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North Carolina Courts Commission
State Legislative Building
Raleigh, North Carolina 27601-1096

ROBERT C. HUNTER, CHAIRMAN
MARION, N.C.

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February 8, 1994

The Honorable Daniel T. Blue, Jr., Speaker
N. C. House of Representatives
And
The Honorable Marc Basnight, President Pro Tem
N. C. Senate
Raleigh, North Carolina

Dear Representative Blue and Senator Basnight:

Pursuant to North Carolina General Statutes, Chapter 40A, the North Carolina Courts Commission is pleased to submit the attached recommendations to the 1994 Special Session of the North Carolina General Assembly.

With warm regards, I am

Yours truly,

A handwritten signature in cursive script that reads "Bob".

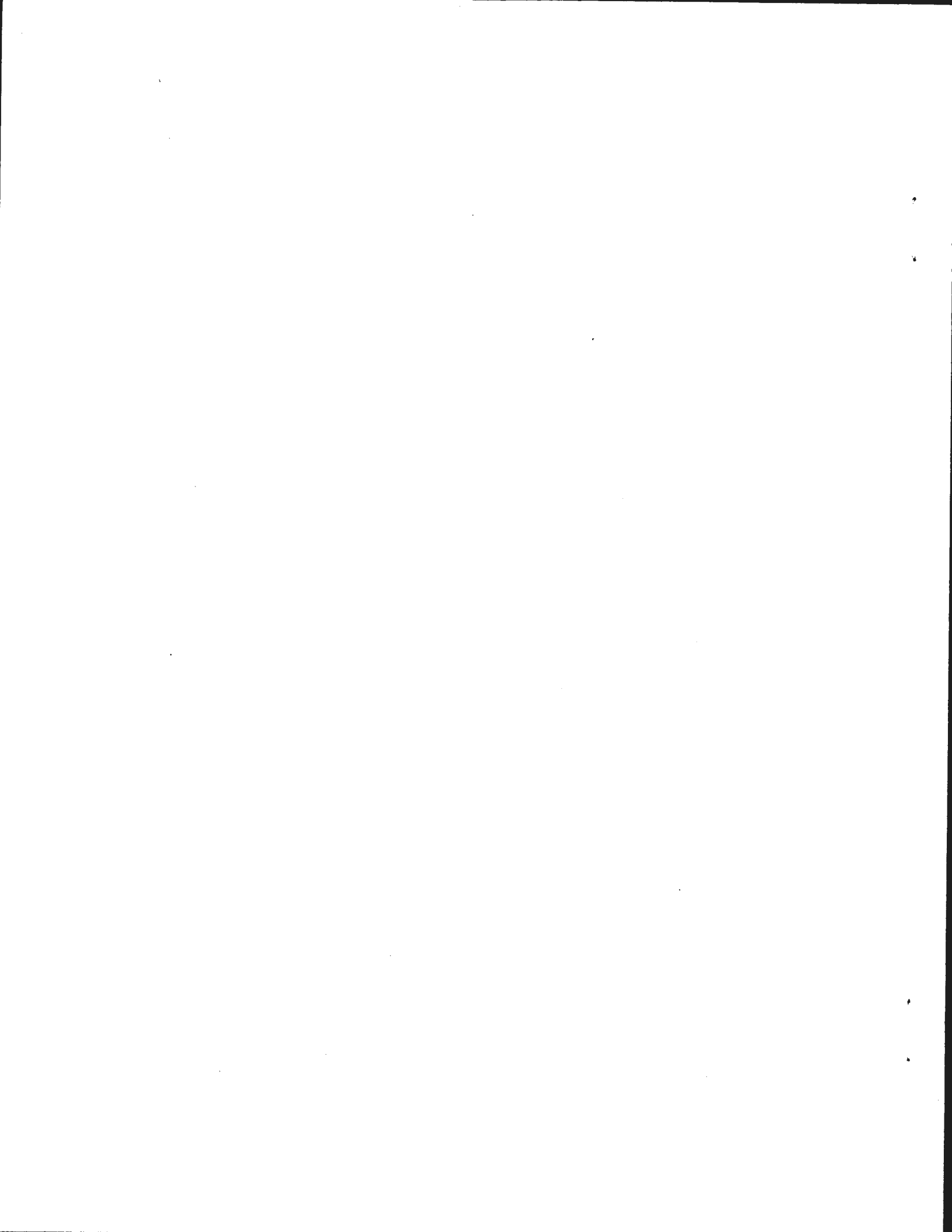
Robert C. Hunter, Chairman
N. C. Courts Commission

