

N.C. GENERAL ASSEMBLY LEGISLATIVE FISCAL NOTE

Fiscal Research
733-4910

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Short Title: Victims' Compensation

TYPE OF FISCAL IMPACT	COUNTY/		FUNDS AFFECTED:		
	State Gov't	Local Gov't	(x) General	() Highway	() Lal
No Fiscal Impact	()	(x)	State Fiscal Impact	FY 89-90	FY 90-91
Increase Expenditure	(x)	()	State Total Req'ments	\$1,885,650*	\$2,388,490**
Decrease Expenditure	()	()	Receipts/Revenues	\$ 771,480 1	\$ 771,480
Increase Revenue	()	()	GF Appropriation	\$1,000,000	\$1,000,000
Decrease Revenue	()	()	Net State Expend.	\$ 114,170	\$ 617,010
No Estimate Avail.	()	()	State Fiscal Impact	FY 89-90	FY 90-91
			State Total Req'ments	\$1,885,650*	\$2,388,490**
			Receipts/Revenues	\$ 502,640 2	\$ 502,640
			GF Appropriation	\$1,000,000	\$1,000,000
			Net State Expend.	\$ 383,010	\$ 885,850

Description of Legislation

1. Summary of Legislation

Senate Bill 26 Compensation for DWI Victims, amends GS 15B-2(5) to provide that "criminally injurious conduct" include impaired driving offenses, so as to make persons injured by defendants engaging in this conduct eligible for compensation under the Crime Victims Compensation Act.

2. Effective Date: Upon Ratification

3. Fund or Tax Affected: General Fund

4. Principal Department/Program Affected: Department of Crime Control and Public Safety/Division of Victim and Justice Services/Crime Victim Compensation

Footnotes:

- 1 Data in this section reflects new revenue generated from fee increases for all individuals assigned to Community Service (Parole or as a condition of Probation) and participants in Alcohol Drug Education School (ADETS).
 - 2 Data in this section reflects new revenue generated from fee increases only for individuals assigned to Community Service (Parole or as a condition of Probation) who have convictions for assaultive crimes, and participants in ADETS.
- * Total State requirements for FY 89-90 are \$1,746,000 (non-DWI), and \$139,650 (DWI).
** Total State requirements for FY 90-91 are \$2,211,600 (non-DWI), and \$176,890 (DWI).

Background Information

As originally enacted, The Victims of Crime Act of 1984 (VOCA) (Public Law 98-473, Title II, Chapter XIV, found at 42 U.S.C. 10601 et seq.) contained a number of requirements that states had to meet to be eligible for compensation grants. The primary conditions were that the program had to offer compensation for medical expenses, including mental health counseling, and that it had to cover lost wages and funeral expenses. In addition, the program had to compensate nonresidents and federal-crime victims on the same basis as residents who were victims of state crimes. These conditions are found in section 1403(b) of the Act (42 U.S.C. 10602).

In reauthorizing VOCA in 1988, Congress added several new eligibility conditions for state compensation programs. Of chief importance are new requirements to compensate three classes of victims: victims of domestic violence, victims of drunk driving, and resident victims who are injured in states without eligible programs. Currently, there are six (6) states without programs: Georgia, Maine, Mississippi, New Hampshire, South Dakota and Vermont. State programs will have until October 1, 1990, to meet these conditions to remain eligible for future compensation grants from the federal Crime Victims Fund. States that meet the new conditions will continue to be eligible for federal reimbursement, that will increase from 35% to 40% of the State's total payments or awards to eligible DWI and non-DWI victims. This reimbursement, however, cannot supplant the state's appropriation, but must be obligated for payments or awards. The Department of Crime Control and Public Safety/ Division of Victim and Justice Services will have to provide a report to the federal government on the use of federal funds.

In North Carolina the Crime Victims Compensation Act (Chapter 15B of the General Statutes) authorizes financial assistance to or on behalf of an innocent victim of a violent crime who suffers personal injury or death.

In regards to meeting the new eligibility requirements of VOCA, the current provision of North Carolina's Crime Victims Compensation Act refers to assistance for victims of assault without specification to the reason/source of the occurrence of the violent act. Therefore, North Carolina's Crime Victims Compensation Fund as currently administered meets the requirement to provide assistance to victims of domestic violence. If the U. S. Department of Justice has questions about the wording of North Carolina's law, the Department/Division would need to verify in writing that the State's program does and has provided assistance to victims of domestic violence. This is my understanding from the U. S. Department of Justice.

The impact on North Carolina's program is the inclusion of financial assistance to victims of drunk driving offenders and residents of North Carolina who are victims of DWI or non-DWI injuries or fatalities victims injured in states without eligible Crime Victim Compensation programs.

