

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency Crime Victims' Compensation Commission
Rule No. 262-x-4-.03

Rule Title: Contribution to Offense.

_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the
state's police power and the protection of the
public health, safety, or welfare? Yes

Is there another, less restrictive method of
regulation available that could adequately protect
the public? No

Does the propounded rule have the effect of directly
or indirectly increasing the costs of any goods or
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the
public than the harm that might result from the
absence of the proposed rule? N/A

Are all facets of the rulemaking process designed
solely for the purpose of, and so they have, as
their primary effect, the protection of the public? Yes

.....
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is
required to be accompanied by a fiscal note prepared in accordance with
subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full
compliance with the requirements of Chapter 22, Title 41, Code of Alabama
1975, and that it conforms to all applicable filing requirements of the
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 5/13/14

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-x-4-.03 Contribution.

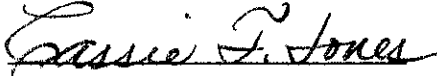
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the rule to clarify contributory conduct.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on July 7, 2014. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Z. Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267.


Cassie T. Jones, Ed.D.
Executive Director

262-X-4-.03 Contribution To Offense.

~~Compensation may not be awarded "to a claimant who was the offender, or an accomplice of the offender, or who encouraged or in any way participated in the criminally injurious conduct." Contribution to the offense will be determined by the actions of the victim at the time of or immediately preceding the crime.~~

Authority:

Code of Alabama § 15-23-12(b) (1995), which provides:

Compensation otherwise payable to a claimant may be diminished or denied to the extent that the economic loss is recouped from collateral sources; or to the extent that the degree of responsibility for the cause of the injury or death is attributable to the victim as determined by the commission.

- (a) Compensation may be reduced or denied based on the victim's degree of contribution to the offense. The reduction or denial will be based on the extent of the degree of responsibility for the cause of injury or death attributable to the victim/claimant's actions and/or involvement in the events that led to the crime. Compensation may be reduced in whole or in part if contributory conduct is determined.
- (b) Eligibility for compensation can be affected by a victim/claimant's involvement in the events that led to the crime. The victim/claimant's actions do not have to be illegal to be deemed contributory conduct. Such actions must relate significantly to the occurrence that caused the victimization and be such that a reasonable or prudent person would know that the actions could lead to their victimization.
- (c) Contributory conduct is a voluntary action by the victim, which directly or indirectly, produced the victim's injury at the time of the victimization which gives rise to the compensation claim. This action may include, but is not limited to, provocation, drug use, alcohol intoxication, consent, or incitement by the victim.
- (d) Contributory conduct is a factor when the victim knowingly participated in conduct that:
 - (1) Caused, resulted in, or reasonably could have led to the specific crime which caused the victimization; or
 - (2) Was itself clearly wrongful or illegal, thereby placing him/herself in a position to be victimized; or
 - (3) Clearly put himself/herself into a situation where the crime was reasonably expected and/or a prudent person would have avoided.
- (e) Contributory conduct to the offense may be determined by the victim's actions or nature of the victim's involvement in the events leading up to victimization. The following factors may be considered in the determination of contributory conduct:
 - (1) Alcohol intoxication that resulted in the use of poor judgment by the victim;
 - (2) Drug use that resulted in the use of poor judgment by the victim;

- (3) If the offender verbally insulted the victim and the victim failed to retreat, a contribution factor may be assessed;
- (4) If it appears the victim was injured as a result of poor judgment or as a result of his/her conduct being less than that of a prudent person in the same situation, a contribution factor may be assessed;
- (5) If it appears that the victim first physically assaulted the offender, the victim's claim for compensation may be denied.

(f) The Commission may consider all information relevant to the circumstances, including, but not limited to:

- (1) Level of responsibility of the victim's conduct;
- (2) Foreseeability of the consequences of such conduct;
- (3) Ability to avoid the situation (Victim's failure to retreat or withdraw from situation where an option to do so existed.)
- (4) Whether there is a direct causal relationship between the victim's actions and his/her victimization.
- (5) Whether the criminally injurious conduct made the basis of the compensation claim occurred at a place known for illegal activity (shot house, house of gambling, house of prostitution or drug house) or arose out of acts involving violation(s) of federal, state, or municipal laws. A contribution factor shall not be assessed for persons who were in such areas for a legitimate purpose and not involved in any type of illegal activity.
- (6) Contribution to the offense will be determined by the actions of the victim at the time of or immediately preceding the crime.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed May 13, 2014