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Attachment

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NORTH CAROLINA COURTS COMMISSION:
RECOMMENDED LEGISLATION
TO THE 1994 SPECIAL SESSION
OF THE GENERAL ASSEMBLY

The Courts Commission is pleased to recommend passage of the following legislation to the 1994 Special Session of the General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE CRIME VICTIMS COMPENSATION FUND.

In his presentation to the Courts Commission on January 26, 1994, Mr. D. Wayne Harris, Supervisor, Crime Victims Compensation Fund, estimated that the Fund would have over \$3,000,000 in unpaid cases as of July 1, 1994. Mr. Harris also estimated that, in addition to this amount, the Fund would require a recurring appropriation of \$800,000 in the 1994-95 fiscal year if the Fund is to pay its projected cases for that and subsequent fiscal years. The Courts Commission, therefore, recommends this legislation which would appropriate \$3,000,000 in non-recurring funds and \$800,000 in recurring funds to the Fund for the 1994-95 fiscal year. A copy of the legislation is attached to this report.

2. A BILL TO BE ENTITLED AN ACT TO REQUIRE THE CRIME VICTIMS COMPENSATION COMMISSION AND ITS DIRECTOR TO DENY A CLAIM OF A PERSON WHO WAS ENGAGED IN CRIMINAL ACTIVITY AT OR ABOUT THE TIME THE PERSON'S INJURY OCCURRED.

In the case of McCrimmon v. Crime Victims Compensation Commission, the Petitioner filed a petition for a contested case hearing with the Office of Administrative Hearings after the Crime Victim's Compensation Commission denied his claim for benefits from the Fund. In that case, the Petitioner allegedly took a drink bottle from a convenience store and a twenty dollar bill from one of the store's customers. The store proprietor allegedly shot the Petitioner in the back as he was exiting the store and the proprietor was charged with assault. G.S. §15B-11(b) of the Crime Victims Compensation Act provides that "[a] claim may be denied and an award of compensation may be reduced upon a finding of contributory misconduct by the claimant." Notwithstanding this language, the Office of Administrative Hearings in its recommended decision to the Commission held that the Petitioner could not have foreseen that the proprietor of the convenience store would use deadly force to prevent him from exiting the store. Therefore, the Petitioner's misconduct was not a proximate cause of his injury and did not constitute contributory misconduct under the Act. According to the Office of Administrative Hearings, the Petitioner was entitled to receive compensation from the Fund. After reviewing the recommended decision of the Office of

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Administrative Hearings, the Crime Victims Compensation Commission again denied the Petitioner's claim for benefits.

To ensure that an individual engaged in criminal activity does not recover from the Fund, this legislation would amend G.S. 15B-11 of the Crime Victims Compensation Act to provide that an award of compensation will be denied if "the victim was participating in criminal activity at or about the time that the victim's injury occurred." The bill would be effective upon ratification and would apply to all claims filed with the Commission on or after that date. A copy of the legislation is attached to this report.

