

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 752

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

AN ACT

RELATING TO CRIMES; CHANGING DEFINITIONS; PROVIDING FOR  
CERTAIN WAIVERS; PROVIDING FOR A REPARATION AWARD FOR  
EXTRAORDINARY PECUNIARY LOSS; CLARIFYING CONFIDENTIALITY OF  
RECORDS; AMENDING SECTIONS OF THE NMSA 1978.

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

1       Reparation Act which the victim or claimant has received or  
2       which are readily available to him from:

3                       (1) the offender;

4                       (2) social security, medicare and medicaid;

5                       (3) workers' compensation;

6                       ~~[(4) any program of any employer for~~  
7       ~~continuation of wages in the event of the illness or injury of~~  
8       ~~an employee;~~

9                       ~~(5)]~~ (4) proceeds of a contract of insurance  
10       payable to the victim;

11                      ~~[(6)]~~ (5) a contract providing prepaid  
12       hospital and other health care services or benefits for  
13       disability, except for the benefits of any life insurance  
14       policy;

15                      ~~[(7)]~~ (6) applicable indigent funds; or

16                      ~~[(8)]~~ (7) cash donations;

17                      C. "commission" means the crime victims reparation  
18       commi ssi on;

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

24                      E. "family relationship group" means any person  
25       related to another person within the fourth degree of

1 consanguinity or affinity;

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

9 G. "permanent total physical disability" means the  
10 loss of both legs, both arms, one leg and one arm, total loss  
11 of eyesight, paralysis or other physical condition that  
12 permanently incapacitates the worker from performing any work  
13 in a gainful occupation;

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

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

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

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

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

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

6 "31-22-8. CRIMES ENUMERATED. --

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

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

1 (14) aggravated indecent exposure, as  
2 provided in Section 30-9-14.3 NMSA 1978; and

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

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

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

10 "31-22-14. LIMITATIONS ON AWARD-- COLLATERAL RECOVERY--  
11 PRELIMINARY AWARD-- EXTRAORDINARY LOSSES. --

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

underscored material = new  
[bracketed material] = delete

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

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

12 (1) loss of wages;

13 (2) the cost of home health care;

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

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

18 (5) job training.

19 C. Except as provided by Subsection E of this  
20 section, the commission shall deduct from any reparation  
21 awarded any payments received from a collateral source or from  
22 the United States or the state or any of its political  
23 subdivisions for injury or death subject to reparation under  
24 the Crime Victims Reparation Act. If the claimant receives an  
25 award of reparation from the commission and also receives

1 payment as set forth in the preceding sentence for which no  
2 deduction was made, the claimant shall refund to the state the  
3 lesser of the amount of reparation paid or the sums not so  
4 deducted.

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

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

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

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

1 days of the occurrence; or

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

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

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