

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 272
Judiciary I Committee Substitute Adopted 4/12/11
House Committee Substitute Favorable 6/8/11

Short Title: Victims' Compensation Law Changes.-AB

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE ROLE OF CHARITABLE DONATIONS AND WRITE-OFFS AS COLLATERAL SOURCES FOR CRIME VICTIMS COMPENSATION, TO MODIFY THE SCOPE OF DEPENDENT'S ECONOMIC LOSS FOR CRIME VICTIMS COMPENSATION, TO CLARIFY THE CONFIDENTIALITY OF CRIME VICTIMS COMPENSATION COMMISSION RECORDS, TO REQUIRE SUSPENSION OF CRIME VICTIMS COMPENSATION PROCEEDINGS UPON REQUEST OF THE ATTORNEY GENERAL, AND TO PROVIDE THAT CERTAIN STATE BAR RECORDS ON DISCIPLINARY MATTERS AND THE LAWYERS ASSISTANCE PROGRAM ARE NOT PUBLIC RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15B-2 reads as rewritten:

"§ 15B-2. Definitions.

As used in this Article, the following definitions apply, unless the context requires otherwise:

- ...
- (3) Collateral source. – A source of benefits or advantages for economic loss otherwise compensable that the victim or claimant has received or that is readily available to the victim or the claimant from any of the following sources:
- a. The offender.
 - b. The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states.
 - c. Social Security, Medicare, or Medicaid.
 - d. State-required, temporary, nonoccupational disability insurance.
 - e. Worker's compensation.
 - f. Wage continuation programs of any employer.
 - g. Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct.
 - h. A contract providing prepaid hospital and other health care services, or benefits for disability.
 - i. A contract of insurance that will pay for expenses directly related to a funeral, cremation, and burial, including transportation of a body.



1 j. A charitable gift or donation by a third party, including a charity care
2 write-off of expenses by a medical provider, regardless of whether
3 the gift or donation is subsequently rescinded.

4 ...
5 (7) Dependent's economic loss. – Loss after a victim's death of contributions of
6 things of economic value to his dependents, not including services they
7 would have received from the victim if he had not suffered the fatal injury,
8 less expenses of the dependents avoided by reason of the victim's death.
9 Dependent's economic loss will be limited to a 26-week period commencing
10 from the date of the injury, and compensation shall not exceed three hundred
11 dollars (\$300.00) per week.

12"

13 **SECTION 2.** G.S. 15B-8.1(b) reads as rewritten:

14 "(b) All medical information relating to the mental, physical, or emotional condition of a
15 victim or claimant and all law enforcement records and information and any juvenile records
16 shall be held confidential by the Commission and Director. All personal information, as that
17 term is defined in 18 U.S.C. § 2725(3), of victims and claimants and all information concerning
18 the disposition of claims for compensation, except for the total amount awarded a victim or
19 claimant, shall be held confidential by the Commission and Director. Except for information
20 held confidential under this subsection, the records of the Division shall be open to public
21 inspection."

22 **SECTION 3.** G.S. 15B-11(f) is repealed.

23 **SECTION 4.** G.S. 15B-14(b) reads as rewritten:

24 "(b) Upon a request of the Attorney General, the proceedings in a claim for an award of
25 compensation ~~may~~ shall be suspended pending disposition of a criminal prosecution that has
26 been commenced or is imminent."

27 **SECTION 5.** Article 4 of Chapter 84 of the General Statutes is amended by adding
28 a new section to read:

29 **§ 84-32.1. Confidentiality of records.**

30 (a) All documents, papers, letters, recordings, electronic records, or other documentary
31 materials, regardless of physical form or characteristic, in the possession of the State Bar or its
32 staff, employees, legal counsel, councilors, and Grievance Committee advisory members
33 concerning any investigation, inquiry, complaint, disability, or disciplinary matter in
34 connection with the State Bar Grievance Committee, the State Bar's Trust Accounting
35 Supervisory Program, or any audit of an attorney trust account shall not be considered public
36 records within the meaning of Chapter 132 of the General Statutes.

37 (b) All documents, papers, letters, recordings, electronic records, or other documentary
38 materials containing or reflecting the deliberations of the Disciplinary Hearing Commission in
39 disciplinary or disability matters shall not be considered public records within the meaning of
40 Chapter 132 of the General Statutes.

41 (c) Notwithstanding any other provision of this section, any record, paper, or other
42 document containing information collected and compiled by or on behalf of the State Bar that
43 is admitted as evidence in any hearing before the Disciplinary Hearing Commission, or any
44 court or tribunal, shall be a public record within the meaning of Chapter 132 of the General
45 Statutes unless it is admitted into evidence under seal by order of the Disciplinary Hearing
46 Commission, or the court or tribunal in which the proceeding is held.

47 (d) All documents, papers, letters, recordings, electronic records, or other documentary
48 materials in the possession of the State Bar or its staff, employees, legal counsel, and Lawyer
49 Assistance Program volunteers, relating in any way to a member's participation or prospective
50 participation in the Lawyer Assistance Program, including, but not limited to, any medical,
51 counseling, substance abuse, or mental health records, shall not be considered public records

1 within the meaning of Chapter 132 of the General Statutes. Neither the State Bar nor any
2 person acting under the authority of the State Bar or of the Lawyer Assistance Program shall be
3 required to produce or testify regarding the contents or existence of such documents."

4 **SECTION 6.** Sections 1 through 4 of this act become effective July 1, 2011, and
5 apply to claims submitted on or after that date. The remainder of this act is effective when it
6 becomes law.