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**HOUSE BILL NO. 1418**

Offered January 14, 2015

Prefiled December 22, 2014

*A BILL to amend and reenact §§ 19.2-368.6 and 19.2-368.14 of the Code of Virginia, relating to the criminal injuries compensation program; confidentiality of proceedings and records.*

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 Patron—Ware
 

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-368.6 and 19.2-368.14 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-368.6. Assignment of claims; investigation; hearing; confidentiality of records; decisions.**

A. A claim, when accepted for filing, shall be properly investigated, and, if necessary, assigned by the chairman to a commissioner, deputy commissioner or other proper party for disposition. All claims arising from the death of an individual shall be considered together by the same person.

B. The person to whom such claim is assigned shall examine the papers filed in support of the claim and shall thereupon cause an investigation to be conducted into the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime, and an examination of medical and hospital reports relating to the injury upon which the claim is based. Health care providers, as defined in § 8.01-581.1, shall provide medical and hospital reports relating to the diagnosis and treatment of the injury upon which the claim is based to the Commission, upon request.

C. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for, or convicted of, any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to a lack of criminal responsibility or other legal exemption.

D. There shall be a rebuttable presumption that the claimant did not contribute to and was not responsible for the infliction of his injury.

E. The person to whom a claim is assigned may decide the claim in favor of a claimant on the basis of the papers filed in support thereof and the report of the investigation of the claim. If he is unable to decide the claim, upon the basis of the said papers and report, he shall order a hearing. At the hearing any relevant evidence, not legally privileged, shall be admissible. The hearing of any claim involving a claimant or victim who is a juvenile shall be closed. All records, papers, transcripts, opinions, and reports involving such any claim shall be confidential and shall not be disclosed by the Commission to any person other than the Commission's authorized agents or representatives and the claimant or the claimant's authorized representative, except as to the amount of the award and nonidentifying information concerning the claimant or victim.

F. For purposes of this chapter, confidentiality provided for by law applicable to a claimant's or victim's juvenile court records shall not be applicable to the extent that the Commission shall have access to those records only for the purposes set forth in this chapter.

G. After examining the papers filed in support of the claim, and the report of investigation, and after a hearing, if any, a decision shall be made either granting an award pursuant to § 19.2-368.11:1 of this chapter or denying the claim.

H. The person making a decision shall issue a written report setting forth such decision and his reasons therefor, and shall notify the claimant and furnish him a copy of such report.

**§ 19.2-368.14. Confidentiality of record and reports.**

Except as provided in § 19.2-368.6 concerning juvenile claimants or victims, the record of any proceedings under this chapter shall be a public record; provided, however, that any record or report obtained by the Commission, the confidentiality of which is protected by any other law or regulation, shall remain confidential, subject to such law or regulation.

INTRODUCED

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