

### 31-22-7. Eligibility for reparation.

A. If a person is injured or killed by an act or omission of another person coming within the criminal jurisdiction of the state after July 1, 1981, which act or omission includes a crime enumerated in Section **31-22-8** NMSA 1978, and upon application for reparation, the commission may award reparation in accordance with the Crime Victims Reparation Act:

- (1) to the victim;
- (2) in the case of the victim's death, to or for the benefit of any one or more of the deceased victim's dependents; or
- (3) to any individual who voluntarily assumes funeral or medical expenses of the victim.

B. For the purpose of the Crime Victims Reparation Act, a person shall be deemed to have intentionally committed an act or omission constituting a crime, notwithstanding that by reason of age, insanity, drunkenness or otherwise the person was legally incapable of forming a criminal intent.

C. In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant. The commission shall consider the behavior of the victim and whether, because of provocation or otherwise, the victim bears responsibility for the act or omission constituting a crime that caused the victim's injury or death and shall reduce the amount of reparation in accordance with its assessment of the degree of responsibility attributable to the victim.

D. An order may be made under this section whether or not any person is prosecuted for or convicted of a crime enumerated in Section **31-22-8** NMSA 1978; provided an arrest has been made or the act or omission constituting a crime has been reported to the police in a reasonable time or the act or omission constituting a crime has been reported to a licensed medical, mental health or counseling provider, or tribal health provider. No order may be made under this section unless the commission finds that:

- (1) the act or omission constituting a crime did occur;
- (2) the injury or death of the victim resulted from the act or omission constituting a crime; and
- (3) the claimant or victim fully cooperated with the appropriate law enforcement agencies or the commission finds that the claimant or victim acted reasonably under the circumstances.

E. Upon application from the district attorney of the appropriate district, the commission may suspend proceedings under the Crime Victims Reparation Act for such period as it deems desirable on the grounds that a prosecution for the act or omission constituting a crime has commenced or is imminent.

**History:** Laws 1981, ch. 325, § 7; **1993, ch. 207, § 5; 2019, ch. 211, § 8.**

### ANNOTATIONS

**The 2019 amendment**, effective July 1, 2019, expanded the eligibility for reparation by including that the act or omission constituting a crime may be reported to a licensed medical, mental health or counseling provider, or tribal health provider, and provided that the commission may award reparation upon a finding that the victim fully cooperated with the appropriate law enforcement agencies or that the claimant acted reasonably under the circumstances; in Subsection D, after "police in a reasonable time", added "or the act or omission constituting a crime has been reported to a licensed medical, mental health or counseling provider, or tribal health provider", and in Paragraph D(3), after "law enforcement agencies", added "or the commission finds that the claimant or victim acted reasonably under the circumstances".

**The 1993 amendment**, effective June 18, 1993, substituted "**31-22-8** NMSA 1978" for "9 of that act" in the introductory language of Subsection A and for "9 of the Crime Victims Reparation Act" in the first sentence of Subsection D; and made stylistic changes in Subsection A(3) and in Subsection E.