

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**EXTRA SESSION 1994**

S

1

SENATE BILL 78

Short Title: Victims Compensation Change.

(Public)

---

Sponsors: Senators Marshall; Gulley and Sands.

---

Referred to: Courts.

---

February 11, 1994

A BILL TO BE ENTITLED

1  
2 AN ACT TO REQUIRE THE CRIME VICTIMS COMPENSATION COMMISSION  
3 AND ITS DIRECTOR TO DENY A CLAIM OF A PERSON WHO WAS  
4 ENGAGED IN CRIMINAL ACTIVITY AT OR ABOUT THE TIME THE  
5 PERSON'S INJURY OCCURRED.

6 The General Assembly of North Carolina enacts:

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

8 **"§ 15B-11. Grounds for denial of claim or reduction of award.**

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

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

13 (2) The economic loss is incurred after one year from the date of the  
14 criminally injurious conduct that caused the injury or death for which  
15 the victim seeks the award, except in the case where the victim for  
16 whom compensation is sought was 10 years old or younger at the time  
17 the injury occurred. In that case an award of compensation will be  
18 denied if the economic loss is incurred after two years from the date of  
19 the criminally injurious conduct that caused the injury or death for  
20 which the victim seeks the award;

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

- 1           (4)    The award would benefit the offender or ~~his~~ the offender's accomplice,  
2           unless a determination is made that the interests of justice require that  
3           an award be approved in a particular case; ~~or~~
- 4           (5)    The criminally injurious conduct occurred while the victim was  
5           confined in any State, county, or city prison, correctional, youth  
6           services, or juvenile facility, or local confinement facility, or half-way  
7           house, group home, or similar ~~facility-~~ facility; ~~or~~
- 8           (6)    The victim was participating in criminal activity at or about the time  
9           that the victim's injury occurred.

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

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

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

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

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

32       (f)    Compensation for work loss, replacement services loss, dependent's economic  
33       loss, and dependent's replacement services loss may not exceed two hundred dollars  
34       (\$200.00) per week.

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

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

41           Sec. 2. This act is effective upon ratification for all claims filed on or after  
42       that date.