

SENATE BILL 769

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

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AN ACT

RELATING TO CRIME VICTIMS; AMENDING CERTAIN PROVISIONS OF THE
CRIME VICTIMS REPARATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-22-3 NMSA 1978 (being Laws 1981,
Chapter 325, Section 3, as amended) is amended to read:

"31-22-3. DEFINITIONS. --As used in the Crime Victims
Reparation Act:

A. "child" means an unmarried person who is under
the age of majority and includes a stepchild and an adopted
child;

B. "collateral source" includes benefits for
economic loss otherwise reparable under the Crime Victims
Reparation Act which the victim or claimant has received or
which are readily available to him from:

- 1 (1) the offender;
- 2 (2) social security, medicare and medicaid;
- 3 (3) workers' compensation;
- 4 [~~(4)~~] ~~any program of any employer for~~
- 5 ~~continuation of wages in the event of the illness or injury of~~
- 6 ~~an employee;~~
- 7 ~~(5)]~~ (4) proceeds of a contract of insurance
- 8 payable to the victim;
- 9 [~~(6)]~~ (5) a contract providing prepaid
- 10 hospital and other health care services or benefits for
- 11 disability, except for the benefits of any life insurance
- 12 policy;
- 13 [~~(7)]~~ (6) applicable indigent funds; or
- 14 [~~(8)]~~ (7) cash donations;
- 15 C. "commission" means the crime victims reparation
- 16 commission;
- 17 D. "dependents" means those relatives of the
- 18 deceased or disabled victim who are more than fifty percent
- 19 dependent upon the victim's income at the time of his death or
- 20 disability and includes the child of a victim born after his
- 21 death or disability;
- 22 E. "family relationship group" means any person
- 23 related to another person within the fourth degree of
- 24 consanguinity or affinity;
- 25 F. "injury" means actual bodily harm or

1 disfigurement and includes pregnancy and extreme mental
2 distress. For the purposes of this subsection, "extreme
3 mental distress" means a substantial personal disorder of
4 emotional processes, thought or cognition that impairs
5 judgment, behavior or ability to cope with the ordinary
6 demands of life;

7 G. "permanent total disability" means loss of both
8 legs or arms, loss of one leg and one arm, total loss of
9 eyesight, paralysis or other physical condition permanently
10 incapacitating the worker from performing any work at any
11 gainful occupation;

12 ~~[G.]~~ H. "relative" means a person's spouse,
13 parent, grandparent, stepfather, stepmother, child,
14 grandchild, ~~[minor]~~ brother, ~~[minor]~~ sister, ~~[minor]~~
15 half-brother, ~~[minor]~~ half-sister or spouse's parents; and

16 ~~[H.]~~ I. "victim" means:

17 (1) a person in New Mexico who is injured or
18 killed by any act or omission of any other person that is a
19 crime enumerated in Section 31-22-8 NMSA 1978;

20 (2) a resident of New Mexico who is injured
21 or killed by such a crime occurring in a state other than New
22 Mexico if that state does not have an eligible crime victims
23 compensation program; or

24 (3) a resident of New Mexico who is injured
25 or killed by an act of international terrorism, as provided in

1 18 U.S.C. Section 2331. "

2 Section 2. Section 31-22-8 NMSA 1978 (being Laws 1981,
3 Chapter 325, Section 8, as amended) is amended to read:

4 "31-22-8. CRIMES ENUMERATED. - -

5 A. The crimes to which the Crime Victims
6 Reparation Act applies and for which reparation to victims may
7 be made are the following enumerated offenses and all other
8 offenses in which any enumerated offense is necessarily
9 included:

- 10 (1) arson resulting in bodily injury;
11 (2) aggravated arson;
12 (3) aggravated assault or aggravated
13 battery;
14 (4) dangerous use of explosives;
15 (5) negligent use of a deadly weapon;
16 (6) murder;
17 (7) voluntary manslaughter;
18 (8) involuntary manslaughter;
19 (9) kidnapping;
20 (10) criminal sexual penetration;
21 (11) criminal sexual contact of a minor;
22 (12) homicide by vehicle or great bodily
23 injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
24 (13) abandonment or abuse of a child;
25 (14) aggravated indecent exposure, as

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provided in Section 30-9-14.3 NMSA 1978; and

(15) aggravated stalking, as provided in
Section [~~30-3A-3 NMSA 1978, when the offender has at least one
prior conviction for stalking~~] 30-3A-3.1 NMSA 1978.

