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## CRIMINAL PROCEDURE Victims Compensation: Provide for Eligibility for Compensation of Victims of Certain Crimes Committed Outside the State; Change Definitions and Time Period for Filing a Claim

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## CRIMINAL PROCEDURE

### *Victims Compensation: Provide for Eligibility for Compensation of Victims of Certain Crimes Committed Outside the State; Change Definitions and Time Period for Filing a Claim*

CODE SECTIONS:	O.C.G.A. §§ 17-15-2, -5, -7 to -8 (amended)
BILL NUMBER:	SB 90
ACT NUMBER:	92
GEORGIA LAWS:	1997 Ga. Laws 481
SUMMARY:	The Act allows Georgians who are injured outside the state, as well as outside of the country, to receive victim compensation. The Act specifically includes crimes such as terrorism and mass violence that result in harm to the victim. The Act allows victims to receive compensation even though they have outstanding fines and other monetary penalties or restitution. Finally, the Act amends the time period within which a victim must file for compensation from 180 days to not later than one year after the occurrence of the crime.
EFFECTIVE DATE:	July 1, 1997

#### *History*

In 1988, the Georgia General Assembly enacted legislation to provide monetary awards to people who suffer financial hardship, physical injury, or death as a result of criminal acts.<sup>1</sup> The 1988 Act created the Georgia Crime Victims Compensation Board, which hears from victims of crimes who ask for monetary awards from the State.<sup>2</sup> Persons eligible to make claims included individuals who were victims of crimes, dependents of victims, or those who were injured while stopping a crime, aiding a victim, or apprehending a criminal.<sup>3</sup>

In 1992, the General Assembly amended the 1988 Act so that the Criminal Justice Coordinating Council would serve as the Georgia Crime Victims Compensation Board.<sup>4</sup> The 1992 amendment also specified that part of the fines that the state received under Code section 15-2-112 be directed to the program.<sup>5</sup>

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1. 1988 Ga. Laws 591, § 1 (codified at O.C.G.A. § 17-15-1 (1990)).
  2. *Id.* (codified at O.C.G.A. § 17-15-3 (1990)).
  3. *See id.* (formerly found at O.C.G.A. § 17-15-8(c) (1990)).
  4. 1992 Ga. Laws 2426, § 1 (formerly found at O.C.G.A. § 17-15-3(b) (Supp. 1993)).
  5. 1992 Ga. Laws 1836, § 2 (formerly found at O.C.G.A. § 17-15-10(b)(1) (Supp. 1993)).

In 1994, the General Assembly again amended the law to increase the maximum amount of award from \$1000 to \$5000.<sup>6</sup> The law also permitted awards for psychological counseling expenses incurred by immediate family members of deceased victims.<sup>7</sup> Furthermore, the law allowed for awards to persons who have assumed the cost of a crime victim's eligible expenses regardless of the person's relationship to the victim.<sup>8</sup> However, the 1994 amendment denied compensation for loss of property<sup>9</sup> and disallowed compensation for a claimant convicted of a felony.<sup>10</sup>

In 1995, the General Assembly amended the statute again to increase the compensation claims to \$10,000.<sup>11</sup> The amendment also added chapter 17 to title 17 of the Code defining the "Crime Victim's Bill of Rights."<sup>12</sup> The Crime Victim's Bill of Rights guarantees that the victim is entitled to notification of an accused's arrest or release from custody or of any judicial proceeding in which the accused's release is considered.<sup>13</sup>

### *Introduction*

SB 90 was introduced by a host of Senators including Robert Brown, Mark Taylor, and Charles Walker.<sup>14</sup> The bill initially passed through the Senate Judiciary Committee.<sup>15</sup> No changes were made, and the bill received unanimous approval by the Senate.<sup>16</sup> In the House Special Judiciary Committee, the bill passed with a Committee substitute.<sup>17</sup> The Committee substitute was passed by the House, and the Senate subsequently concurred with the House amendments.<sup>18</sup> The Governor signed the bill on April 4, 1997.<sup>19</sup>

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1993)). This money mainly comes from drunk driving fines.

6. 1994 Ga. Laws 1800, § 6 (formerly found at O.C.G.A. § 17-5-8(c)(1) (Supp. 1996)).

7. *Id.* (formerly found at O.C.G.A. § 17-5-8(j) (Supp. 1996)).

8. *Id.* § 5 (formerly found at O.C.G.A. § 17-15-7(a)(5) (Supp. 1994)).

9. *Id.* (formerly found at O.C.G.A. § 17-15-7(g) (Supp. 1994)).

10. *Id.* (formerly found at O.C.G.A. § 17-15-7(h) (Supp. 1994)).

11. 1995 Ga. Laws 385, § 1 (codified at O.C.G.A. § 17-15-8(c)(1) (Supp. 1995)).

12. *Id.* § 2 (codified at O.C.G.A. §§ 17-17-1 to -15 (Supp. 1995)).

