

HOUSE BILL 504

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HB 862/00 - JUD

2001 Regular Session
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CF 11r0651

By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates R. Baker, Barkley, Barve, Boschert, Boutin, Bozman, Bronrott, Cadden, Cane, Clagett, Cole, Conroy, Conway, Cryor, DeCarlo, Dembrow, Dewberry, Donoghue, Doory, Dypski, Edwards, Finifter, Franchot, Frush, Giannetti, Gladden, Glassman, Goldwater, Griffith, Grosfeld, Hammen, Harrison, Hecht, Heller, Hixson, Howard, Hubbard, Hubers, Hurson, Hutchins, Kach, K. Kelly, Klima, Kopp, La Vay, Leopold, McIntosh, Mohorovic, Montague, Morhaim, Owings, Parrott, Patterson, Pendergrass, Rawlings, Riley, Rosso, Rudolph, Shank, Sher, Shriver, Sophocleus, Stern, Taylor, and Turner**

Introduced and read first time: February 2, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation - Claimants and Awards**

3 FOR the purpose of expanding the definition of crime to include certain motor vehicle
4 crimes for purposes of determining eligibility for criminal injuries compensation;
5 allowing certain family members who reside with certain persons to be eligible
6 for certain criminal injuries compensation awards; altering the circumstances
7 under which the Criminal Injuries Compensation Board may make an award for
8 a crime or delinquent act resulting in certain psychological injury; eliminating
9 certain financial hardship requirements relating to criminal injury
10 compensation; allowing the Board to make an award for repairing, replacing, or
11 cleaning property under certain circumstances; establishing a certain monetary
12 limit on the award the Board is allowed to make for repairing, replacing, or
13 cleaning property; allowing the Board to make an award for certain disability or
14 dependency claims; establishing certain limits for certain counseling for certain
15 family members; and generally relating to criminal injuries compensation.

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Procedure
18 Section 11-801, 11-808(a), 11-810, and 11-811
19 Annotated Code of Maryland
20 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

21 BY repealing and reenacting, without amendments,
22 Article - Transportation
23 Section 20-102, 20-104, 21-902, and 21-904

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2000 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Criminal Procedure**

6 11-801.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) "Board" means the Criminal Injuries Compensation Board.

9 (c) "Claimant" means the person filing a claim under this subtitle.

10 (d) (1) "Crime" means:

11 (i) except as provided in paragraph (2) of this subsection, a
12 criminal offense under state, federal, or common law that is committed in:

13 1. this State; or

14 2. another state against a resident of this State; or

15 (ii) an act of international terrorism as defined in Title 18, § 2331 of
16 the United States Code that is committed outside of the United States against a
17 resident of this State.

18 (2) "Crime" does not include an act involving the operation of a vessel or
19 motor vehicle unless the act is:

20 (i) [operating a motor vehicle in] A violation of [§ 21-902] §
21 20-102, § 20-104, § 21-902, OR § 21-904 of the Transportation Article; or

22 (ii) operating a motor vehicle or vessel that results in an intentional
23 injury.

24 (e) "Dependent" means:

25 (1) a surviving spouse or child of a person; or

26 (2) a person who is dependent on another person for principal support.

27 (f) "Victim" means a person:

28 (1) who suffers physical injury or death as a result of a crime or
29 delinquent act;

30 (2) who suffers psychological injury as a direct result of:

1 (i) a fourth degree sexual offense or a delinquent act that would be
2 a fourth degree sexual offense if committed by an adult;

3 (ii) a felony or a delinquent act that would be a felony if committed
4 by an adult; or

5 (iii) physical injury or death directly resulting from a crime or
6 delinquent act; or

7 (3) who suffers physical injury or death as a direct result of:

8 (i) trying to prevent a crime or delinquent act or an attempted
9 crime or delinquent act from occurring in the person's presence;

10 (ii) trying to apprehend an offender who had committed a crime or
11 delinquent act in the person's presence or had committed a felony or a delinquent act
12 that would be a felony if committed by an adult; or

13 (iii) helping a law enforcement officer in the performance of the
14 officer's duties or helping a member of a fire department who is being obstructed from
15 performing the member's duties.

16 11-808.

