

§ 15B-12. Evidence in contested cases.

(a) Except as provided in this section, evidence in a contested case shall be taken in accordance with Article 3 of Chapter 150B of the General Statutes.

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

(c) If the mental, physical, or emotional condition of a victim or claimant is material to a claim for an award of compensation, the administrative law judge may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the administrative law judge a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis, and other conclusions, and reports of earlier examinations of the same conditions. On request of the person examined, the administrative law judge shall furnish him a copy of the report. If the victim is deceased, the administrative law judge on request, shall furnish the claimant a copy of the report.

(d) The administrative law judge may request that law-enforcement officers employed by the State or any political subdivision thereof provide it with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The administrative law judge may also request that prosecuting attorneys, law-enforcement officers, and State agencies conduct investigations and provide information necessary to enable the administrative law judge to determine whether, and the extent to which, a claimant qualifies for an award of compensation. Information obtained pursuant to this subsection is subject to the same privilege against public disclosure that may be asserted by the providing source.

(e) The administrative law judge may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

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

(g) Notwithstanding any provision to the contrary relating to the confidentiality of juvenile records, the administrative law judge shall have access to the records of juvenile proceedings which bear upon an application for compensation, but to the extent possible, it shall maintain the confidentiality of those records.

(h) The administrative law judge may exclude from a hearing of any matter at issue all persons, except those engaged in the hearing, during the taking of medical information and law-enforcement investigative records and information as evidence.

(i) Except for information held confidential by the administrative law judge, the official record in a contested case under this Article is open to public inspection. (1983, c. 832, s. 1; 1987, c. 819, s. 22; 1989, c. 679, ss. 4, 5; 1991, c. 301, s. 1; 2004-159, s. 1.)