

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 290
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Short Title: Amend Crime Victims Comp. Act/AB.

(Public)

Sponsors: Representatives Baddour; Haire (Primary Sponsors), Alexander, and Wainwright.

Referred to: Judiciary IV.

March 4, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CRIME VICTIMS' COMPENSATION ACT BY
2 INCREASING THE MEMBERSHIP OF THE CRIME VICTIMS'
3 COMPENSATION COMMISSION, BY INCREASING THE SIZE OF INITIAL
4 CLAIMS THAT MAY BE AWARDED BY THE DIRECTOR OF THE
5 COMMISSION, AND BY PROVIDING THE COMMISSION WITH THE
6 DISCRETION TO PAY CERTAIN CLAIMS PREVIOUSLY DENIED.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 15B-3(a) reads as rewritten:

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

- 13 (1) One member to be appointed by the Governor;
14 (2) One member to be appointed by the General Assembly upon the
15 recommendation of the President Pro Tempore of the Senate under G.S.
16 120-121;

- 1 (3) One member to be appointed by the General Assembly upon the
2 recommendation of the Speaker of the House of Representatives under
3 G.S. 120-121;
- 4 (4) The Attorney General or ~~his~~ the Attorney General's designee; ~~and~~
5 (5) The Secretary of the Department of Crime Control and Public Safety or
6 ~~his designee~~ the Secretary's designee; and
- 7 (6) Two members to be appointed by the Secretary of the Department of
8 Crime Control and Public Safety."

9 Section 2. G.S. 15B-10 reads as rewritten:

10 **"§ 15B-10. Awarding claims.**

11 (a) The Director shall decide the award of compensation for an initial claim or
12 follow-up claim when the claim does not exceed ~~five thousand dollars (\$5,000)~~ seven
13 thousand five hundred dollars (\$7,500) and does not include future economic loss. The
14 Director shall report all awards under this subsection to the Commission.

15 (b) The Director shall recommend the award of compensation for an initial claim
16 or follow-up claim when the claim exceeds ~~five thousand dollars (\$5,000)~~ seven thousand
17 five hundred dollars (\$7,500) or involves future economic loss. The Commission shall
18 decide the award of compensation for a claim based on a review of written evidence
19 submitted to the Commission by the Director.

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

23 (d) The Director shall send each claimant a written statement of a decision made
24 under subsection (a) or (b) that gives the reasons for the decision. A claimant who is
25 dissatisfied with a decision may commence a contested case under Article 3 of Chapter
26 150B of the General Statutes."

27 Section 3. G.S. 15B-11(a) reads as rewritten:

28 **"§ 15B-11. Grounds for denial of claim or reduction of award.**

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

- 30 (1) The claimant fails to file an application for an award within two years
31 after the date of the criminally injurious conduct that caused the injury
32 or death for which the claimant seeks the award;
- 33 (2) The economic loss is incurred after one year from the date of the
34 criminally injurious conduct that caused the injury or death for which
35 the victim seeks the award, except in the case where the victim for
36 whom compensation is sought was 10 years old or younger at the time
37 the injury occurred. In that case an award of compensation will be
38 denied if the economic loss is incurred after two years from the date of
39 the criminally injurious conduct that caused the injury or death for
40 which the victim seeks the award;
- 41 (3) The criminally injurious conduct was not reported to a law enforcement
42 officer or agency within 72 hours of its occurrence, and there was no
43 good cause for the delay;

- 1 (4) The award would benefit the offender or 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;
- 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; or
- 8 (6) The victim was participating in a felony ~~or a nontraffic misdemeanor~~ at or
9 about the time that the victim's injury occurred.

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

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

17 The Commission shall use its discretion in determining whether to deny a claim under
18 this subsection. In exercising its discretion, the Commission may consider whether any
19 proximate cause exists between the injury and the misdemeanor or contributory
20 misconduct.

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

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

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

32 An award that has been approved shall nevertheless be denied or reduced to the extent
33 that the economic loss upon which the claim is based is or will be recouped from a
34 collateral source. If an award is reduced or a claim is denied because of the expected
35 recoupment of all or part of the economic loss of the claimant from a collateral source,
36 the amount of the award or the denial of the claim shall be conditioned upon the
37 claimant's economic loss being recouped by the collateral source. If it is thereafter
38 determined that the claimant will not receive all or part of the expected recoupment, the
39 claim shall be reopened and an award shall be approved in an amount equal to the amount
40 of expected recoupment that it is determined the claimant will not receive from the
41 collateral source, subject to the limitations set forth in subsections (f) and (g). The
42 existence of a collateral source that would pay expenses directly related to a funeral,

1 cremation, and burial, including transportation of a body, shall not constitute grounds for
2 the denial or reduction of an award of compensation.

3 (e) Repealed by Session Laws 1998-212, s. 19.4(m).

4 (f) Compensation for replacement services loss, dependent's economic loss, and
5 dependent's replacement services loss may not exceed two hundred dollars (\$200.00) per
6 week. Compensation for work loss and household support loss may not exceed three
7 hundred dollars (\$300.00) per week.

8 (g) Compensation payable to a victim and to all other claimants sustaining
9 economic loss because of injury to, or the death of, that victim may not exceed thirty
10 thousand dollars (\$30,000) in the aggregate in addition to allowable funeral, cremation,
11 and burial expenses.

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

14 Section 4. This act becomes effective July 1, 1999. Section 2 of this act applies
15 to all claims filed on or after July 1, 1999. Section 3 of this act applies to claims filed or
16 pending on or after July 1, 1999. For claims denied prior to that date because the victim
17 was participating in a nontraffic misdemeanor at or about the time that the victim's injury
18 occurred, the Commission shall reconsider denial of the claim upon the written request of
19 the claimant, provided that the claimant's written request is received by the Commission
20 within two years of the date of the criminally injurious conduct that caused the injury or
21 death for which the claimant seeks the reward.