

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS75059-MH-9 (01/24)

Short Title: Revise Restitution Damage Awards.

(Public)

Sponsors: Senator Goolsby.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REVISE THE MANNER IN WHICH RESTITUTION DAMAGES ARE  
CALCULATED SO THAT VICTIMS IN PERSONAL INJURY CASES MAY RECEIVE  
FULL COMPENSATION FOR THEIR DAMAGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 15A-1340.34 reads as rewritten:

"§ 15A-1340.34. **Restitution generally.**

(a) When sentencing a defendant convicted of a criminal offense, the court shall determine whether the defendant shall be ordered to make restitution to any victim of the offense in question. For purposes of this Article, the term "victim" means a person directly and proximately harmed as a result of the defendant's commission of the criminal ~~offense~~offense, or a third-party payor, including an insurer, which has made payment to the victim to compensate the victim for any costs or losses described in G.S. 15A-1340.35.

(b) If the defendant is being sentenced for an offense for which the victim is entitled to restitution under Article 46 of this Chapter, the court shall, in addition to any penalty authorized by law, require that the defendant make restitution ~~to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant.~~ for any injuries or damages arising directly and proximately out of the offense committed by the defendant to the victim, the victim's estate, or a third-party payor, including an insurer, that has made payment to the victim or the victim's estate to compensate the victim for such injuries or damages. If the defendant is placed on probation or post-release supervision, any restitution ordered under this subsection shall be a condition of probation as provided in G.S. 15A-1343(d) or a condition of post-release supervision as provided in G.S. 148-57.1.

(c) When subsection (b) of this section does not apply, the court may, in addition to any other penalty authorized by law, require that the defendant make restitution to the victim or the victim's estate for any injuries or damages arising directly and proximately out of the offense committed by the defendant."

**SECTION 2.** G.S. 15A-1340.35 reads as rewritten:

"§ 15A-1340.35. **Basis for restitution.**

(a) In determining the amount of restitution, the court shall consider the following:

(1) In the case of an offense resulting in bodily injury to a victim:

- a. The cost of necessary medical and related professional services and devices or equipment relating to physical, psychiatric, and psychological care required by the ~~victim~~victim.



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- 1                   b.     The cost of necessary physical and occupational therapy and  
2                   rehabilitation required by the ~~victim~~; and victim.
- 3                   c.     Income lost by the victim as a result of the offense.
- 4                   d.     Pain and suffering of the victim as a result of the offense.
- 5           (2)     In the case of an offense resulting in the damage, loss, or destruction of  
6           property of a victim of the offense:
- 7           a.     Return of the property to the owner of the property or someone  
8           designated by the owner; or
- 9           b.     If return of the property under sub-subdivision (2)a. of this  
10           subsection is impossible, impracticable, or inadequate:
- 11                  1.     The value of the property on the date of the damage, loss, or  
12                  destruction; or
- 13                  2.     The value of the property on the date of sentencing, less the  
14                  value of any part of the property that is returned.
- 15           (3)     Any measure of restitution specifically provided by law for the offense  
16           committed by the defendant.
- 17           (4)     In the case of an offense resulting in bodily injury that results in the death of  
18           the victim, the cost of the victim's necessary funeral and related services, in  
19           addition to the items set out in subdivisions (1), (2), and (3) of this  
20           subsection.
- 21           (b)     The court may require that the victim or the victim's estate provide admissible  
22           evidence that documents the costs claimed by the victim or the victim's estate under this  
23           section. Any such documentation shall be shared with the defendant before the sentencing  
24           hearing.
- 25           (c)     Costs awarded under sub-subdivision (a)(1)d. of this section shall be limited to five  
26           hundred thousand dollars (\$500,000) for each victim for all offenses occurring  
27           contemporaneously.
- 28           **SECTION 3.**     This act becomes effective October 1, 2011, and applies to any  
29           order of restitution issued on or after that date.