

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 147
Judiciary I Committee Substitute Adopted 3/23/89
House Committee Substitute Favorable 6/29/89

Short Title: Victim's Comp/Changes.

(Public)

Sponsors:

Referred to:

February 13, 1989

A BILL TO BE ENTITLED

AN ACT TO LIMIT CLAIMS TO VICTIM AND PERSONS WHO HELPED HIM,
TO ALLOW THE NORTH CAROLINA CRIME VICTIM'S COMPENSATION
COMMISSION AND ITS DIRECTOR AUTHORITY TO ADEQUATELY
INVESTIGATE A CLAIM FOR COMPENSATION BY REQUIRING A VICTIM
OR CLAIMANT TO PROVIDE NECESSARY MEDICAL AND
PSYCHOLOGICAL INFORMATION, TO REQUIRE LAW ENFORCEMENT TO
COOPERATE WITH THE COMMISSION, TO ALLOW THE COMMISSION TO
KEEP MEDICAL, LAW ENFORCEMENT, AND JUVENILE RECORDS
CONFIDENTIAL, TO MAKE A TECHNICAL CORRECTION TO THE RULES
OF EVIDENCE IN A CONTESTED CASE HEARING, TO ALLOW THE
DIRECTOR TO NEGOTIATE WITH SERVICE PROVIDERS FOR A REDUCED
RATE, AND TO PROVIDE FOR THE DIRECTOR TO PURSUE RESTITUTION
FROM CONVICTED CRIMINALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15B-2(2) reads as rewritten:

"(2) 'Claimant' means any of the following persons who claims an award of compensation under this Chapter:

- a. A victim;
- b. A dependent of a deceased victim;
- c. A third person other than who is not a collateral source; source and who provided benefit to the victim or his family other than

1 in the course or scope of his employment, business, or
2 profession;

- 3 d. A person who is authorized to act on behalf of a victim, a
4 dependent, or a third person ~~who is not a collateral source~~
5 described in subdivision c.

6 The claimant, however, may not be the offender or an accomplice of the offender who
7 committed the criminally injurious conduct."

8 Sec. 2. G.S. 15B-6 reads as rewritten:

9 **"§ 15B-6. Powers of the ~~Commission.~~ Commission and Director.**

10 (a) In addition to powers authorized by this Chapter and Chapter 150B, the
11 Commission may:

- 12 (1) Adopt rules in accordance with Part 3, Article 1 of Chapter 143B and
13 Article 2 of Chapter 150B of the General Statutes necessary to carry
14 out the purposes of this Chapter;
15 (2) Establish general policies and guidelines for awarding compensation
16 and provide guidance to the staff assigned by the Secretary of the
17 Department of Crime Control and Public Safety to administer the
18 program;
19 (3) Accept for any lawful purpose and functions under this Chapter any
20 and all donations, both real and personal, and grants of money from
21 any governmental unit or public agency, or from any institution,
22 person, firm, or corporation, and may deposit the same to the Crime
23 Victims Compensation Fund.

24 (b) The Director shall have the following authority:

- 25 (1) With the consent of the district attorney, to request that law
26 enforcement officers employed by the State or any political
27 subdivision provide copies of any information or data gathered in the
28 investigation of criminally injurious conduct that is the basis of any
29 claim to enable the Director or Commission to determine whether, and
30 the extent to which, a claimant qualifies for an award of compensation;
31 (2) With the consent of the district attorney, to request that prosecuting
32 attorneys, law enforcement officers, and State agencies conduct
33 investigations and provide information necessary to enable the
34 Director or Commission to determine whether, and the extent to
35 which, a claimant qualifies for an award of compensation; and
36 (3) To require the claimant to supplement the application for an award of
37 compensation with any reasonably available medical or psychological
38 reports pertaining to the injury for which the award of compensation is
39 claimed.

40 Information obtained pursuant to this subsection is subject to the same privilege against
41 public disclosure that may be asserted by the providing source."

42 Sec. 3. Chapter 15B of the General Statutes is amended by adding a new
43 subsection to read:

44 **"§ 15B-8.1 Privilege and records of the Commission.**

1 (a) In a proceeding under this Chapter, the privileges set forth in G.S. 8-53, 8-
2 53.3, 8-53.4, 8-53.7, 8-53.8, and 8-56 do not apply to communications or records
3 concerning the physical, mental or emotional condition of the claimant or victim if that
4 condition is relevant to a claim for compensation.

5 (b) All medical information relating to the mental, physical, or emotional
6 condition of a victim or claimant and all law enforcement records and information and
7 any juvenile records shall be held confidential by the Commission and Director. Except
8 for information held confidential under this subsection, the records of the Division shall
9 be open to public inspection."

10 Sec. 4. G.S. 15B-12(b) reads as rewritten:

11 "~~(b) There is no privilege, except the privileges arising from the attorney-client~~
12 ~~relationship and the North Carolina and United States Constitutions, as to~~
13 ~~communications or records that are relevant to the physical, mental, or emotional~~
14 ~~condition of the claimant or victim in a proceeding under this Chapter in which that~~
15 ~~condition is an element.~~"

16 (b) In a proceeding under this Chapter, the privileges set forth in G.S. 8-53, 8-
17 53.3, 8-53.4, 8-53.7, 8-53.8, and 8-56 do not apply to communications or records
18 concerning the physical, mental or emotional condition of the claimant or victim if that
19 condition is relevant to a claim for compensation."

20 Sec. 5. G.S. 15B-12(f) reads as rewritten:

21 "(f) The administrative law judge may not request the victim or the claimant to
22 supply any evidence that would not be admissible at a trial under ~~G.S. 8-58.6~~ G.S. 8C-1,
23 Rule 412."

24 Sec. 6. G.S. 15B-16 is amended by adding a new subsection to read:

25 "(e) The Director, even after an award made by the Commission, may negotiate
26 with any service provider in order to obtain a reduction of the amount claimed by the
27 provider in exchange for a full release of any claim against a claimant."

28 Sec. 7. G.S. 15B-18 is amended by adding a new subsection to read:

29 "(f) The Director may pursue any claim of the Crime Victim's Compensation
30 Fund or the Commission set forth in this Chapter. At the request of the Director, or
31 otherwise, the Attorney General is authorized to assert the rights of the Crime Victim's
32 Compensation Fund or Commission before any administrative or judicial tribunal for
33 purposes of enforcing a claim or right set forth in this Chapter."

34 Sec. 8. This act is effective upon ratification.