

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 174

Short Title: Restrict Victims Comp.

(Public)

Sponsors: Representatives Decker; Mitchell and Sexton.

Referred to: Judiciary II.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON COMMITTING A CRIME WHILE INJURED IS NOT A VICTIM UNDER THE CRIME VICTIMS COMPENSATION ACT.

The General Assembly of North Carolina enacts:

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

§ 15B-2. Definitions.

As used in this Chapter, unless the context requires otherwise:

(1) 'Allowable expense' means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, medically related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of two thousand dollars (\$2,000) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

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

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

- 1 d. A person who is authorized to act on behalf of a victim, a
2 dependent, or a third person described in subdivision c.
3 The claimant, however, may not be the offender or an accomplice of
4 the offender who committed the criminally injurious conduct.
- 5 (3) 'Collateral source' means a source of benefits or advantages for
6 economic loss otherwise compensable that the victim or claimant has
7 received or that is readily available to him from any of the following
8 sources:
- 9 a. The offender;
10 b. The government of the United States or any of its agencies, a
11 state or any of its political subdivisions, or an instrumentality of
12 two or more states;
13 c. Social security, medicare, and medicaid;
14 d. State-required, temporary, nonoccupational disability insurance;
15 e. Worker's compensation;
16 f. Wage continuation programs of any employer;
17 g. Proceeds of a contract of insurance payable to the victim for
18 loss that he sustained because of the criminally injurious
19 conduct;
20 h. A contract providing prepaid hospital and other health care
21 services, or benefits for disability.
- 22 (4) 'Commission' means the Crime Victims Compensation Commission
23 established by G.S. 15B-3.
- 24 (5) 'Criminally injurious conduct' means conduct which by its nature poses
25 a substantial threat of personal injury or death, and is punishable by
26 fine or imprisonment or death, or would be so punishable but for the
27 fact that the person engaging in the conduct lacked the capacity to
28 commit the crime under the laws of this State. Criminally injurious
29 conduct includes conduct which amounts to an offense involving
30 impaired driving as defined in G.S. 20-4.01(24a) but does not include
31 conduct arising out of the ownership, maintenance, or use of a motor
32 vehicle when the conduct is punishable only as a violation of other
33 provisions of Chapter 20 of the General Statutes.
- 34 (6) 'Dependent' means an individual wholly or substantially dependent
35 upon the victim for care and support and includes a child of the victim
36 born after his death.
- 37 (7) 'Dependent's economic loss' means loss after a victim's death of
38 contributions of things of economic value to his dependents, not
39 including services they would have received from the victim if he had
40 not suffered the fatal injury, less expenses of the dependents avoided
41 by reason of the victim's death.
- 42 (8) 'Dependent's replacement service loss' means loss reasonably incurred
43 by dependents after a victim's death in obtaining ordinary and
44 necessary services in lieu of those the victim would have performed

1 for their benefit if he had not suffered the fatal injury, less expenses of
 2 the dependents avoided by reason of the victim's death and not
 3 subtracted in calculating dependent's economic loss.

4 Dependent's replacement service loss will be limited to a 26-week period
 5 commencing from the date of the injury and compensation shall not
 6 exceed two hundred dollars (\$200.00) per week.

7 (9) 'Director' means the Director of the Commission appointed under G.S.
 8 15B-3(g).

9 (10) 'Economic loss' means economic detriment consisting only of
 10 allowable expense, work loss, and replacement services loss. If
 11 criminally injurious conduct causes death, economic loss includes a
 12 dependent's economic loss and a dependent's replacement service loss.
 13 Noneconomic detriment is not economic loss, but economic loss may
 14 be caused by pain and suffering or physical impairment.

15 (11) 'Noneconomic detriment' means pain, suffering, inconvenience,
 16 physical impairment, or other nonpecuniary damage.

17 (12) 'Replacement services loss' means expenses reasonably incurred in
 18 obtaining ordinary and necessary services in lieu of those the injured
 19 person would have performed, not for income but for the benefit of
 20 himself or his family, if he had not been injured.

21 Replacement service loss will be limited to a 26-week period
 22 commencing from the date of the injury, and compensation may not
 23 exceed two hundred dollars (\$200.00) per week.

24 (12a) 'Substantial evidence' means relevant evidence that a reasonable mind
 25 might accept as adequate to support a conclusion.

26 (13) 'Victim' means a person who suffers personal injury or death
 27 proximately caused by criminally injurious ~~conduct.~~ conduct. The
 28 victim, however, may not be a person who was committing a crime
 29 when the person's injury or death occurred.

30 (14) 'Work loss' means loss of income from work that the injured person
 31 would have performed if he had not been injured and expenses
 32 reasonably incurred by him to obtain services in lieu of those he would
 33 have performed for income, reduced by any income from substitute
 34 work actually performed by him, or by income he would have earned
 35 in available appropriate substitute work that he was capable of
 36 performing but unreasonably failed to undertake.

37 Compensation for work loss will be limited to 26 weeks
 38 commencing from the date of the injury, and compensation may not
 39 exceed two hundred dollars (\$200.00) per week. A claim for work
 40 loss will be paid only upon proof that the injured person was gainfully
 41 employed at the time of the criminally injurious conduct and, by
 42 physician's certificate, that the injured person was unable to work."

43 Sec. 2. G.S. 15B-11(a) reads as rewritten:

44 "(a) An award of compensation ~~will~~ shall be denied if:

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

22 Sec. 3. This act becomes effective July 1, 1994, and applies to conduct
23 occurring on or after that date.