

FIFTY-FOURTH LEGISLATURE  
FIRST SESSION, 2019

HB 342/a

March 2, 2019

Mr. President:

Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

**HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 342**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 18, after the semicolon, insert "ESTABLISHING THE RIGHT OF CRIME VICTIMS TO RECEIVE NOTICE; AMENDING CERTAIN PROCEDURES IN THE CRIME VICTIMS REPARATION ACT;".

2. On page 20, line 19, after the second occurrence of "a", insert "licensed", after "medical", insert a comma, on line 20, strike the first occurrence of "or", strike "care" and insert in lieu thereof "or counseling" and after "provider", strike the remainder of the line and on line 21, strike "counseling" and insert in lieu thereof "or tribal health".

3. On page 21, between lines 11 and 12, insert the following new sections:

**"SECTION 9.** 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~~]. An application for reparation shall be made within two years after the injury or death, except for minors who are victims

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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 victim attains the age of eighteen years or the date that the criminal activity is reported to a law enforcement agency, whichever occurs first. The commission may extend the time for filing an application for good cause shown by a claimant or a victim.~~]

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

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

C. Except as provided by Subsection E of this section, the commission shall deduct from any reparation awarded any payments received from a collateral source or from the United States or the state or any of its political subdivisions for injury or death subject to reparation under the Crime Victims Reparation Act. If the claimant receives an award of reparation from the commission and also receives payment as set forth in the preceding sentence for

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which no deduction was made, the claimant shall refund to the state the lesser of the amount of reparation paid or the sums not so deducted.

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

E. If it appears that a final award of reparation will be made by the commission, a preliminary award may be authorized by the director of the commission or the commission's designee when the commission chair concurs. The amount of the preliminary award shall be deducted from any final award made by the commission.

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

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

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

**SECTION 10.** Section 31-26-4 NMSA 1978 (being Laws 1994, Chapter 144, Section 4, as amended) is amended to read:

"31-26-4. VICTIM'S RIGHTS.--A victim shall have the right to:

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- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- B. timely disposition of the case;
- C. be reasonably protected from the accused throughout the criminal justice process;
- D. notification of court proceedings;
- E. attend all public court proceedings the accused has the right to attend;
- F. confer with the prosecution;
- G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
- I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
- J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
- K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property; [~~and~~]
- L. be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender; and

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M. be notified by the district attorney of the availability of and procedures to apply for crime victims reparation."

4. Renumber the succeeding sections accordingly.

5. On page 23, lines 4 and 5, strike "10 through 13" and insert in lieu thereof "12 through 15".,

and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

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Gerald Ortiz y Pino, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Brandt

Absent: None