Cost or Revenue Impact on State

Fiscal/Revenue Assumptions

A. ACTUAL AND PROJECTED ACTIVITY IN CURRENT FUND (NON-DWI ONLY)

In 1987 the General Assembly appropriated \$1 million dollars for each year of the 1987-89 biennium to establish the Crime Victims Compensation Fund in the Department of Crime Control and Public Safety. The Crime Victims Compensation Act provides in G.S. 15B-25 that compensation is "only available to the extent the General Assembly appropriates funds for that purpose". According to data furnished by the Division of Victim and Justice Services the following reflects actual and projected activity of the Fund:

	Actual 1987-88	Projected 3 1988-89	Projected 1989-90	Projected 1990-91
Claims Filed	1,164	1,650	1,800	2,100
Awards Made	269	1,100	1,500	1,900

Amount Awarded \$284,718 \$1,300,000 \$1,700,000 \$2,200,000

B. CALCULATIONS FOR DETERMINING DWI ACTIVITY UNDER PROVISIONS OF SB 26

To determine the impact on the Crime Victims Compensation Fund if victims of drunk driving (DWI) offenders received assistance the following information was considered:

1. A three year average (1985-1987) of the State's alcohol-related motor vehicle accidents, based upon information the investigating officer could verify:

401 persons killed
16,443 persons injured

2. A three year average (1985-87) of motor vehicle accidents of which the investigating officer could not verify whether the accident was alcohol-related.

452 persons killed
3,248 persons injured

Approximately half of the incidents in this category are alcohol-related. The result is an estimated total of DWI victims for 1985-1987:

401 + 226 = 627 persons killed
16,443 + 1,624 = 18,067 persons injured
16,844 + 1,850 = 18,694 persons killed and injured

Footnote:

3 The projected activity for 1988-89 appears substantially greater than the actual activity in 1987-88 due to the staff's education needed to implement the program. The Fund was authorized on August 13, 1987. The Crime Victims Compensation Commission, which establishes general policies and guidelines for G.S. 15B-3 had its first meeting on October 26, 1987. The first awards made in December, 1987. The first year (87-88) was a period of education for staff in the Division of Victim and Justice Services in regard to third party reimbursement sources i.e. medical, accidental, disability, and burial insurance, Medicaid, restitution, etc. It was also necessary for the staff to review the provisions of the Act, to achieve accurate interpretation in order to uniformly apply the provisions.

3. On the basis of research conducted by Mothers Against Drunk Drivers (MADD)⁴ the following reflects the experience of states that provide compensation to DWI victims:

- o 3/10 of one percent of victims of DWI crashes receive victim compensation awards
- o Less than 5% of total compensation claims filed are filed by victims of DWI
- o Less than 5% of the total number of awards to all victims are granted to victims of DWI
- o Average awards to victims of DWI are 1.5 to 1.6 times higher than average awards to other victims

4. The impact on the Fund to include compensation to resident victims who are involved in non-DWI injuries or fatalities in states without eligible programs is more difficult to determine. The following agencies were contact to obtain data for resident victims of both DWI and non-DWI injuries and fatalities: State Bureau of Investigation (SBI)/Division of Criminal Information; the North Carolina Division of Motor Vehicles; the Highway Safety Research Center in Chapel Hill; the National Highway Traffic Safety Administration, U. S. Department of Transportation;⁵ and agencies in the six (6) states without eligible compensation programs.

Staff with the Division of Criminal Information contacted the six (6) states and determined that data is not recorded to isolate the state of residence for victims involved in non-DWI related injuries or fatalities. In regards to DWI related incidents, the Highway Safety Research Center in Chapel Hill was the only agency to offer data. The data, however, is based on cumulative information for N. C. compiled between 1975 and 1980 for all accidents and all fatalities. This data, however, is out of date, and it is not possible to isolate the number or percentage of individuals involved in alcohol-related injuries and fatalities in the State.

Additionally, the six (6) states without eligible compensation programs do not maintain data that indicate non-DWI or DWI injuries or fatalities by the victim's state of residence.

4 Report from Mothers Against Drunk Driving (MADD), April 2, 1988.

5 This agency offered to continue reviewing data and provide information, if any were found to be relevant to the inquiry.

C. IMPACT ON FUND

Impact on the N. C. Crime Victims Compensation Fund using projections of awards for 1989-90 and 1990-91, and research from MADD indicate the following activity to include compensation to victims of drunk driving offenders:

	1989-90	1990-91
Non-DWI Claims Filed	1,800	2,100
DWI Claims	90	105
Total # Claims Filed	1,890	2,205
Non-DWI Awards	1,500	1,900
DWI Awards	75 (1,500 x 5%)	95 (1,900 x 5%)
Total Awards	1,575	1,995
Average Non-DWI Award	\$1,164	
Average DWI Award	\$1,862 (\$1,164 x 1.6)	
Total Non-DWI Payments	\$1,746,000 (\$1,164 x 1,500)	\$2,211,600 (\$1,164 x 1,900)
Total DWI Payments	\$ 139,650 (\$1,862 x 75)	\$ 176,890 (\$1,862 x 95)
Grand Total of Payment	\$1,885,650	\$2,388,490

If the 3/10 of one percent is applied, to the total number of DWI victims, the estimated number of awards is 56 (18,694 x .003). Therefore the additional requirements to the Crime Victim Compensation Fund would have a minimum increase of \$104,000 to a maximum increase of \$139,650 in (89-90) or \$161,994 in 90-91).

