

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 471

(The President, *et al.*) (By Request - Administration)

Judicial Proceedings

Rules and Executive Nominations

Criminal Procedure - Victim Compensation - Alterations (Victim Compensation Reform Act of 2024)

This Administration bill makes numerous changes to statutory provisions regarding victim compensation awarded through the Criminal Injuries Compensation Board (CICB). The bill (1) alters the membership and composition of CICB; (2) alters the duties, powers, and procedures for CICB to make awards to victims of crime; (3) alters the statement of legislative policy regarding CICB; (4) expands the eligibility for, amount of, and types of awards CICB is authorized to make to specified victims of crime; and (5) authorizes reconsideration and judicial review of CICB decisions. It also authorizes the Governor, for fiscal 2026 and each year thereafter, to include in the annual budget bill an appropriation to the Criminal Injuries Compensation Fund (CICF) that is adequate to ensure a balance in the fund. **The provision authorizing an appropriation to CICF takes effect July 1, 2024; remaining provisions relating to CICB take effect July 1, 2025.**

Fiscal Summary

State Effect: No effect in FY 2025. General fund expenditures increase *significantly* beginning in FY 2026 (including by approximately \$1.0 million annually exclusively for administrative costs) to reflect the expanded duties of CICB and expanded eligibility for grant awards; special fund revenues and expenditures are assumed to increase correspondingly. Federal fund revenues increase beginning in FY 2028 from federal matching grant funding; federal fund expenditures likely increase as early as FY 2028 to reflect additional federal fund spending.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Criminal Injuries Compensation Board

Membership: The membership of CICB must reflect the racial, ethnic, geographic, and gender diversity of the State and is expanded to include seven, instead of five, members. Of the seven members, at least one must be a survivor of violence who is a member of a community that experiences disproportionately high rates of violence and incarceration and at least one must be a representative of an organization that provides assistance to victims applying for victim compensation. The bill repeals provisions that (1) prohibit more than four CICB members being from the same political party and (2) require at least one member to be an attorney, as specified. A member may not serve more than two consecutive terms.

Powers and Duties: The bill specifically alters the powers and duties for CICB, including by:

- authorizing CICB to request from a “qualified third party” specified information to help CICB determine whether a crime or a delinquent act was committed or attempted;
- repealing the authority for CICB to request from the State’s Attorney, the Department of State Police, or county or municipal police departments any investigation and information that will help the board determine whether and to what extent the victim or claimant was responsible for the victim’s or claimant’s own injury;
- authorizing CICB to delegate to employees of the board authority to hear claims and make initial determinations regarding each claim, as well as any other powers necessary for the office within the board to make initial determinations; and
- authorizing (instead of requiring) the board to submit an annual report of the activities of the board to the Governor, the Executive Director of the Governor’s Office of Crime Prevention and Policy (GOCPP), and the General Assembly and specifying information to be included in the report.

The bill prohibits (1) a claim by a person other than the victim from including narrative describing the victim or a photograph of the victim and (2) the board from disclosing the identity of, or information that clearly identifies, a victim of sexual assault, child abuse, stalking, or elder abuse. If the confidentiality of a record or report that the board obtains is protected by law or regulation, the record or report must remain confidential, subject to the law or regulation.

Board Decisions on Claims: Within 30 days after the receipt of a claim, the board must (1) notify the claimant *by email, phone, or other manner to provide immediate notice* if additional material is required and (2) document the date and time that the notice is issued. Within 30 days (instead of 90 days) after the receipt of a claim and all necessary supporting material, the board *or its employees* must complete the review and evaluation of the claim and file with the Executive Director of GOCPP a written report setting forth the decision and the reasons in support of the decision.

Within 30 days after the receipt of a written report, the claimant may petition the board for reconsideration of a decision made by the board or an employee of the board. Within 30 days after the receipt of a petition for reconsideration, the board must issue a decision; the board must file with the Executive Director a written report setting forth the decision and the reasons in support of the decision.

A claimant may appeal the decision of the board on a petition for reconsideration by filing a petition for judicial review in accordance with Title 7 of the Maryland Rules. The claimant must be given a copy of *any* report (not only the final report by request) issued by the board or an employee of the board.

