- 5 (1) The claimant fails to file his application for an award within one year
6 after the date of the criminally injurious conduct that caused the injury
7 or death for which he seeks the award;
- 8 (2) The economic loss is incurred after one year from the date of the
9 criminally injurious conduct that caused the injury or death for which
10 the victim seeks the award, except in the case where the victim for
11 whom compensation is sought was 10 years old or younger at the time
12 the injury occurred. In that case an award of compensation will be
13 denied if the economic loss is incurred after two years from the date of
14 the criminally injurious conduct that caused the injury or death for
15 which the victim seeks the award;
- 16 (3) The criminally injurious conduct was not reported to a law
17 enforcement officer or agency within 72 hours of its occurrence, and
18 there was no good cause for the delay;
- 19 (4) The award would benefit the offender or ~~his accomplice, unless a~~
20 ~~determination is made that the interests of justice require that an award~~
21 ~~be approved in a particular case; or the offender's accomplice; or~~
22 (5) The criminally injurious conduct occurred while the victim was
23 confined in any State, county, or city prison, correctional, youth
24 services, or juvenile facility, or local confinement facility, or half-way
25 house, group home, or similar facility."

26 Sec. 3. This act becomes effective July 1, 1994, and applies to conduct
27 occurring on or after that date.