

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Public Safety and Correctional Services
(DLS Control No. 16-003)**

Overview and Legal and Fiscal Impact

These regulations (1) alter the definition of “claimant”, for purposes of certain regulations concerning the Criminal Injuries Compensation Board, to include certain victim representatives; (2) amend the composition of the board to reflect current law; (3) alter the dates by which a claimant may file a claim with the board to reflect current law; and (4) conform the board’s practices concerning records to reflect the Public Information Act. Furthermore, the regulations make additional changes to reflect current law and make style and formatting changes.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Public Safety and Correctional Services:

Criminal Injuries Compensation Board: General Regulations: COMAR 12.01.01.02 - .1

Legal Analysis

Background

The 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 or psychological 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.

The board published similar regulations in the April 4, 2014 issue of the *Maryland Register*; however, as the board failed to adopt the regulations within one year after that publication, those regulations were withdrawn by operation of law on April 5, 2015, in accordance with § 10-116 of the State Government Article. An analysis of that earlier proposal may be found [here](#).

Summary of Regulations

The regulations alter the definition of “claimant” to include a guardian of a minor or an attorney acting in the capacity as a fiduciary, guardian, guardian at litem, and personal representative of a decedent and make conforming changes. This revision stems, in part, from Chapter 207 of 2014.

In accordance with § 11-804(b)(2)(i) of the Criminal Procedure Article, as amended by Chapter 177 of 2014, the regulations require that one member of the board be a family member of a homicide victim.

The regulations also alter the date by which a claimant must file a claim with the board. Generally, the regulations permit a claimant three years to file an application from the date of the incident. In a case of child abuse, a claimant may file a claim with the board to the date the child who was the subject of abuse reaches the age of 25 or, if the board determines that there was good cause for failure to file a claim by that date, at any time. As proposed, the regulations conform to § 11-809(a) of the Criminal Procedure Article and reflect changes made by Chapter 69 of 2006 and Chapter 200 of 2014.

Furthermore, the regulations make additional changes to reflect current law and make style and formatting changes. These changes include conforming the board’s practices concerning records to conform to the Public Information Act.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The board cites § 11-805 of the Criminal Procedure Article as statutory authority for the regulations. Section 11-805 specifies the powers and duties of the board, including the power to adopt regulations to carry out the provisions and purposes of the Criminal Injuries Compensation Board subtitle. The board may also wish to cite §§ 11-804 and 11-809 of the Criminal Procedure Article for additional clarity. Section 11-804, in part, governs the composition of the board. Section 11-809 governs the filing of claims, generally.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the board agrees to make the following changes to the regulations:

- removing “facsimile, electronic mail, or, if available, the Department’s website” from Regulation .04A(2)(a) as a means for a claimant to file a claim with the board, which do

not conform to the requirements placed on a claimant by § 11-809(b)(1) of the Criminal Procedure Article, and removing the corresponding Statement of Purpose clause concerning alternate procedures for processing certain claims;

- removing “within a maximum three years that begins with the date the abuse became known to or should have been known by the claimant” from Regulation .04A(b) to reflect § 11-809(a)(2) of the Criminal Procedure Article as amended by Chapter 200 of 2014; and
- editing the cross-reference contained in Regulation .12A to reflect the transfer of the Public Information Act from the State Government Article to the General Provisions Article.

This analysis reflects these changes.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations, among other things, (1) alter the definition of “claimant”, for purposes of certain regulations concerning the Criminal Injuries Compensation Board, to include certain victim representatives to, in part, reflect changes made by Chapter 207 of 2014 (Senate Bill 940); (2) amend the composition of the board to reflect changes made by Chapter 177 of 2014 (Senate Bill 512); (3) alter the dates by which a claimant may file a claim with the board to reflect changes made by Chapter 69 of 2006 (Senate Bill 115) and Chapter 200 of 2014 (Senate Bill 830); and (4) conform the board’s practices concerning records to reflect the Public Information Act. The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs; any fiscal impact has already been accounted for in the fiscal and policy notes for the relevant legislation. None of the fiscal and policy notes for those bills indicated any material impact on State or local finances.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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