

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 30*

Select Committee on Courts Committee Substitute Adopted 2/10/94

Short Title: Clarify Victims Comp.

(Public)

Sponsors:

Referred to:

February 9, 1994

A BILL TO BE ENTITLED

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

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 a felony or a nontraffic misdemeanor
9 at or about the time 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 and applies to victims' claims
42 that are pending or are in litigation on or after the date of ratification.