D. THREE OPTIONS

Considering the data in A and B and the projected impact on the Crime Victims Compensation Fund (C), North Carolina can anticipate an increase in total payments/awards with or without granting compensation to victims of DWI or resident victims who are injured in other states.

If the state elects to comply with the requirements of VOCA as reauthorized in 1988 the following options may be considered:

Option 1

Maintain the \$1,000,000 appropriation to support non-DWI and DWI awards with no

increase in State funding and receive the 40% reimbursement from VOCA. This would provide \$400,000 in additional revenue for the Fund, and result in a total availability of \$1.4 million dollars.

Option 2

Maintain the \$1,000,000 appropriation but not offset with receipts or revenues.

- o Allow the \$746,000 (89-90) and \$1,211,600 (90-91) increases in eligible non-DWI awards
- o Allow the \$139,650 (89-90) and \$176,890 (90-91) of eligible DWI awards
- o This would result in total payments of \$1,885,650 (89-90) and \$2,388,490 (90-91)
- o Although total payments would be subject to the 40% reimbursement from VOCA, the fund would have a deficit each year of 885,650 (89-90) and \$1,388,490 (90-91) respectively because reimbursement cannot supplant appropriated funding.

OPTION 3

The Division of Victim and Justice Services has suggested an increase in fees from the following sources, and to designate the increase for the Crime Victims Compensation Fund to offset rising payments:

1. Increase the supervision fee of each inmate on Community Service Parole by \$30.00 (\$15 to \$45) and forward the increase to the Fund.

According to the Department of Correction there were 431 inmates assigned to Community Service Parole in FY 1987-88. Of the 431 inmates 83 (19%) had convictions for assaultive crimes.

If the supervision fee were increased \$30.00 for all inmates and forwarded to the Fund, this would generate approximately \$12,930 (431 x \$30). Since the Fund provides assistance to victims or their families as a result of personal injury or death, it may not be feasible to assess the increase to all inmates in this category. Increasing the fee for inmates with convictions for assaultive crimes, only, would generate approximately \$2,490 (83 x \$30).

The supervision fee for individuals on Probation and Parole was increased from \$10 to \$15 in the 1987 Legislative Session.

2. Increase the fee for individuals ordered by the court to perform Community Service as a condition of Probation to \$125 (\$100 to \$125), of which \$25 would be forwarded to the Fund.

According to the Department of Correction, Community Service was imposed for 11,358 (16.5%) of all individuals (68,924) assigned to probation in FY 1987-88. Of the 11,358 individuals 1,022 (9%) had convictions for assaultive crimes. Thirteen percent (13%) of all probation cases have convictions for assaultive crimes.)

If all individuals performing Community Service are assessed the \$25.00 increase that would generate approximately \$283,950 (11,358 x \$25) for the Fund. However, if the \$25.00 increase is only assessed for individuals with convictions for assaultive crimes that would generate approximately \$25,500 (1,022 x \$25).

3. Increase the fee for participation in the Alcohol and Drug Education School (ADETS) to \$125.00, of which \$25.00 would be forwarded to the Fund.

According to the Division of Mental Health, Mental Retardation and Substance Abuse in calendar year 1987, there were 22,887 individuals assigned to ADETS of which 18,984 completed the school. (Non-completion may indicate that the individual completed the school/course, but did not pay the fee.)

If the fee were increased \$25.00, the Fund could receive approximately \$474,600 (18,874 x \$25).

In the 1987 Legislative Session, G.S. 20-179 was amended to authorize distribution of the fee - \$50.00 for assessment and \$75.00 for ADETS - as a pilot in ten (10) counties Buncombe, Iredell, Rowan, Cabarrus, Forsyth, Alamance, Wake, Wayne, Pender, and New Hanover effective January 1, 1988. If the pilot is successful, this distribution of the fee will be applied statewide, and result in less funding available to ADETS. If the \$25.00 increase is authorized, ADETS would continue to receive \$75.00 and the \$25.00 would be forwarded to the Fund.

Cost/Revenue Impact on County or Local Government

	FY	FY	FY
	89-90	90-91	
1. Non-Recurring Costs/Revenues	N/A	N/A	

2. Recurring Costs/Revenues	N/A	N/A
3. Fiscal/Revenue Assumptions	N/A	N/A

Sources of Data for Fiscal Note

Division of Victims and Justice Services, Department of Crime Control and Public Safety; Division of Motor Vehicles, Department of Transportation; Division of Adult Probation and Parole, Department of Correction; State Bureau of Investigation (SBI), Department of Justice; Division of Mental Health, Mental Retardation and Substance Abuse, Department of Human Resources; U. S. Department of Justice; Highway Safety Research Center in Chapel Hill, N. C.; National Highway Traffic Safety Administration, U. S. Department of Transportation; and Departments of Public Safety in the six (6) states without eligible victim compensation programs.

Technical Considerations/Comments



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