

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 290

Short Title: Amend Crime Victims Comp. Act/AB.

(Public)

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

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Referred to: Judiciary IV.

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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;  
17 (3) One member to be appointed by the General Assembly upon the  
18 recommendation of the Speaker of the House of Representatives under  
19 G.S. 120-121;

- 1           (4)    The Attorney General or ~~his~~ the Attorney General's designee; ~~and~~  
2           (5)    The Secretary of the Department of Crime Control and Public Safety or  
3           ~~his designee.~~ the Secretary's designee; and  
4           (6)    Two members to be appointed by the Secretary of the Department of  
5           Crime Control and Public Safety."

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

7   **"§ 15B-10. Awarding claims.**

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

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

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

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

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

25   **"§ 15B-11. Grounds for denial of claim or reduction of award.**

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

27               (1)    The claimant fails to file an application for an award within two years  
28               after the date of the criminally injurious conduct that caused the injury  
29               or death for which the claimant seeks the award;

30               (2)    The economic loss is incurred after one year from the date of the  
31               criminally injurious conduct that caused the injury or death for which  
32               the victim seeks the award, except in the case where the victim for  
33               whom compensation is sought was 10 years old or younger at the time  
34               the injury occurred. In that case an award of compensation will be  
35               denied if the economic loss is incurred after two years from the date of  
36               the criminally injurious conduct that caused the injury or death for  
37               which the victim seeks the award;

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

41               (4)    The award would benefit the offender or the offender's accomplice,  
42               unless a determination is made that the interests of justice require that  
43               an award be approved in a particular case;

1 (5) The criminally injurious conduct occurred while the victim was  
2 confined in any State, county, or city prison, correctional, youth  
3 services, or juvenile facility, or local confinement facility, or half-way  
4 house, group home, or similar facility; or

5 (6) The victim was participating in a felony ~~or a nontraffic misdemeanor~~ at or  
6 about the time that the victim's injury occurred.

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

10 (1) The victim was participating in a nontraffic misdemeanor at or about the  
11 time that the victim's injury occurred; or

12 (2) The claimant or a victim through whom the claimant claims engaged in  
13 contributory misconduct.

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

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

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

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

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

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

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

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

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

11 Section 4. This act becomes effective July 1, 1999, and applies to all claims  
12 for which the criminally injurious conduct occurred on or after that date.