

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 19.2-368.5 and 19.2-368.7 of the Code of Virginia, relating to filing of*
3 *claims.*

4 [H 1756]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 19.2-368.5 and 19.2-368.7 of the Code of Virginia are amended and reenacted as**
8 **follows:**

9 § 19.2-368.5. Filing of claims; deferral of proceedings.

10 A. A claim may be filed by a person eligible to receive an award, as provided in § 19.2-368.4, or if
11 such person is a minor, by his parent or guardian. In any case in which the person entitled to make a
12 claim is incapacitated, the claim may be filed on his behalf by his guardian, conservator or such other
13 individual authorized to administer his estate.14 B. A claim shall be filed by the claimant not later than one year after the occurrence of the crime
15 upon which such claim is based, or not later than one year after the death of the victim. However, (i) in
16 cases involving claims made on behalf of a minor or a person who is incapacitated, the provisions of
17 subsection A of § 8.01-229 shall apply to toll the one-year period and (ii) in cases involving claims
18 made by a victim against profits of crime forfeited and held in escrow pursuant to Chapter 21.2
19 (§ 19.2-368.19 et seq.) of this title, the claim shall be filed within five years of the date of the order of
20 forfeiture. ~~In all other cases, upon~~ For good cause shown, the Commission may extend the time for
21 filing ~~for a period not exceeding, under any circumstances, two years after such occurrence.~~22 C. Claims shall be filed in the office of the Commission in person or by mail. The Commission shall
23 accept for filing all claims submitted by persons eligible under subsection A of this section and alleging
24 the jurisdictional requirements set forth in this chapter and meeting the requirements as to form in the
25 rules and regulations of the Commission.26 D. Upon filing of a claim pursuant to this chapter, the Commission shall promptly notify the attorney
27 for the Commonwealth of the jurisdiction wherein the crime is alleged to have occurred. If, within ten
28 days after such notification, the attorney for the Commonwealth so notified advises the Commission that
29 a criminal prosecution is pending upon the same alleged crime, the Commission shall defer all
30 proceedings under this chapter until such time as such criminal prosecution has been concluded in the
31 circuit court unless notification is received from the attorney for the Commonwealth that no objection is
32 made to a continuation of the investigation and determination of the claim. When such criminal
33 prosecution has been concluded in the circuit court the attorney for the Commonwealth shall promptly
34 so notify the Commission. Nothing in this section shall be construed to mean that the Commission is to
35 defer proceedings upon the filing of an appeal, nor shall this section be construed to limit the authority
36 of the Commission to grant emergency awards as hereinafter provided.

37 § 19.2-368.7. Review by Commission.

38 A. The claimant may, within forty-five days from the date of the report, apply in writing to the
39 Commission for review of the decision by the full Commission. The Commission may extend the time
40 for filing under this section; ~~upon~~ for good cause shown; ~~for a period not to exceed two years from the~~
41 ~~date of the occurrence.~~42 B. Upon receipt of an application pursuant to subsection A of this section, or upon its own motion,
43 the Commission shall review the record and affirm or modify the decision of the person to whom the
44 claim was assigned. The action of the Commission in affirming or modifying such decision shall be
45 final. If the Commission receives no application pursuant to subsection A of this section, or takes no
46 action upon its own motion, the decision of the person to whom the claim was assigned shall become
47 the final decision of the Commission.48 C. The Commission shall promptly notify the claimant and the Comptroller of the final decision of
49 the Commission and furnish each with a copy of the report setting forth the decision.