17 (a) (1) Except as provided in paragraph (2) of this subsection, the following
18 persons are eligible for awards IN THE MANNER PROVIDED under this subtitle:

19 (i) a victim;

20 (ii) a dependent of a victim who died as a direct result of:

21 1. a crime or delinquent act;

22 2. trying to prevent a crime or delinquent act or an
23 attempted crime or delinquent act from occurring in the victim's presence or trying to
24 apprehend a person who had committed a crime or delinquent act in the victim's
25 presence or had committed a felony or a delinquent act that would be considered a
26 felony if committed by an adult; or

27 3. helping a law enforcement officer perform the officer's
28 duties or helping a member of a fire department who is obstructed from performing
29 the member's duties; [and]

30 (iii) any person who paid or assumed responsibility for the funeral
31 expenses of a victim who died as a direct result of:

32 1. a crime or delinquent act;

33 2. trying to prevent a crime or delinquent act or an
34 attempted crime or delinquent act from occurring in the victim's presence or trying to

1 apprehend a person who had committed a crime or delinquent act in the victim's
2 presence or had committed a felony; or

3 3. helping a law enforcement officer perform the officer's
4 duties or helping a member of a fire department who is obstructed from performing
5 the member's duties; AND

6 (IV) FAMILY MEMBERS RESIDING WITH A VICTIM.

7 (2) A person who commits the crime or delinquent act that is the basis of
8 a claim, or an accomplice of the person, is not eligible to receive an award with respect
9 to the claim.

10 11-810.

11 (a) (1) The Board may make an award only if the Board finds that:

12 (i) a crime or delinquent act was committed;

13 (ii) [1.] the crime or delinquent act directly resulted in:

14 1. physical injury to or death of the victim; or

15 2. [a fourth degree sexual offense, a felony, or a delinquent
16 act that would be a fourth degree sexual offense or a felony if committed by an adult
17 directly resulted in] psychological injury to the victim THAT NECESSITATED MENTAL
18 HEALTH COUNSELING;

19 (iii) police, other law enforcement, or judicial records show that the
20 crime or delinquent act or the discovery of child abuse was reported to the proper
21 authorities within 48 hours after the occurrence of the crime or delinquent act or the
22 discovery of the child abuse; and

23 (iv) the victim has cooperated fully with all law enforcement units.

24 (2) For good cause, the Board may waive the requirements of paragraph
25 (1)(iii) and (iv) of this subsection.

26 (b) [(1) (i) The Board may make an award under this subtitle only if the
27 Board determines that, without the award, the claimant will suffer serious financial
28 hardship from the loss of earnings or support and medical and other expenses
29 incurred as a result of the injury or death.

30 (ii) 1. In determining whether the claimant will suffer serious
31 financial hardship, the Board shall consider all of the financial resources of the
32 claimant.

33 2.] Unless total dependency is established, family members
34 are considered to be partly dependent on a parent with whom they reside without
35 regard to actual earnings.

1 [(2) Paragraph (1) of this subsection does not apply to a claim if the victim
2 suffered physical injury or death as a direct result of trying to prevent a crime or
3 delinquent act or an attempted crime or delinquent act from occurring in the victim's
4 presence or trying to apprehend an offender who had committed a crime or delinquent
5 act in the victim's presence or had committed a felony.

6 (3) The Board may not find that a claimant fails to suffer serious
7 financial hardship because a claimant is indigent or judgment proof.]

8 (c) The Board may make an award only if the claimant, as a result of the
9 injury on which the claim is based, has:

10 (1) incurred at least \$100 in unreimbursed and unreimbursable
11 expenses or indebtedness reasonably incurred OR CLAIMED for:

12 (I) medical care[, including];

13 (II) expenses for eyeglasses and other corrective lenses[.];

14 (III) mental health counseling[.];

15 (IV) funeral expenses[.];

16 (V) REPAIRING, REPLACING, OR CLEANING PROPERTY;

17 (VI) DISABILITY OR DEPENDENT CLAIM; or

18 (VII) other necessary services; or

19 (2) lost at least 2 continuous weeks' earnings or support.

20 (d) (1) (i) Except as provided under subparagraph (ii) of this paragraph,
21 in considering a claim and in determining the amount of an award, the Board shall
22 determine whether the victim's conduct contributed to the infliction of the victim's
23 injury, and, if so, reduce the amount of the award or reject the claim.

24 (ii) The Board may disregard the responsibility of the victim for the
25 victim's own injury if that responsibility is attributable to efforts by the victim:

26 1. to prevent a crime or delinquent act or an attempted crime
27 or delinquent act from occurring in the victim's presence; or

28 2. to apprehend an offender who had committed a crime or
29 delinquent act in the victim's presence or had committed a felony or delinquent act
30 that would be a felony if committed by an adult.