B. No award shall be made for any loss or damage
to property. "

Section 3. Section 31-22-14 NMSA 1978 (being Laws 1981,
Chapter 325, Section 14, as amended) is amended to read:

"31-22-14. LIMITATIONS ON AWARD--COLLATERAL RECOVERY--
PRELIMINARY AWARD. --

A. No order for the payment of reparation shall be
made unless application has been made within two years after
the date of the injury or death and the injury or death was
the result of a crime enumerated in Section 31-22-8 NMSA 1978
that had been reported to the police within thirty days after
its occurrence unless a longer period is allowed pursuant to
Subsection F of this section. In no event shall reparation be
given unless application has been made within two years after
the injury or death, except for minors who are victims of
criminal activity under the provisions of Section 30-6-1 NMSA
1978, regarding abandonment or abuse of a child, Section
30-9-11 NMSA 1978, regarding criminal sexual penetration, or
Section 30-9-13 NMSA 1978, regarding criminal sexual contact
of a minor. The date of incident for minors who are victims
of these types of criminal activity shall be the date the

1 victim attains the age of eighteen years or the date that the
2 criminal activity is reported to a law enforcement agency,
3 whichever occurs first.

4 B. No award of reparation shall be in excess of
5 twenty thousand dollars (\$20,000) per victim except that the
6 commission may award up to an additional thirty thousand
7 dollars (\$30,000) for extraordinary pecuniary losses, if the
8 personal injury to a victim is catastrophic and results in a
9 permanent total disability. The extraordinary losses
10 compensated may include:

11 (1) loss of wages;

12 (2) the cost of home health care;

13 (3) the cost of making a home or automobile
14 accessible;

15 (4) the cost of training in the use of
16 special application; or

17 (5) job training.

18 C. Except as provided by Subsection E of this
19 section, the commission shall deduct from any reparation
20 awarded any payments received from a collateral source or from
21 the United States or the state or any of its political
22 subdivisions for injury or death subject to reparation under
23 the Crime Victims Reparation Act. If the claimant receives an
24 award of reparation from the commission and also receives
25 payment as set forth in the preceding sentence for which no

1 deduction was made, the claimant shall refund to the state the
2 lesser of the amount of reparation paid or the sums not so
3 deducted.

4 D. If the claimant receives an award of reparation
5 from the commission and also receives an award pursuant to a
6 civil judgment arising from a criminal occurrence for which a
7 reparation award was paid, the claimant shall refund to the
8 state the amount of the reparation paid to him. The
9 commission may negotiate a reasonable settlement regarding
10 repayment of the reparation award if special circumstances
11 exist.

12 E. If it appears that a final award of reparation
13 will be made by the commission, a preliminary award [~~not to~~
14 ~~exceed three thousand five hundred dollars (\$3,500)~~] may be
15 authorized by the director of the commission or the
16 commission's designee when the commission chairman concurs.
17 The amount of the preliminary award shall be deducted from any
18 final award made by the commission.

19 F. The commission may grant a waiver to the
20 requirement in Subsection A of this section that a crime be
21 reported to the police within thirty days of its occurrence
22 for:

23 (1) a victim of domestic violence or sexual
24 assault if reported to the police within one hundred eighty
25 days of the occurrence; or

1 (2) a crime against a child that was reported
2 within thirty days of its occurrence to the children, youth
3 and families department, a domestic violence or sexual assault
4 service provider, a teacher or a health care provider;
5 provided that a police report shall be filed before the
6 commission approves payment. "

7 Section 4. Section 31-22-18 NMSA 1978 (being Laws 1981,
8 Chapter 325, Section 18, as amended) is amended to read:

9 "31-22-18. CONFIDENTIALITY OF RECORDS, REPORTS AND CLAIM
10 FILES. --Any record or report acquired by the commission, the
11 confidentiality of which is protected by law, rule or
12 regulation, shall be disclosed only under the same terms and
13 conditions which protected its confidentiality prior to such
14 acquisition. The claim file, which contains [~~the victim's~~
15 ~~name, address, telephone number and other personal information~~
16 ~~regarding the victim~~] confidential reports, records and
17 personal information, shall not be released. "