

ASSEMBLY, No. 1083

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblywoman SHANIQUE SPEIGHT
District 29 (Essex)

SYNOPSIS

Establishes presumption that VCCO will order payment to victim of crime;
establishes five-year time limit to file claim.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning victim compensation and amending P.L.1971,
2 c.317.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 10 of P.L.1971, c.317 (C.52:4B-10) is amended to
8 read as follows:

9 10. In any case in which a person is injured or killed by any act
10 or omission of any other person which is within the description of
11 the offenses listed in section 11 of P.L.1971, c.317, the **[agency]**
12 Victims of Crime Compensation Office may, upon application,
13 order the payment of compensation in accordance with the
14 provisions of P.L.1971, c.317:

- 15 a. to or on behalf of the victim,
16 b. in the case of the personal injury of the victim, where the
17 compensation is for pecuniary loss suffered or expenses incurred by
18 any person responsible for the maintenance of the victim, to that
19 person, or
20 c. in the case of the death of the victim, to or for the benefit of
21 the dependents of the deceased victim, or any one or more of
22 **[such]** those dependents.

23 In determining whether to make an order under this section, the
24 **[agency]** office may consider any circumstances it determines to be
25 relevant, including provocation, consent, or the behavior of the
26 victim which directly or indirectly contributed to **[his]** the victim's
27 injury or death, the prior case history, if any, of the victim, and any
28 other relevant matters; provided, however, there shall be a
29 presumption that the office will order the payment of compensation.

30 An order may be made under this section whether or not any
31 person is prosecuted or convicted of any offense arising out of
32 **[such]** an act or omission. Upon application made by an
33 appropriate prosecuting authority, the **[agency]** office may suspend
34 proceedings under P.L.1971, c.317 for **[such]** any period **[as]** it
35 deems appropriate on the ground that a prosecution for an offense
36 arising out of **[such]** an act or omission has been commenced or is
37 imminent.

38 For the purposes of P.L.1971, c.317, a person shall be deemed to
39 have intended an act or omission notwithstanding that by reason of
40 age, insanity, or otherwise, **[he]** the person was legally incapable of
41 forming a criminal intent.
42 (cf: P.L.2007, c.95, s.12)

43
44 2. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to
45 read as follows:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 18. ~~【No】~~ An order for the payment of compensation shall not be
2 made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the
3 application has been made within ~~【three】~~ five years after the date of
4 the personal injury or death or after that date upon determination by
5 the office that good cause exists for the delayed filing, and the
6 personal injury or death was the result of an offense listed in section
7 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the
8 police or other appropriate law enforcement agency within nine
9 months after its occurrence or reasonable discovery. If the victim is
10 under 18 years of age, the ~~【three-year】~~ five-year limit on filing
11 shall commence on the day the victim turns 18 years old. For the
12 purposes of this section, "good cause" shall include, but not be
13 limited to, instances where the victim or the victim's dependents
14 were not appropriately informed of the benefits offered by the
15 office as required by law. The office will make its determination
16 regarding the application within ~~【six months】~~ 90 days of
17 acknowledgment by the office of receipt of the completed
18 application and any and all necessary supplemental information.

19 In determining the amount of an award, the office shall
20 determine whether, because of his conduct, the victim of such crime
21 contributed to the infliction of his injury, and the office shall reduce
22 the amount of the award or reject the application altogether, in
23 accordance with such determination; provided, however, that the
24 office shall not consider any conduct of the victim contributory
25 toward his injury, if the record indicates such conduct occurred
26 during efforts by the victim to prevent a crime or apprehend a
27 person who had committed a crime in his presence or had in fact
28 committed a crime.

29 The office may deny or reduce an award where the victim has
30 not paid in full any payments owed on assessments imposed
31 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution
32 ordered following conviction for a crime.

33 No compensation shall be awarded if:

34 a. Compensation to the victim proves to be substantial unjust
35 enrichment to the offender or if the victim did not cooperate with
36 the reasonable requests of law enforcement authorities unless the
37 victim demonstrates a compelling health or safety reason for not
38 cooperating; or

39 b. (Deleted by amendment, P.L.1990, c.64.)

40 c. The victim was guilty of a violation of subtitle 10 or 12 of
41 Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which
42 caused or contributed to his injuries; or

43 d. The victim was injured as a result of the operation of a
44 motor vehicle, except as provided in subsection c. or d. of section
45 11 of P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the
46 same was used as a weapon in a deliberate attempt to run the victim
47 down; or

1 e. The victim suffered personal injury or death while an
2 occupant of a motor vehicle or vessel where the victim knew or
3 reasonably should have known that the driver was operating the
4 vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990,
5 c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19),
6 section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of
7 paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of
8 N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

9 f. The victim has been convicted of a crime and is still
10 incarcerated; or

11 g. The victim sustained the injury during the period of
12 incarceration immediately following conviction for a crime.

13 Except as provided herein, no compensation shall be awarded
14 under P.L.1971, c.317 in an amount in excess of \$25,000, and all
15 payments shall be made in a lump sum, except that in the case of
16 death or protracted disability the award may provide for periodic
17 payments to compensate for loss of earnings or support.

18 Ten years after the entry of an initial determination order, a
19 claim for compensation expires and no further order is to be entered
20 with regard to the claim except:

21 (1) for requests for payment of specific out-of-pocket expenses
22 received by the Victims of Crime Compensation Office prior to the
23 expiration of the ten-year period;

24 (2) in those cases determined by the office to be catastrophic in
25 nature; and

26 (3) for requests for payment of expenses that were incurred only
27 after the expiration of the ten-year period.

28 No award made pursuant to P.L.1971, c.317 shall be subject to
29 execution or attachment other than for expenses resulting from the
30 injury which is the basis of the claim.

31 Compensation may be awarded in an amount not exceeding the
32 actual cost of a rehabilitative service of the type enumerated in
33 section 2 of P.L.1999, c.166 (C.52:4B-18.2).

34 The award may provide for periodic payments in the case of
35 protracted care or rehabilitative assistance.

36 (cf: P.L.2011, c.165, s.1)

37
38 3. This act shall take effect immediately.
39
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41 STATEMENT

42
43 This bill amends the "Criminal Injuries Compensation Act of
44 1971," P.L.1971, c.317 (C.52:4B-1 et seq.). The bill establishes a
45 presumption that the Victims of Crime Compensation Office (VCCO)
46 will order payment of compensation to an eligible victim of crime.
47 Additionally, the bill provides that a person would have five years to

1 file a claim and requires the VCCO to make a determination regarding
2 the claim within 90 days.

3 Under current law, the VCCO may order that a payment of
4 compensation be made:

5 1) to or on behalf of the victim of the crime;

6 2) to a person responsible for the victim of crime who has
7 suffered pecuniary loss or incurred expenses in caring for the victim;
8 and

9 3) in cases of the death of the victim, to the victim's dependents.

10 In determining whether to order compensation, the VCCO is
11 authorized to consider any relevant circumstances, including
12 provocation, consent, or the behavior of the victim which directly or
13 indirectly contributed to the victim's injury or death; the victim's prior
14 case history; and other relevant matters. This bill establishes that in
15 considering these circumstances, there is to be a presumption that the
16 VCCO will order a payment of compensation.

17 Current law provides that a person has three years after the date of
18 a personal injury or death to file a claim. Upon filing, the VCCO has
19 six months to make a determination regarding the application. The bill
20 amends current law to provide that a person would have five years to
21 file a claim instead of three, and the VCCO would be required to make
22 its determination within 90 days.