

May 19, 2004

**H 1519. CRIME VICTIM FINANCIAL RECOVERY ASSIST. ACT. TO PREVENT CRIMINALS FROM PROFITING FROM THEIR CRIMES AND TO BETTER ENABLE CRIME VICTIMS TO SATISFY RESTITUTION ORDERS AND CIVIL JUDGMENTS ENTERED AGAINST THEIR OFFENDERS FROM THE OFFENDERS' ASSETS, WHICH MAY INCLUDE THE PROFIT FROM CRIME.** Adds new GS Ch. 15B, Art. 2, "The Crime Victim Financial Recovery Assistance Act."

Requires every person or legal entity that knowingly contracts for, pays, or agrees to pay to a person who has been convicted of a felony or that person's legal representative or assignee ("offender") more than \$10,000 in "profit from crime" or "funds of an offender" to provide a copy of or the terms of the contract to the Crime Victims Compensation Comm'n ("Comm'n") established under GS 15B-3. Written notice to Comm'n is also required by the state or subdivision of the state, whenever the payment or obligation to pay involves over \$10,000 in funds of an offender that local or state officials are receiving and depositing in an inmate's account, or whenever the state or a state subdivision has an obligation to pay over \$10,000 in funds of an offender.

Offender must give Comm'n written notice in all other cases where the payment or obligation to pay involves funds of an offender valued at over \$10,000. Any action taken by offender to defeat act's purpose is void as against state's public policy.

"Profit from crime" is any income, assets, or property obtained through or generated from the commission of a crime for which the offender was convicted, including income, assets, or property generated from the sale of crime memorabilia, or obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of, the crime. Also includes any gain from the sale, conversion, or exchange of the income, assets, or property. Does not include voluntary donations or contributions used to assist in the appeal of a conviction, so long as they were not given in exchange for something of material value.

"Funds of an offender" are all funds and property received from any source by an offender, except child support and earned income. Includes funds deposited in an inmate or prisoner's account to their credit.

Once Comm'n receives one of the notices specified above, it is to notify as specified all known "eligible persons," including victims of the crime, their surviving spouses, parents, and children, and any other persons dependent for their principal support on a deceased crime victim. Provides for penalties for failure to notify Comm'n by anyone other than gov'ts and gov't officials.

Authorizes eligible persons, as defined above, to sue to recover money damages from an offender. Suit must be brought within three years of the discovery of any profit from crime or funds of an offender. Comm'n must be notified of suit as specified in act; Comm'n then gives notice as specified to all other known eligible persons and gives notice by publication at least once every six months for three years. Comm'n may take various types of actions to avoid wasting of the assets. Judgment in civil action may not be enforced against the first \$1,000 in inmate's or prisoner's account, nor, in a civil action involving funds of an offender that the offender recovered pursuant to a judgment in a civil action, against the first 10 percent of any compensatory damages awarded to the offender in that action.

Claims under act are subject to subrogation by the Crime Victims Compensation Fund pursuant to GS 15B-18. Profits from crime that are subject to a provisional remedy on behalf of eligible persons must be returned to the rightful owner, if the conviction for the offense from which profit from crime was realized is reversed, vacated, or set aside, or if the offender has been granted an unconditional pardon.

Contains severability clause. Effective when it becomes law, and applies to contracts for profit from crime entered into on or after that date or funds of an offender that have accrued on or after that date.

**Intro. by Eddins, Holliman, B. Allen, Gillespie, Harrell, Justus, Pate, A. Williams, K. Williams.**

Ref. to Judiciary IV

GS 15B

June 2, 2004

**H 1519. CRIME VICTIM FINANCIAL RECOVERY ASSIST. ACT.** Intro. 5/19/04. House committee substitute makes the following changes to 1st edition. Provides that penalties assessed by Crime Victims Compensation Commission (Comm'n) shall bear interest at the legal

rate (was 1 percent). Eliminates requirement to publish legal notice of offenders' profits from crime and permits Comm'n to provide for additional notice as it deems necessary. Makes technical changes.

July 12, 2004

**H 1519. CRIME VICTIM FINANCIAL RECOVERY ASSIST. ACT.** Intro. 5/19/04. Senate committee substitute adopted 7/9/04 makes the following changes to 2nd edition. Creates new GS 15B-33 (Penalties) and incorporates existing penalty provisions into new subsection. Provides that action to recover an assessment and civil penalty may be initiated 60 days (was, 30 days) after order to pay was issued. Enacts new GS 15B-33 (d) – (f), requiring that assessment be deposited in an escrow account, that Crime Victims Compensation Comm'n notify eligible persons of availability of funds, and that upon the later of the expiration of the three-year statute of limitations or the final determination of any pending claims, unclaimed funds shall be returned to the respondent. Effective Oct. 1, 2004. Makes technical changes.

August 6, 2004

**SL 2004-159 (H 1519). CRIME VICTIMS FINANCIAL RECOVERY ASSISTANCE ACT. AN ACT TO PREVENT CRIMINALS FROM PROFITING FROM THEIR CRIMES AND TO BETTER ENABLE CRIME VICTIMS TO SATISFY RESTITUTION ORDERS AND CIVIL JUDGMENTS ENTERED AGAINST THEIR OFFENDERS FROM THE OFFENDERS' ASSETS, WHICH MAY INCLUDE PROFIT FROM CRIME.** Summarized in *Daily Bulletin* 5/19/04, 6/2/04, and 7/12/04. Enacted August 2, 2004. Effective October 1, 2004.