

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 147
Judiciary I Committee Substitute Adopted 3/23/89

Short Title: Victim's Comp/Changes.

(Public)

Sponsors:

Referred to:

February 13, 1989

A BILL TO BE ENTITLED

1 AN ACT TO LIMIT CLAIMS TO VICTIM AND PERSONS WHO HELPED HIM,
2 TO ALLOW THE NORTH CAROLINA CRIME VICTIM'S COMPENSATION
3 COMMISSION AND ITS DIRECTOR AUTHORITY TO ADEQUATELY
4 INVESTIGATE A CLAIM FOR COMPENSATION BY REQUIRING A VICTIM
5 OR CLAIMANT TO PROVIDE NECESSARY MEDICAL AND
6 PSYCHOLOGICAL INFORMATION, TO REQUIRE LAW ENFORCEMENT TO
7 COOPERATE WITH THE COMMISSION, TO ALLOW THE COMMISSION TO
8 KEEP MEDICAL, LAW ENFORCEMENT AND JUVENILE RECORDS
9 CONFIDENTIAL, TO MAKE A TECHNICAL CORRECTION TO THE RULES
10 OF EVIDENCE IN A CONTESTED CASE HEARING, TO ALLOW THE
11 DIRECTOR TO NEGOTIATE WITH SERVICE PROVIDERS FOR A REDUCED
12 RATE, AND TO PROVIDE FOR THE DIRECTOR TO PURSUE RESTITUTION
13 FROM CONVICTED CRIMINALS.
14

15 The General Assembly of North Carolina enacts:

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

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

- 19 a. A victim;
- 20 b. A dependent of a deceased victim;
- 21 c. A third person ~~other than~~ who is not a collateral source; source and who
22 provided benefit to the victim or his family other than in the course or
23 scope of his employment, business, or profession;

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

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

6 Sec. 2. G.S. 15B-2(3) reads as rewritten:

7 "(3) 'Collateral source' means a source of benefits or advantages for economic
8 loss otherwise compensable that the victim or claimant has received or that is readily
9 available to him from any of the following sources:

10 a. The offender;

11 b. The government of the United States or any of its agencies, a state or
12 any of its political subdivisions, or an instrumentality of two or more
13 states;

14 c. Social security, medicare, and medicaid;

15 d. State-required, temporary, nonoccupational disability insurance;

16 e. Worker's compensation;

17 f. Wage continuation programs of any employer;

18 g. Proceeds of a contract of insurance payable to the ~~victim~~ victim, his
19 estate, heirs, or a claimant on account of the victim's death or for loss
20 that he—the victim sustained because of the criminally injurious
21 conduct;

22 h. A contract providing prepaid hospital and other health care services, or
23 benefits for disability."

24 Sec. 3. G.S. 15B-6 reads as rewritten:

25 **"§ 15B-6. Powers of the ~~Commission.~~ Commission and Director.**

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

28 (1) Adopt rules in accordance with Part 3, Article 1 of Chapter 143B and
29 Article 2 of Chapter 150B of the General Statutes necessary to carry
30 out the purposes of this Chapter;

31 (2) Establish general policies and guidelines for awarding compensation
32 and provide guidance to the staff assigned by the Secretary of the
33 Department of Crime Control and Public Safety to administer the
34 program;

35 (3) Accept for any lawful purpose and functions under this Chapter any
36 and all donations, both real and personal, and grants of money from
37 any governmental unit or public agency, or from any institution,
38 person, firm, or corporation, and may deposit the same to the Crime
39 Victims Compensation Fund.

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

41 (1) With the consent of the district attorney, to request that law
42 enforcement officers employed by the State or any political
43 subdivision provide copies of any information or data gathered in the
44 investigation of criminally injurious conduct that is the basis of any

- 1 claim to enable the Director or Commission to determine whether, and
2 the extent to which, a claimant qualifies for an award of compensation;
3 (2) With the consent of the district attorney, to request that prosecuting
4 attorneys, law enforcement officers, and State agencies conduct
5 investigations and provide information necessary to enable the
6 Director or Commission to determine whether, and the extent to
7 which, a claimant qualifies for an award of compensation; and
8 (3) To require the claimant to supplement the application for an award of
9 compensation with any reasonably available medical or psychological
10 reports pertaining to the injury for which the award of compensation is
11 claimed.

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

14 Sec. 4. Chapter 15B of the General Statutes is amended by adding a new
15 subsection to read:

16 **"§ 15B-8A. Privilege and records of the Commission.**

17 (a) There is no privilege, except the privileges arising from attorney-client
18 relationship in the North Carolina and the United States Constitutions, as
19 communications or records that are relevant to the physical, mental, or emotional
20 condition of the claimant or victim in a proceeding under this Chapter in which that
21 condition is an element.

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

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

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

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

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

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

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

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