Provisions Expanding the Eligibility, Volume, and Amounts of Awards

Definitions: The bill alters several terms that generally result in expanded eligibility for CICB awards to additional individuals. Specifically:

- “crime” is expanded to include acts involving the operation of a vessel or motor vehicle when the act is a violation of § 21-706 (overtaking and passing a school vehicle), § 21-901.3 (causing serious injury or death), or § 21-1124.3 (texting or handheld phone use that causes an accident resulting in death or serious bodily injury) of the Transportation Article;
- “dependent” is expanded to include a domestic partner;
- “qualified third party” is defined as a licensed physician or psychologist authorized to practice under the Health Occupations Article, a social worker or caseworker of any public or private health or social services agency or provider, or an advocate or victim service provider from a domestic violence or sexual assault prevention or assistance program; and
- “victim” is expanded to include a person who suffers psychological injury as a result of any crime or delinquent act (instead of only a person who suffers such an injury as a direct result of the specific crimes of (1) a fourth-degree sexual offense or a delinquent act that would be a fourth-degree sexual offense if committed by an adult; (2) a felony or a delinquent act that would be a felony if committed by an

adult; or (3) physical injury or death directly resulting from a crime or delinquent act).

Eligibility for an Award: Persons eligible for awards are expanded to include (1) the domestic partner, dependent minor, or adult under legal guardianship of a victim who resides with the victim and (2) the domestic partner, dependent minor, or adult under legal guardianship of an individual who is incarcerated for abuse, as defined in § 4-501 of the Family Law Article, and who, prior to incarceration, resided with the domestic partner, dependent minor, or adult under legal guardianship and provided financial support. If a victim dies as a direct result of helping an agency that provides emergency medical services, eligibility is also extended to a dependent of the victim or any person who paid or assumed responsibility for funeral expenses.

Filing of Claim: The timeframe for filing a claim is increased from three years to four years after the later of:

- the discovery of the occurrence of the crime or delinquent act or the death of the victim; or
- the earlier of (1) the date the claimant discovered an attempt to obtain a reversal of a conviction, a sentence, or an adjudication for the crime or delinquent act or (2) the date the claimant, exercising ordinary diligence, should have discovered an attempt to obtain a reversal of a conviction, a sentence, or an adjudication for the crime or delinquent act.

In a case where the filing of a claim was delayed as the result of a delay in the testing of DNA or a delay in DNA profile matching from a sexual assault forensic examination kit or biological material relating to a sexual offense, the time period for filing a claim is set to within four years after notification of the results of the testing or DNA profile matching.

In addition, the bill expands the authorization for a claimant to file a claim at any time if the board determines that there was a good cause for failure to file a claim within the time limits provided in statute.

Conditions for Awards on Claims: The bill repeals the requirement that, in order to make an award, the board must find that 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/discovery and that the victim has cooperated fully with all law enforcement units.

The bill specifies information that CICB must accept as evidence, including any evidence that the board considers probative. Unless total dependency is established, under the bill, household members and minors living with a legal guardian are considered to be partly

dependent on a parent or a legal guardian with whom they reside without regard to actual earnings.

The bill expands the circumstances under which CICB may make an award to a claimant as a result of the injury on which the claim is based, including if costs have been incurred, as specified, for certain relocation, child care, and transportation expenses. In addition, the bill repeals (1) the requirement for CICB to make a determination regarding whether the victim's conduct contributed to the infliction of the victim's injury, and, if so, to reduce the amount of the award or reject the claim and (2) the prohibition on a claimant receiving an award if the victim initiated, consented to, provoked, or unreasonably failed to avoid a physical confrontation with the offender, or the victim was participating in a crime or delinquent act when the injury was inflicted.

A victim or dependent may not be denied compensation because the victim is a relative of the offender or was living with the offender as a family member or household member at the time of the injury or death. (Under current law, a victim/dependent may not be denied compensation *solely* because of these circumstances.)

Amount of Award: The bill increases the maximum limits on awards as follows:

- for funeral expenses, from \$7,500 to \$10,000;
- for psychiatric, psychological, or mental health counseling, under specified circumstances, from \$10,000 to \$45,000; and
- for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime, as specified, from \$250 to \$2,000.

Emergency Awards: The maximum amount of an emergency award is increased from \$5,000 to \$10,000. In addition, the bill:

- repeals the requirement for a claimant to repay CICB the excess of the amount of the emergency award over any final award (or if a final award is not made, all of the emergency award);
- *requires* CICB to make emergency awards for funeral expenses, crime scene clean-up, and emergency relocation, unless it finds by clear and convincing evidence that the application is without merit; and
- requires CICB to make a form for victims to apply for emergency awards available publicly on its website.

Miscellaneous Provisions

False Claims: The penalty for a person who is found guilty of asserting a false claim, under CICB provisions, is altered to only include a maximum fine of \$500 and not imprisonment up to one year.

