

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) the offender;
- (2) social security, medicare and medicaid;
- (3) workers' compensation;
- (4) proceeds of a contract of insurance payable to the victim;
- (5) a contract providing prepaid hospital and other health care services or benefits for disability, except for the benefits of any life insurance policy;
- (6) applicable indigent funds; or
- (7) cash donations;

C. "commission" means the crime victims reparation commission;

D. "dependents" means those relatives of the deceased or disabled victim who are more than fifty percent dependent upon the victim's income at the time of his death or disability and includes the child of a victim born after his death or disability;

E. "family relationship group" means any person related to another person within the fourth degree of consanguinity or affinity;

F. "injury" means actual bodily harm or disfigurement and includes pregnancy and extreme mental distress. For the purposes of this subsection, "extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition that impairs judgment, behavior or ability to cope with the ordinary demands of life;

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

H. "relative" means a person's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister or spouse's parents; and

I. "victim" means:

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

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

(3) a resident of New Mexico who is injured or killed by an act of international terrorism, as provided in 18 U.S.C. Section 2331."

Section 2. 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 which any enumerated offense is necessarily included:

- (1) arson resulting in bodily injury;
- (2) aggravated arson;
- (3) aggravated assault or aggravated battery;
- (4) dangerous use of explosives;
- (5) negligent use of a deadly weapon;
- (6) murder;

(7) voluntary manslaughter;
(8) involuntary manslaughter;
(9) kidnapping;
(10) criminal sexual penetration;
(11) criminal sexual contact of a minor;
(12) homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978;

(13) abandonment or abuse of a child;
(14) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978; and

(15) aggravated stalking, as provided in Section 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 victim attains the age of eighteen years or the date that the criminal activity is reported to a law enforcement agency, whichever occurs first.

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

"31-22-18. CONFIDENTIALITY OF RECORDS, REPORTS AND CLAIM FILES. -- Any record or report acquired by the commission, the confidentiality of which is protected by law, rule or regulation, shall be disclosed only under the same terms and conditions which protected its confidentiality prior to such acquisition. The claim file, which contains confidential reports, records and personal information, shall not be released. "_____
