

Department of Legislative Services  
2011 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 51 (Senators Brochin and Stone)  
Judicial Proceedings

Judiciary

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

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This bill prohibits the Criminal Injuries Compensation Board (CICB) from allowing the inspection, use, or disclosure of the name, address, telephone number, or Social Security number of a victim or a claimant who is (1) a victim of a sexual offense; (2) a victim of stalking; or (3) a person eligible for relief under a protective order. In addition, the bill specifies that persons convicted, within the last 15 years, of certain enumerated offenses are not eligible for an award from the Criminal Injuries Compensation Fund (CICF).

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**Fiscal Summary**

**State Effect:** Potential significant decrease in special fund expenditures and related federal reimbursements. Potential operational difficulties and delays for CICB in making eligibility determinations for all compensation applications.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** CICB in the Department of Public Safety and Correctional Services (DPSCS) provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings, but only if the injury is a direct result of a criminal or delinquent offense. 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 (CICF) 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 it finds that:

- a crime or delinquent act was committed;
- 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;
- 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
- 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 (1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or (2) 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.

Chapters 69 and 70 of 2010 subject a claim filed with CICB to review under applicable provisions of the Administrative Procedure Act. If a claimant requests a hearing after the board has issued proposed findings of fact, conclusions of law, or orders, the board must hold a hearing in accordance with the Administrative Procedure Act before issuing final findings of fact, conclusions of law, or orders.

**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 a public record and must be disclosed upon request.

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.

#### *Recent Fund Activity*

CICF paid out \$7.4 million in fiscal 2010 for 950 awards. In that year, a total of 1,644 claims were filed, of which 1,559 initially met the statutory minimum requirements. An additional \$765,200 was spent on administrative costs. The board estimates that a total of \$7.0 million will be awarded for 900 claims in fiscal 2011. The proposed State budget estimates payments of \$7.3 million for 900 awards in fiscal 2012.

#### *Recent Fund Balance Concerns*

CICF special fund revenues are used to support crime victim compensation as well as CICB operating expenses. As a result of operational improvements enacted between fiscal 2002 and 2004, including a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased both the number of awards made to crime victims and the amount of State funding used to support this purpose. CICB used the previously available fund balance to help support this growth. As a result, special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. From fiscal 2009 through 2010, the CICF fund balance had been exhausted.

Chapter 482 of 2010 (the Budget Bill) provided \$570,600 in deficiency funds in fiscal 2009 from the federal American Recovery and Reinvestment Act. To address its

fiscal situation, CICB was required to report to the legislative budget committees by October 15, 2010, on among several requirements, proposed solutions for addressing the fiscal concerns regarding the amount of funding available for making awards to victims of crime, including potential legislation. Failure to comply with the reporting requirement risked the loss of \$6.7 million in State and federal appropriations to the CICF for fiscal 2011. In that report, CICB recommended legislation increasing fee amounts collected by the courts, as well as to “more fully exercise its subrogation rights and utilize the resources available to collect on revenue owed to CICB.” These collections involve both restitution amounts ordered by the courts and civil judgments. To that end, CICB has added two additional full-time positions to the revenue recovery team.

**State Fiscal Impact:** By making persons previously convicted, within the last 15 years, of any of the 14 enumerated offenses ineligible for award payments, special fund expenditures may decrease by a significant amount. However, CICB is not able to quantify such an effect. For a similar bill in 2010, CICB estimated that annual special fund expenditures would decrease by \$1.5 million on an annualized basis and that federal fund reimbursements decrease by \$877,500. This estimate assumed that 25% of current award recipients have had a prior felony conviction disallowing an award under the bill. However, this estimate cannot be reliably verified at this time.

In addition, due to the operational difficulties involved in adding a new step to eligibility determinations, CICB indicates that the bill will result in the need to hire two additional investigators, at an annualized cost of over \$100,000. Legislative Services advises that, because the Criminal Justice Information System Central Repository is also a unit within DPSCS, Maryland criminal history background checks for the covered offenses can be accommodated in an expeditious fashion for CICB eligibility determinations within the department. Therefore, the need for the two additional positions is not warranted based on this bill.

The bill’s prohibition against the disclosure of identifying information of a victim or claimant can be handled by the board with existing budgeted resources.

**Additional Information:** CICB currently has six claims examiners, which represents a shortfall of two examiner positions. The average processing time per claim filed is 146 days, which is 56 days beyond the statutory limit of 90 days. Each current claims examiner holds an average claims caseload of 250 claims. The recommended claims caseload is 150 claims per examiner.

## **Additional Information**

**Prior Introductions:** SB 219 and HB 543 of 2010 received unfavorable reports from the Senate Judicial Proceedings Committee and House Judiciary Committee, respectively. SB 127 of 2009 passed the Senate, but received an unfavorable report from the House Judiciary Committee; HB 261 of 2009 was withdrawn. In 2008, the Senate and House versions of HB 264 were not reconciled.

**Cross File:** None.

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

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