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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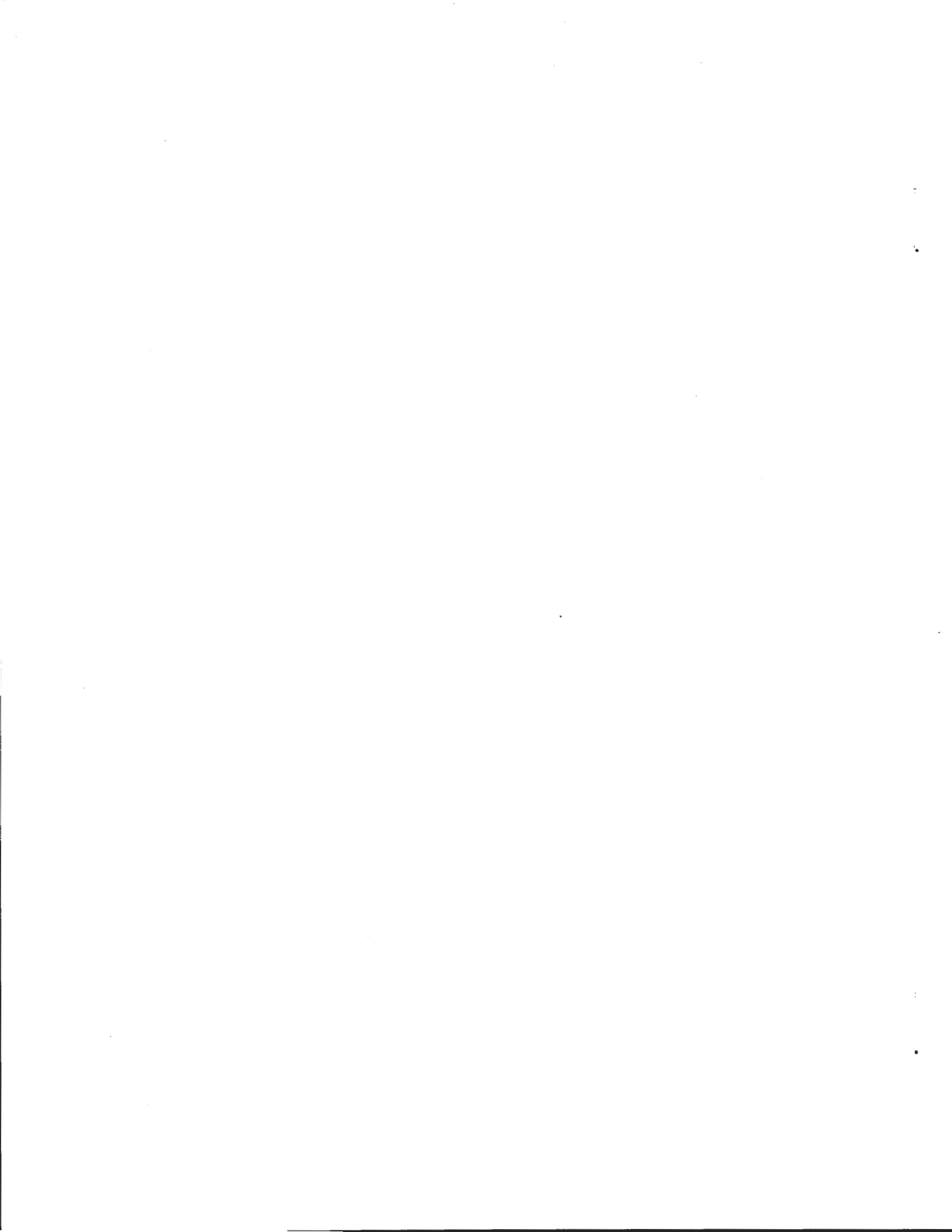
Short Title: Crime Victims Compensation Fund.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO THE CRIME VICTIMS
3 COMPENSATION FUND.
4 The General Assembly of North Carolina enacts:
5 Section 1. There is appropriated from the General Fund to the
6 Crime Victims Compensation Fund the sum of three million eight hundred
7 thousand dollars (\$3,800,000) for the 1994-95 fiscal year, three million
8 (\$3,000,000) of which shall be non-recurring and eight hundred thousand
9 (\$800,000) of which shall be recurring, to be used in accordance with the
10 provisions of Chapter 15B of the General Statutes.
11 Sec. 2. This act becomes effective July 1, 1994.



GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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94-RS-003.5

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Victims Compensation Change.

