

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-269
HOUSE BILL 290

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

The General Assembly of North Carolina enacts:

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

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

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

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

"§ 15B-10. Awarding claims.

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

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

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

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

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

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

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

- (1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;
- (2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;
- (3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;
- (4) The award would benefit the offender or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;
- (5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility; or
- (6) The victim was participating in a felony ~~or a nontraffic misdemeanor~~ at or about the time that the victim's injury occurred.

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 30th day of June, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:18 p.m. this 9th day of July, 1999