31 (2) A claimant filing for injuries incurred as the occupant of a motor
32 vehicle or a dependent of an occupant of a motor vehicle operated in violation of §
33 21-902 of the Transportation Article may not receive an award unless the claimant
34 proves that the occupant did not know or could not have known of the condition of the
35 operator of the vehicle.

- 1 (3) A claimant may not receive an award if:
- 2 (i) the victim initiated, consented to, provoked, or unreasonably
3 failed to avoid a physical confrontation with the offender; or
- 4 (ii) the victim was participating in a crime or delinquent act when
5 the injury was inflicted.
- 6 (e) (1) A victim or dependent may not be denied compensation solely
7 because the victim:
- 8 (i) is a relative of the offender; or
- 9 (ii) was living with the offender as a family member or household
10 member at the time of the injury or death.
- 11 (2) If the Board can reasonably determine that the offender will not
12 receive any economic benefit or undue enrichment from the compensation, the Board
13 may award compensation to a victim or dependent who is a relative, family member,
14 or household member of the offender.
- 15 11-811.
- 16 (a) (1) (i) Except as otherwise provided in this subsection, an award
17 under this subtitle shall be made in accordance with the schedule of benefits, as it
18 existed on January 1, [1989] 2001, and degree of disability as specified in Title 9,
19 Subtitle 6 of the Labor and Employment Article and any other applicable provisions of
20 the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and
21 Employment Article.
- 22 (ii) For determining the amount of an award under this subtitle,
23 the term "average weekly wages" does not include tips, gratuities, and wages that are
24 undeclared on the claimant's State or federal income tax returns for the applicable
25 years.
- 26 (iii) If a claimant does not have "average weekly wages" to qualify
27 under the formula in Title 9, Subtitle 6 of the Labor and Employment Article, the
28 award shall be in an amount equal to the average of the maximum and minimum
29 awards listed in the applicable portion of that subtitle.
- 30 (2) An award for loss of earnings or support made under this subtitle
31 may be up to two-thirds of the victim's gross average wage, but may not be less than
32 the amount provided in paragraph (1) of this subsection.
- 33 (3) An award for funeral expenses may not exceed \$5,000.
- 34 (4) Subject to the limitation under subsection (b)(3) of this section and §
35 11-812 of this [title] SUBTITLE, a person who is eligible for an award as the result of
36 the death of a victim or psychological injury may be eligible, under the regulations

1 that the Board adopts, to receive psychiatric, psychological, or mental health
2 counseling.

3 (5) SUBJECT TO THE LIMITATION UNDER SUBSECTION (B)(6) OF THIS
4 SECTION AND § 11-812 OF THIS SUBTITLE, A FAMILY MEMBER WHO IS ELIGIBLE FOR
5 AN AWARD AS THE RESULT OF THE INJURY OF A VICTIM IS ELIGIBLE TO RECEIVE
6 PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL HEALTH COUNSELING.

7 (b) Compensation awarded under this subtitle may not exceed:

8 (1) \$25,000 for a disability-related or dependency-related claim;

9 (2) \$45,000 for a medical claim;

10 (3) \$5,000 for each claimant for psychiatric, psychological, or mental
11 health counseling UNDER SUBSECTION (A)(4) OF THIS SECTION; [or]

12 (4) a total of \$45,000, including any subsequent and supplemental
13 awards;

14 (5) \$250 FOR EACH CLAIMANT FOR REPAIR, REPLACEMENT, OR
15 CLEANING OF PROPERTY DAMAGED, SOILED, OR LITTERED AS A RESULT OF A CRIME
16 OR LAW ENFORCEMENT INVESTIGATION OF A CRIME; OR

17 (6) FOR AN AWARD FOR PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL
18 HEALTH COUNSELING MADE UNDER SUBSECTION (A)(5) OF THIS SECTION:

19 (I) \$1,000 FOR EACH CLAIMANT; AND

20 (II) \$5,000 FOR EACH INCIDENT.

21 (c) An award made under this subtitle shall be reduced by the amount of any
22 payments received or to be received as a result of the injury:

23 (1) from or on behalf of the offender;

24 (2) from any other public or private source, including an award of the
25 State Workers' Compensation Commission under the Maryland Workers'
26 Compensation Act; or

27 (3) as an emergency award under § 11-813 of this subtitle.