Legislative Policy: Finally, the statement of legislative policy is altered to more closely conform to CICB operations under the bill and to specify that the need for government assistance for crime victims and their loved ones includes financial assistance to address the many significant emotional, practical, and financial hurdles that result from crime victimization, including lost work, unexpected funeral expenses, and health needs.

Current Law:

Criminal Injuries Compensation Board

CICB in the Victim Services Unit of GOCPP administers a compensation program for victims of crime, persons who have made efforts to prevent crime, and their dependent survivors. After review and evaluation of claims filed, the board awards compensation for medical expenses, funeral or death-related expenses, property damage, disability or dependency claims, other necessary services, and lost wages under certain circumstances. In general, a claim must be filed with CICB within three years after the occurrence of the crime or delinquent act or the death of the victim. However, in the case of child abuse, a claim may be filed up until 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. Also, in a case of sexual assault, a claimant is authorized to file a claim at any time if the board determines that there was good cause for failure to file a claim within the otherwise required time limits.

Compensation awarded by CICB may not exceed:

- \$25,000 for a disability-related or dependency-related claim; however, if the injury to the victim results in permanent total disability, an additional \$25,000 may be awarded after a disability-related claim has been awarded to the victim;
- \$45,000 for a medical claim;
- \$10,000 for each claimant for psychiatric, psychological, or mental health counseling, as specified;
- except for a specified disability-related or dependency-related claim, 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;

- for an award for psychiatric, psychological, or mental health counseling: (1) \$10,000 for each claimant and (2) \$20,000 for each incident; or
- \$2,000 for lost average weekly wage claims, as specified.

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

Criminal Injuries Compensation Fund

CICF is a special, nonlapsing fund that receives funding from several sources, including investment earnings and federal matching funds received by the State for criminal injuries compensation. A small portion of the funding is from restitution paid by a defendant to the fund for reimbursement of money already paid by the fund to a victim. However, CICF's principal source of money has traditionally been from costs imposed in criminal and traffic cases in the circuit courts and District Court. Victim compensation is also awarded from federal matching funds made available from the federal Crime Victims Fund. CICF may be used for administrative costs incurred in carrying out the State's victim compensation program.

Background: In its fiscal 2023 annual [report](#), CICB advised there is a dire need for additional resources to ensure that all crime victims are effectively and efficiently served. Traditionally, victim compensation has been provided through offender-based revenues from fees imposed in State court cases and federal matching funding made available through the federal Crime Victims Fund (which is also composed of fees levied on offenders in the (federal) criminal justice system). However, the number of criminal and traffic cases for which costs are imposed has declined significantly over the past decade, generally resulting in a corresponding decrease in CICF revenues. For example, according to the Judiciary, annual CICF revenues in fiscal 2020 through 2023 ranged from \$1.5 million to \$1.9 million. In contrast, annual CICF revenues in fiscal 2012 through 2015 exceeded \$3.1 million. In fiscal 2023, CICB received 1,062 applications for new claims, processed 905 claims, and paid \$1.6 million for 322 unique claims (the majority of denied claims are considered technical denials, with most being denied due to incomplete information).

State Expenditures: General fund expenditures increase significantly beginning in fiscal 2026 to provide additional funding to CICF to support the expanded operations of CICB and eligibility for compensation effective July 1, 2025, as discussed below. Special fund revenues and expenditures are assumed to increase correspondingly as the funding is

used for authorized purposes. Federal fund revenues increase beginning in fiscal 2028 to the extent that the additional compensation expected to be awarded under the bill is eligible for federal matching funds; federal fund expenditures likely increase as early as fiscal 2028 to reflect additional federal spending through CICF.

Claims Activity

The bill's changes are anticipated to significantly increase the volume of claims CICB receives, in part due to the expansion of eligible crimes and types of expenses and the removal of certain disqualifiers that result in substantive denials under current statute. Without experience under the bill, the full scope of the bill's impact on claim activity – and the associated fiscal impact – cannot be reliably estimated.

However, some available data on recent claims activity is informative. GOCPP advises that CICB processed 905 claims during fiscal 2023. According to its annual report, the claims resulted in 358 awards totaling approximately \$1.6 million, an average of \$4,576 per award (an approved claim may include awards for multiple service types). According to GOCPP, approximately 124 of the denied claims in fiscal 2023 would likely have been eligible for awards under the bill (10 applications not filed within time limit, 65 applications denied for contributory misconduct, 7 denied for failure to cooperate, and 42 denied for ineligible crimes). *For illustrative purposes only*, based on the current *average* payment per award from CICB, if all 124 previously denied claims resulted in awards, CICF expenditures increase by approximately \$567,424 annually. Because the average amounts of awards across all service categories in fiscal 2023 (*e.g.*, funeral expenses, medical costs, etc.) appear to be lower than those currently authorized by statute, the example does *not* account for the higher maximum thresholds established in the bill.