13. *Id.* (codified at O.C.G.A. § 17-17-5(a) (Supp. 1995)).

14. SB 90, as introduced, 1997 Ga. Gen. Assem.

15. *See* Final Composite Status Sheet, Mar. 28, 1997.

16. *See id.*

17. *See* SB 90 (HCS), 1997 Ga. Gen. Assem.; Final Composite Status Sheet, Mar. 28, 1997.

18. *See* Georgia Senate Voting Record, SB 90 (Feb. 2, 1997).

19. *See id.*; Final Composite Status Sheet, Mar. 28, 1997.

*SB 90*

The Act amends Code section 17-15-2 by defining crime and explaining who is eligible for compensation in the state.<sup>20</sup> The Act clarifies that a crime must result in physical injury or death to the victim.<sup>21</sup> The crime may be committed in this state, in a state that does not have a victims' compensation program, or in a state that has compensated the victim in an amount less than what the victim would be entitled to under Georgia law.<sup>22</sup> The Act further notes that crimes include international terrorism or acts of mass violence that result in physical injury or death to the victim outside the territorial boundaries of the United States.<sup>23</sup> Again, the victim must be a resident of the state.<sup>24</sup>

Formerly, recovery was precluded for crimes committed in other states or if the victim had received compensation from another state.<sup>25</sup> But now, the Act covers terrorist crimes committed against Georgia residents outside the United States.<sup>26</sup> With the rash of international terrorism occurring throughout the world, this language helps protect the interests of Georgians.<sup>27</sup> Furthermore, other countries such as Japan and Saudi Arabia have provisions in their laws that compensate citizens who are injured outside of their country.<sup>28</sup>

The Committee substitute eliminated Code section 17-15-7(b)(1)(i) from the original version of the bill, which stated that a victim who had been convicted of an offense under state or federal law would not be eligible to receive an award if the victim had not paid a previously assessed fine, other monetary penalty, or restitution.<sup>29</sup> This Code section was initially added because the National Anti-Terrorism Act contained a similar requirement.<sup>30</sup> However, federal authorities admitted that there was no national database being designed that could

20. O.C.G.A. § 17-15-2 (1997).

21. *Id.* § 17-15-2(3).

22. *See id.*

23. *Id.*

24. *See id.*

25. *See* 1988 Ga. Laws 591, § 1, at 597 (formerly found at O.C.G.A. § 17-15-7(b)(1) (Supp. 1996)).

26. *See* Telephone Interview with Martha Gilland, Director, Criminal Justice Coordinating Council (Apr. 25, 1997) [hereinafter Gilland Interview]; O.C.G.A. § 17-15-2(3)(A)(iii) (1997).

27. *See* Gilland Interview, *supra* note 26.

28. *See* Telephone Interview with Derek Marchman, Program Director, Victims' Compensation Board (Apr. 25, 1997) [hereinafter Marchman Interview].

29. *Compare* SB 90 (HCS), 1997 Ga. Gen. Assem., *with* SB 90, as introduced, 1997 Ga. Gen. Assem.

30. *See* Marchman Interview, *supra* note 28.

track individuals with delinquent civil fines.<sup>31</sup> Thus, there would have been no means to implement this Code section.<sup>32</sup>

Finally, the Act extends the time for filing a claim to receive monies from the Compensation Board for injuries or financial hardship suffered as a result of a crime from 180 days<sup>33</sup> to one year.<sup>34</sup> The change in the time allotment for filing claims was implemented to make the filing process more efficient.<sup>35</sup> Because victims and their families are often traumatized after the occurrence, they may wait more than the previous 180 day time period before filing a claim for compensation.<sup>36</sup> Prior to the Act, if the victims or their families missed the deadline, the Board automatically had to reject the claim.<sup>37</sup> Then the victims and their families had to appeal the decision to the Board.<sup>38</sup> Upon approval, the Board would review the circumstances as to why the families and victim missed the deadline and would usually grant the compensation award.<sup>39</sup> The Act provides that "upon good cause shown, the board may extend the time for filing for a claim for a period not extending two years after such occurrence."<sup>40</sup> Extending the deadline saves the Board and victims needless paperwork.<sup>41</sup>

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31. See Gilland Interview, *supra* note 26.

32. See *id.*

33. 1988 Ga. Laws 591, § 1, at 594 (formerly found at O.C.G.A. § 17-5-5 (1990)).

34. O.C.G.A. § 17-15-5 (1997).

35. See Gilland Interview, *supra* note 26.

36. See Marchman Interview, *supra* note 28.

37. See Gilland Interview, *supra* note 26. The statute does not state that if the victim missed the deadline, the claim automatically would be rejected; however, this was the standard operation of the Board. See *id.*

38. See *id.*

39. See *id.*

40. 1988 Ga. Laws 591, § 1 (formerly found at O.C.G.A. § 17-15-5 (1990)).

41. See Gilland Interview, *supra* note 26.