28 (d) If there are two or more persons entitled to an award as a result of the
29 death of a victim, the award shall be apportioned among the claimants.

30 (e) The Board may negotiate a settlement with a health care provider for the
31 medical and medically related expenses.

1

Article - Transportation

2 20-102.

3 (a) The driver of each vehicle involved in an accident that results in bodily
4 injury to or death of another person immediately shall stop the vehicle as close as
5 possible to the scene of the accident, without obstructing traffic more than necessary.

6 (b) The driver of each vehicle involved in an accident that results in bodily
7 injury to or death of another person immediately shall return to and remain at the
8 scene of the accident until the driver has complied with § 20-104 of this title.

9 20-104.

10 (a) The driver of each vehicle involved in an accident that results in bodily
11 injury to or death of any person or in damage to an attended vehicle or other attended
12 property shall render reasonable assistance to any person injured in the accident and,
13 if the person requests medical treatment or it is apparent that medical treatment is
14 necessary, arrange for the transportation of the person to a physician, surgeon, or
15 hospital for medical treatment.

16 (b) The driver of each vehicle involved in an accident that results in bodily
17 injury to or death of any person or in damage to an attended vehicle or other attended
18 property shall give his name, his address, and the registration number of the vehicle
19 he is driving and, on request, exhibit his license to drive, if it is available, to:

20 (1) Any person injured in the accident; and

21 (2) The driver, occupant of, or person attending any vehicle or other
22 property damaged in the accident.

23 (c) The driver of each vehicle involved in an accident that results in bodily
24 injury to or death of any person or in damage to an attended vehicle or other attended
25 property shall give the same information described in subsection (b) of this section
26 and, on request, exhibit his license to drive, if it is available, to any police officer who
27 is at the scene of or otherwise is investigating the accident.

28 (d) If a police officer is not present and none of the specified persons is in
29 condition to receive the information to which the person otherwise would be entitled
30 under this section, the driver, after fulfilling to the extent possible every other
31 requirement of § 20-102 of this title and subsection (a) of this section, immediately
32 shall report the accident to the nearest office of an authorized police authority and
33 give the information specified in subsection (b) of this section.

34 21-902.

35 (a) (1) A person may not drive or attempt to drive any vehicle while
36 intoxicated.

1 (2) A person may not drive or attempt to drive any vehicle while the
2 person is intoxicated per se.

3 (b) A person may not drive or attempt to drive any vehicle while under the
4 influence of alcohol.

5 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
6 far under the influence of any drug, any combination of drugs, or a combination of one
7 or more drugs and alcohol that he cannot drive a vehicle safely.

8 (2) It is not a defense to any charge of violating this subsection that the
9 person charged is or was entitled under the laws of this State to use the drug,
10 combination of drugs, or combination of one or more drugs and alcohol, unless the
11 person was unaware that the drug or combination would make him incapable of
12 safely driving a vehicle.

13 (d) A person may not drive or attempt to drive any vehicle while he is under
14 the influence of any controlled dangerous substance, as that term is defined in Article
15 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous
16 substance under the laws of this State.

17 21-904.

18 (a) In this section "visual or audible signal" includes a signal by hand, voice,
19 emergency light or siren.

20 (b) If a police officer gives a visual or audible signal to stop and the police
21 officer is in uniform, prominently displaying the police officer's badge or other
22 insignia of office, a driver of a vehicle may not attempt to elude the police officer by
23 willfully failing to stop the driver's vehicle.

24 (c) If a police officer gives a visual or audible signal to stop and the police
25 officer is in uniform, prominently displaying the police officer's badge or other
26 insignia of office, a driver may not attempt to elude the police officer by fleeing on
27 foot.

28 (d) If a police officer gives a visual or audible signal to stop and the police
29 officer is in uniform, prominently displaying the police officer's badge or other
30 insignia of office, a driver may not attempt to elude the police officer by any other
31 means.

32 (e) If a police officer gives a visual or audible signal to stop and the police
33 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
34 police vehicle, a driver of a vehicle may not attempt to elude the police officer by
35 willfully failing to stop the driver's vehicle.

36 (f) If a police officer gives a visual or audible signal to stop and the police
37 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
38 police vehicle, a driver of a vehicle may not attempt to elude the police officer by
39 fleeing on foot.

1 (g) If a police officer gives a visual or audible signal to stop and the police
2 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
3 police vehicle, a driver of a vehicle may not attempt to elude the police officer by any
4 other means.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2001.