

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 127 (Senator Brochin, *et al.*)
 Judicial Proceedings

Judiciary

**Criminal Procedure - Criminal Injuries Compensation Board - Claimant
 Confidentiality and Eligibility**

This bill prohibits the Criminal Injuries Compensation Board from allowing the inspection, use, or disclosure of a name, address, telephone number, or Social Security number provided to the board for a victim or claimant who is a victim of a sexual offense. In addition, the bill specifies that persons convicted of 16 enumerated offenses are not eligible for an award from the Criminal Injuries Compensation Fund.

Fiscal Summary

State Effect: Special fund expenditures decrease by \$1.0 million in FY 2010 and by \$1.4 million on an annualized basis. Federal fund revenues decrease by \$0.6 million in FY 2010 and by \$0.8 million on an annualized basis. Future year estimates reflect annualization and a relatively constant number of claims awarded annually.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
FF Revenue	(\$607,500)	(\$810,000)	(\$810,000)	(\$810,000)	(\$810,000)
SF Expenditure	(\$1,012,500)	(\$1,350,000)	(\$1,350,000)	(\$1,350,000)	(\$1,350,000)
Net Effect	\$405,000	\$540,000	\$540,000	\$540,000	\$540,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The State's Criminal Injuries Compensation Board in the Department of Public Safety and Correctional Services provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical injury for their medical expenses and loss of earnings. In cases of homicide, the board may assist with funeral expenses and loss of support on the part of the victim's dependents. A claimant seeking compensation from the Criminal Injuries Compensation Fund must file a claim no later than three years after the occurrence of the crime or delinquent act or the death of the victim. In a case of child abuse, a claimant may file a claim up to three years after the claimant knew or should have known of the abuse. A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award.

The board may make an award only if the board finds that: (1) a crime or delinquent act was committed; (2) the crime or delinquent act directly resulted in physical injury to or death of the victim or psychological injury to the victim that necessitated mental health counseling; (3) police, other law enforcement, or judicial records show that the crime or delinquent act or the discovery of child abuse was reported to the proper authorities within 48 hours after the occurrence of the crime or delinquent act or the discovery of the child abuse; and (4) the victim has cooperated fully with all law enforcement units.

The board may make an award only if the claimant, as a result of the injury on which the claim is based, has incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or has lost at least two continuous weeks' earnings or support. A claim awarded for lost wages may not exceed two-thirds of gross weekly salary or \$668 per week, whichever is greater.

Compensation from the fund may not exceed:

- \$25,000 for a disability-related or dependency-related claim;
- \$45,000 for a medical claim;
- \$5,000 for each claimant for psychiatric, psychological, or mental health counseling;
- a total of \$45,000, including any subsequent and supplemental awards;
- \$250 for each claimant for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime; or

- for an award for psychiatric, psychological, or mental health counseling resulting from the death of a victim: \$1,000 for each claimant; and \$5,000 for each incident.

An award must be reduced by the amount of any payment received or to be received as a result of the injury: (1) from or on behalf of the offender; (2) from any other public or private source, including an award under the Maryland Workers' Compensation Act; (3) from any proceeds of life insurance in excess of \$25,000; or (4) as an emergency award from the board.

The record of a board proceeding is a public record. However, if the confidentiality of a record or report that the board obtains is protected by other statutory or regulatory confidentiality provisions (such as a medical record), that record or report must remain confidential.

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

Background: The board reports that many persons have submitted claims only with the assurance that the board would not disclose their identity or contact information to persons not connected with the claim. For instance, domestic violence victims frequently do not want their abusers to know that they have filed for compensation, and sexual assault victims do not want their victimization to be disclosed to friends or family. The board received an opinion from the department's counsel advising that claimant contact information is public record and must be disclosed upon request.

State Fiscal Impact: Special fund expenditures decrease by \$1,012,500 in fiscal 2010 and federal fund revenues decrease by \$607,500, which accounts for the bill's October 1, 2009 effective date. On an annualized basis, special fund expenditures decrease by \$1,350,000 and federal fund revenues decrease by \$810,000. This estimate is based on the following facts and assumptions.

The Criminal Injuries Compensation Fund paid out approximately \$5.9 million in awards in fiscal 2008 for 760 claims filed. Assuming 800 claims are filed in fiscal 2009, awards for the current fiscal year will total about \$5.4 million. The proposed fiscal 2010 State budget includes \$5.4 million for awards. While the fund remains solvent, the fund balance has continued to decline in recent years, due primarily to the fund becoming more widely known, more victim advocates referring victims to the board, and the expansion in the types of allowable claims.

The U.S. Department of Justice, through the Victims of Crime Act (VOCA), reimburses states for 60% of funds expended on claims. VOCA does not allow reimbursement for property damage claims.

The board estimates that about 25% of current award recipients have had a prior felony conviction disallowing an award under the bill. Accordingly, if total annual awards from the fund are reduced by 25%, total awards may decrease by \$1,350,000 annually. Such a reduction in awards also results in an \$810,000 annual decrease in federal VOCA funds to the Criminal Injuries Compensation Fund. The net effect is an annual special fund savings of \$540,000.

The bill's prohibition against the disclosure of identifying information of a victim or claimant can be handled by the Criminal Injuries Compensation Board with existing budgeted resources.

Additional Information

Prior Introductions: The nondisclosure provisions of this bill were contained in HB 264 of 2008 and passed by the House. HB 264 was amended by the Senate to include this bill's 19 disqualifying offenses and passed by the Senate. The House and Senate were unable to reconcile these differing provisions and the bill failed.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2009
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