(Public)

Sponsors: Representative Robert Hunter

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO REQUIRE THE CRIME VICTIMS COMPENSATION
3 COMMISSION AND ITS DIRECTOR TO DENY A CLAIM OF A
4 PERSON WHO WAS ENGAGED IN CRIMINAL ACTIVITY AT OR
5 ABOUT THE TIME THE PERSON'S INJURY OCCURRED.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 15B-11 reads as rewritten:

8 "§ 15B-11. Grounds for denial of claim or reduction of award.

9 (a) An award of compensation will be denied if:

10 (1) The claimant fails to file his an application for an award
11 within one year after the date of the criminally injurious
12 conduct that caused the injury or death for which ~~he~~ the
13 claimant seeks the award;

14 (2) The economic loss is incurred after one year from the date of
15 the criminally injurious conduct that caused the injury or
16 death for which the victim seeks the award, except in the case
17 where the victim for whom compensation is sought was 10
18 years old or younger at the time the injury occurred. In that
19 case an award of compensation will be denied if the economic
20 loss is incurred after two years from the date of the criminally

- 1 injurious conduct that caused the injury or death for which the
2 victim seeks the award;
- 3 (3) The criminally injurious conduct was not reported to a law
4 enforcement officer or agency within 72 hours of its
5 occurrence, and there was no good cause for the delay;
- 6 (4) The award would benefit the offender or ~~his~~ the offender's
7 accomplice, unless a determination is made that the interests
8 of justice require that an award be approved in a particular
9 case; ~~or~~
- 10 (5) The criminally injurious conduct occurred while the victim
11 was confined in any State, county, or city prison,
12 correctional, youth services, or juvenile facility, or local
13 confinement facility, or half-way house, group home, or
14 similar ~~facility.~~ facility; or
- 15 (6) The victim was participating in criminal activity at or about
16 the time that the victim's injury occurred.
- 17 (b) A claim may be denied and an award of compensation may be reduced
18 upon a finding of contributory misconduct by the claimant or a victim through
19 whom ~~he~~ the claimant claims.
- 20 (c) A claim may be denied, an award of compensation may be reduced, and
21 a claim that has already been decided may be reconsidered upon finding that
22 the claimant or victim has not fully cooperated with appropriate law
23 enforcement agencies with regard to the criminally injurious conduct that is the
24 basis for the award.
- 25 (d) After reaching a decision to approve an award of compensation, but
26 before notifying the claimant, the Director shall require the claimant to submit
27 current information as to collateral sources on forms prescribed by the
28 Commission.
- 29 An award that has been approved shall nevertheless be denied or reduced to
30 the extent that the economic loss upon which the claim is based is or will be
31 recouped from a collateral source. If an award is reduced or a claim is denied
32 because of the expected recoupment of all or part of the economic loss of the
33 claimant from a collateral source, the amount of the award or the denial of the
34 claim shall be conditioned upon the claimant's economic loss being recouped
35 by the collateral source. If it is thereafter determined that the claimant will not
36 receive all or part of the expected recoupment, the claim shall be reopened and
37 an award shall be approved in an amount equal to the amount of expected
38 recoupment that it is determined the claimant will not receive from the
39 collateral source, subject to the limitations set forth in subsections (f) and (g).

- 1 (e) Compensation may not be awarded if the economic loss is less than one
2 hundred dollars (\$100.00).
- 3 (f) Compensation for work loss, replacement services loss, dependent's
4 economic loss, and dependent's replacement services loss may not exceed two
5 hundred dollars (\$200.00) per week.
- 6 (g) Compensation payable to a victim and to all other claimants sustaining
7 economic loss because of injury to, or the death of, that victim may not exceed
8 twenty thousand dollars (\$20,000) in the aggregate in addition to allowable
9 funeral, cremation, and burial expenses.
- 10 (h) The right to reconsider or reopen a claim does not affect the finality of
11 its decision for the purpose of judicial review.
- 12 Sec. 2. This act is effective upon ratification for all claims filed on
13 or after that date.