Further, DLS notes that the information above neither factors in the impact of additional eligible crimes, claimants, and expenses, nor the impact on the requirement for CICB to make emergency awards, including for relocation expenses. Although a precise estimate cannot be reliably made beforehand, these factors are expected to *significantly* increase annual CICB expenditures.

Administrative Expenditures

Due to the expanded scope of CICB under the bill, GOCPP advises of the need for additional staff and resources. It specifically notes that due to the removal of certain barriers to applying for compensation, a closer review of applications is critical. Thus, GOCPP's administrative expenditures increase by \$975,585 beginning in fiscal 2026, which accounts for the bill's July 1, 2025 effective date for the bill's numerous expansions that affect CICB duties. This estimate reflects the cost of hiring five administrative specialists, five administrative officers, and one lead fiscal accounts clerk to assist and

serve the increased number of victims eligible for awards, to manage and oversee the additional types of services covered, and to manage the finances of the expanded program. It includes salaries, fringe benefits, one-time start-up costs, board member expenses, and ongoing operating expenses.

Positions	11.0
Salaries and Fringe Benefits	\$810,129
Board Member Expenses	50,000
Other Operating Expenses	<u>115,456</u>
Total FY 2026 GOCPP Administrative Expenditures	\$975,585

Future year expenditures reflect annual salary increases and employee turnover, ongoing board member expenses, and annual increases in ongoing operating expenses. DLS notes that GOCPP indicated in its fiscal 2023 annual report that additional staffing resources are already needed based on *existing* CICB activity. However, the fiscal 2025 budget as passed by the General Assembly does not include new positions, and DLS acknowledges that, without an additional funding source, administrative costs cannot be meaningfully increased without diverting funding that is available for crime victim compensation. Accordingly, while the need for all the additional staff as accounted for above cannot be attributed *solely* to the bill, DLS agrees that significant personnel resources are required to implement the bill’s provisions.

General Fund Appropriation to the Criminal Injuries Compensation Fund

Beginning in fiscal 2026, the Governor may include in the annual budget bill an appropriation adequate to ensure a balance in CICF. The fiscal 2025 budget as passed by the General Assembly authorizes CICB expenditures of \$3.1 million in special funds and \$3.3 million in federal funds; the fiscal 2025 budget also includes a \$1.1 million fiscal 2024 deficiency appropriation (general funds) to address revenue shortfalls in CICF. According to GOCPP, as of March 2024, it had received \$464,000 in revenues from the Judiciary but processed claims valued in excess of \$800,000. Because existing funding streams are not adequate to support expanded CICB operations and eligibility, significant general funds are assumed to be required once the bill’s substantive provisions take effect July 1, 2025. The amount of funding needed each year to ensure a fund balance depends on a multitude of factors that cannot be reliably projected at this time, including how the expanded eligibility for claims under the bill (and the volume and type of claims received each year) will impact overall amounts awarded. Although a comprehensive estimate is not possible without experience under the bill, as noted above, the impact *exclusively* based on estimated increased administrative expenses is anticipated to be almost \$1.0 million annually. DLS also advises that if significant additional funding is not made available for awards, the average award size will need to be decreased – likely significantly – contrary to the higher award amounts authorized in the bill.

As previously noted, the State also receives federal funding to support the operations of CICB. According to GOCPP, the State must spend the federal funding within three years of its receipt and federal funds may only be used once other funding has been exhausted. The compensation allocation is currently calculated at 75% of the amount of compensation awarded by CICB/CICF during the preceding fiscal year. Accordingly, federal fund revenues increase beginning in fiscal 2028 to the extent that the additional compensation awards expected under the bill are eligible for federal matching funds. The exclusive reliance on general funds to support the bill is mitigated somewhat over time as the State receives and spends additional federal funds; however, an estimate on this impact is not feasible at this time.

Judiciary

The Judiciary can handle any judicial review necessary as a result of the bill with existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 861 and SB 788 of 2023.

Designated Cross File: HB 575 (The Speaker, *et al.*) (By Request - Administration) - Judiciary.

Information Source(s): Governor's Office of Crime Prevention and Policy; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Criminal Procedure - Victim Compensation - Alterations
(Victim Compensation Reform Act of 2024)**

BILL NUMBER: SB 471

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS