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SENATE BILL 510

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Bill B. O'Neill

AN ACT

RELATING TO CRIME VICTIM REPARATIONS; AMENDING AND EXPANDING  
THE ENUMERATED CRIMES IN THE CRIME VICTIMS REPARATION ACT;  
ALLOWING THE CRIME VICTIMS REPARATION COMMISSION TO EXTEND THE  
TIME FOR FILING A CLAIM UPON GOOD CAUSE SHOWN; CREATING A CRIME  
VICTIMS REPARATION FEE FOR THOSE CONVICTED OF A PENALTY  
ASSESSMENT MISDEMEANOR, TRAFFIC VIOLATION, PETTY MISDEMEANOR,  
MISDEMEANOR OR FELONY OFFENSE.

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

**SECTION 1.** Section 31-22-8 NMSA 1978 (being Laws 1981,  
Chapter 325, Section 8, as amended) is amended to read:

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

A. The crimes to which the Crime Victims Reparation  
Act applies and for which reparation to victims may be made are  
the following enumerated offenses and all other offenses in

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1 which any enumerated offense is necessarily included:

2 (1) arson resulting in bodily injury;

3 [~~(2)~~] ~~aggravated arson;~~

4 ~~(3)]~~ (2) aggravated assault or aggravated  
5 battery;

6 [~~(4)]~~ (3) dangerous use of explosives  
7 resulting in bodily injury;

8 [~~(5)]~~ (4) negligent use of a deadly weapon;

9 [~~(6)]~~ (5) murder;

10 [~~(7)]~~ (6) voluntary manslaughter;

11 [~~(8)]~~ (7) involuntary manslaughter;

12 [~~(9)]~~ (8) kidnapping;

13 [~~(10)]~~ (9) criminal sexual penetration;

14 [~~(11)]~~ (10) criminal sexual contact of a  
15 minor;

16 [~~(12)]~~ (11) homicide by vehicle or great  
17 bodily injury by vehicle, as provided in Section 66-8-101 NMSA  
18 1978;

19 [~~(13)]~~ (12) abandonment or abuse of a child;

20 [~~(14)]~~ (13) aggravated indecent exposure, as  
21 provided in Section 30-9-14.3 NMSA 1978;

22 [~~(15) aggravated]~~ (14) stalking; [~~as provided~~  
23 ~~in Section 30-3A-3.1 NMSA 1978; and~~

24 ~~(16)]~~ (15) human trafficking;

25 (16) assault against a household member; and

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1                                    (17) battery against a household member.

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

4                    SECTION 2. Section 31-22-14 NMSA 1978 (being Laws 1981,  
5 Chapter 325, Section 14, as amended) is amended to read:

6                    "31-22-14. LIMITATIONS ON AWARD--COLLATERAL RECOVERY--  
7 PRELIMINARY AWARD.--

8                    A. No order for the payment of reparation shall be  
9 made unless application has been made within two years after  
10 the date of the injury or death and the injury or death was the  
11 result of a crime enumerated in Section 31-22-8 NMSA 1978 that  
12 had been reported to the police within thirty days after its  
13 occurrence unless a longer period is allowed pursuant to  
14 Subsection F of this section. [~~In no event shall reparation be  
15 given unless application has been~~] An application for  
16 reparation shall be made within two years after the injury or  
17 death, except for minors who are victims of criminal activity  
18 under the provisions of Section 30-6-1 NMSA 1978, regarding  
19 abandonment or abuse of a child, Section 30-9-11 NMSA 1978,  
20 regarding criminal sexual penetration, or Section 30-9-13 NMSA  
21 1978, regarding criminal sexual contact of a minor. The date  
22 of incident for minors who are victims of these types of  
23 criminal activity shall be the date the victim attains the age  
24 of eighteen years or the date that the criminal activity is  
25 reported to a law enforcement agency, whichever occurs first.

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1 The commission may extend the time for filing an application  
2 for good cause shown by a claimant or a victim.

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

- 10 (1) loss of wages;
- 11 (2) the cost of home health care;
- 12 (3) the cost of making a home or automobile  
13 accessible;
- 14 (4) the cost of training in the use of special  
15 application; or
- 16 (5) job training.

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

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1 lesser of the amount of reparation paid or the sums not so  
2 deducted.

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

11 E. If it appears that a final award of reparation  
12 will be made by the commission, a preliminary award may be  
13 authorized by the director of the commission or the  
14 commission's designee when the commission ~~[chairman]~~ chair  
15 concurs. The amount of the preliminary award shall be deducted  
16 from any final award made by the commission.

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

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

24 (2) a crime against a child that was reported  
25 within thirty days of its occurrence to the children, youth and

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1 families department, a domestic violence or sexual assault  
2 service provider, a teacher or a health care provider; provided  
3 that a police report shall be filed before the commission  
4 approves payment."

5 SECTION 3. A new section of Chapter 31, Article 12 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] CRIME VICTIMS REPARATION FEE.--

8 A. In addition to any other fees or penalties  
9 collected in a district court, metropolitan court and  
10 magistrate court, those courts shall assess and collect from a  
11 person convicted of a penalty assessment misdemeanor, traffic  
12 violation, petty misdemeanor, misdemeanor or felony offense a  
13 mandatory crime victims reparation fee. The fee shall be  
14 levied at the time of sentencing in addition to any sentence  
15 required or permitted by law, in accordance with the following  
16 schedule:

17 (1) a person convicted of a felony shall pay a  
18 crime victims reparation fee of seventy-five dollars (\$75.00);

19 (2) a person convicted of a petty misdemeanor  
20 or misdemeanor shall pay a crime victims reparation fee of  
21 fifty dollars (\$50.00); and

22 (3) a person convicted of a penalty assessment  
23 misdemeanor traffic violation shall pay a crime victims  
24 reparation fee of fifteen dollars (\$15.00).

25 B. Crime victim reparation fees shall be deposited

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1 in the crime victims reparation fund."

2 SECTION 4. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2015.

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