

1 HOUSE BILL NO. 155

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee for Courts of Justice

4 on _____)

5 (Patron Prior to Substitute--Delegate Green)

6 A BILL to amend and reenact § 19.2-368.5 of the Code of Virginia, relating to Criminal Injuries
7 Compensation Fund; claims.

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 19.2-368.5 of the Code of Virginia is amended and reenacted as follows:**10 **§ 19.2-368.5. Filing of claims; deferral of proceedings; restitution.**

11 A. A claim may be filed by a person eligible to receive an award, as provided in § 19.2-368.4, or
12 if such person is a minor, by his parent or guardian. In any case in which the person entitled to make a
13 claim is incapacitated, the claim may be filed on his behalf by his guardian, conservator or such other
14 individual authorized to administer his estate.

15 B. A claim shall be filed by the claimant not later than one year after the occurrence of the crime
16 upon which such claim is based, or not later than one year after the death of the victim. However, (i) in
17 cases involving claims made on behalf of a minor or a person who is incapacitated, the provisions of
18 subsection A of § 8.01-229 shall apply to toll the one-year period; (ii) in cases involving claims made by
19 a victim against profits of crime held in escrow pursuant to Chapter 21.2 (§ 19.2-368.19 et seq.) of this
20 title, the claim shall be filed within five years of the date of the special order of escrow; and (iii) in cases
21 involving claims of sexual abuse of a minor, ~~the claim shall be filed within 10 years after the minor's~~
22 eighteenth birthday passage of time shall not be a barrier to when the victim can file a claim. For good
23 cause shown, the Commission may extend the time for filing for a crime committed on or after July 1,
24 2001.

25 In the case of a crime committed on or after July 1, 1977, and before July 1, 2001, for which a
26 claim was not filed in a timely manner, the Commission may, for good cause shown, extend the time for

27 filing if the attorney for the Commonwealth sends written notification to the Commission that the crime
28 is being investigated as a result of newly discovered evidence. For any claim filed pursuant to this
29 paragraph, the Commission shall only consider expenses and loss of earnings that the claimant accrues
30 after the date of newly discovered evidence as stipulated in the written notification by the attorney for the
31 Commonwealth.

32 C. Claims shall be filed in the office of the Commission in person, by mail, or by electronic means
33 in accordance with standards approved by the Commission. The Commission shall accept for filing all
34 claims submitted by persons eligible under subsection A of this section and alleging the jurisdictional
35 requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations
36 of the Commission.

37 D. Upon filing of a claim pursuant to this chapter, the Commission shall promptly notify the
38 attorney for the Commonwealth of the jurisdiction wherein the crime is alleged to have occurred. If, within
39 10 days after such notification, the attorney for the Commonwealth so notified advises the Commission
40 that a criminal prosecution is pending upon the same alleged crime, the Commission shall defer all
41 proceedings under this chapter until such time as such criminal prosecution has been concluded in the
42 circuit court unless notification is received from the attorney for the Commonwealth that no objection is
43 made to a continuation of the investigation and determination of the claim. When such criminal
44 prosecution has been concluded in the circuit court the attorney for the Commonwealth shall promptly so
45 notify the Commission. Nothing in this section shall be construed to mean that the Commission is to defer
46 proceedings upon the filing of an appeal, nor shall this section be construed to limit the authority of the
47 Commission to grant emergency awards as hereinafter provided. Upon awarding a claim pursuant to this
48 chapter, the Commission shall promptly notify the attorney for the Commonwealth of the jurisdiction
49 wherein the crime is alleged to have occurred. If a criminal prosecution occurs regarding the same alleged
50 crime, the attorney for the Commonwealth shall request the court to order restitution. However, neither
51 the lack of a restitution order, nor the failure of the attorney for the Commonwealth to request such an
52 order, shall preclude the Fund from exercising its subrogation rights pursuant to § 19.2-368.15. Any such

53 restitution shall be paid over to the Comptroller for deposit into the Criminal Injuries Compensation Fund
54 to the extent of the amount of the award paid from the Fund.

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