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By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates R. Baker, Barkley, Bartlett, Boschert, Boutin, Bozman, Bronrott, Burns, Clagett, Cole, Cryor, DeCarlo, Dembrow, Dewberry, Doory, Dypski, Eckardt, Edwards, Elliott, Finifter, Franchot, Fulton, Giannetti, Glassman, Hammen, Harrison, Healey, Heller, Hixson, Hubbard, Hutchins, A. Jones, V. Jones, K. Kelly, Kirk, Klima, Krysiak, La Vay, Leopold, Mandel, Marriott, McHale, McIntosh, McKee, Menes, Mohorovic, Montague, Morhaim, O'Donnell, Owings, Paige, Parrott, Petzold, Pitkin, Proctor, Rawlings, Riley, Rosso, Rudolph, Shank, Sophocleus, Stern, Stocksdale, Turner, and Valderrama**

Introduced and read first time: February 11, 2000

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation - Counseling for Family Members - Motor**  
3 **Vehicle Crimes**

4 FOR the purpose of allowing certain family members who reside with certain persons  
5 to be eligible for certain criminal injuries compensation awards; establishing  
6 certain limits for certain counseling for certain family members; allowing an  
7 award to repair, replace, or clean certain property under certain circumstances;  
8 expanding the definition of crime to include certain motor vehicle crimes for  
9 purposes of determining eligibility for criminal injuries compensation; altering  
10 and expanding a certain definition; making technical and clarifying changes;  
11 and generally relating to criminal injuries compensation.

12 BY repealing and reenacting, with amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 815, 819(a), 821, and 825  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article - Transportation  
19 Section 20-102, 20-104, and 21-904  
20 Annotated Code of Maryland  
21 (1999 Replacement Volume and 1999 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 815.

5 (a) In this subheading the following words have the meanings indicated.

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

7 (c) "Claimant" means the person filing a claim pursuant to this article.

8 (d) (1) Except as provided in paragraph (2) of this subsection, "crime"  
9 means:

10 (i) An act committed by any person in this State which is a  
11 criminal offense under State, federal, or common law;

12 (ii) An act committed in another state against a resident of this  
13 State which is a criminal offense under State, federal, or common law;

14 (iii) Committed outside of the United States against a resident of  
15 this State which is an act of international terrorism as defined in Title 18, § 2331 of  
16 the United States Code;

17 (iv) Operating a motor vehicle in violation of [§ 21-902] §§ 20-102,  
18 20-104, 21-902, AND 21-904 of the Transportation Article;

19 (v) Operating a motor vehicle or vessel which results in injury  
20 which was intentionally inflicted; or

21 (vi) A delinquent act.

22 (2) Except as provided in paragraph (1) (iv) and (v) of this subsection,  
23 "crime" does not include an act involving the operation of a vessel or motor vehicle.

24 (e) "Family" when used with reference to a person, means:

25 (1) Any person related to such person within the third degree of  
26 consanguinity or affinity;

27 (2) Any person maintaining a sexual relationship with such person; or

28 (3) Any person residing in the same household with such person.

29 (f) "Victim" means a person who suffers:

30 (1) Physical injury or death as a result of a crime; or

31 (2) Psychological injury as a direct result of:

- 1 (i) A fourth degree sexual offense;
- 2 (ii) A felony; or
- 3 (iii) Physical injury or death directly resulting from a crime.

4 (g) "Secretary" means the Secretary of Public Safety and Correctional Services  
5 or the Secretary's designee.

6 819.

7 (a) Except as provided in subsection (b) of this section, the following persons  
8 shall be eligible for awards IN THE MANNER PROVIDED under this subheading:

- 9 (1) A victim of a crime;
- 10 (2) A surviving spouse or child of a victim of a crime who died as a direct  
11 result of a crime;
- 12 (3) Any other person dependent for principal support upon a victim of a  
13 crime who died as a direct result of such crime;
- 14 (4) Any person who is injured or killed while trying to prevent a crime or  
15 an attempted crime from occurring in the person's presence or trying to apprehend a  
16 person who had committed a crime in the person's presence or had, in fact, committed  
17 a felony;
- 18 (5) A surviving spouse or child of any person who dies as a direct result  
19 of trying to prevent a crime or an attempted crime from occurring in the person's  
20 presence or trying to apprehend a person who had committed a crime in the person's  
21 presence or had, in fact, committed a felony;
- 22 (6) Any other person dependent for principal support upon any person  
23 who dies as a direct result of trying to prevent a crime or an attempted crime from  
24 occurring in the person's presence or trying to apprehend a person who had  
25 committed a crime in the person's presence or had, in fact, committed a felony;
- 26 (7) Any person who is injured or killed while giving aid and assistance to  
27 a law enforcement officer in the performance of the officer's lawful duties or to a  
28 member of a fire department who is being obstructed from performing the officer's  
29 lawful duties; [and]
- 30 (8) Any person who paid or assumed responsibility for the funeral  
31 expenses of a victim who died as a result of a crime or an eligible person who is killed  
32 as a direct result under paragraphs (4) and (7) of this subsection; AND
- 33 (9) FAMILY MEMBERS.

34 821.

35 (A) An award may not be made on a claim unless the claimant has [incurred]:

1 (1) INCURRED a minimum out-of-pocket loss of one hundred dollars [or  
2 has lost]; OR

3 (2) LOST at least two continuous weeks' earnings or support.

4 (B) Out-of-pocket loss means unreimbursed and unreimbursable expenses or  
5 indebtedness reasonably incurred OR CLAIMED for:

6 (1) [medical] MEDICAL care;

7 (2) [, including expenses] EXPENSES for eyeglasses and other corrective  
8 lenses;

9 (3) [, mental] MENTAL health counseling;

10 (4) [, funeral] FUNERAL expenses;

11 (5) REPAIRING, REPLACING, OR CLEANING PROPERTY;

12 (6) DISABILITY OR DEPENDENCY CLAIMS; OR

13 (7) [, or other] OTHER services necessary as a result of the injury OR  
14 DEATH upon which the claim is based.

15 825.

16 (a) (1) An award may not be made unless the Board members find that:

17 (i) A crime was committed;

18 (ii) The crime directly resulted in physical injury to, or death of the  
19 victim, or [in the case of sexual assault or child abuse,] AN ELIGIBLE CLAIMANT HAD  
20 psychological or emotional injury THAT NECESSITATED MENTAL HEALTH  
21 COUNSELING;

22 (iii) Police, other law enforcement, or judicial records show that the  
23 crime or the discovery of child abuse was reported to the proper authorities within 48  
24 hours after the occurrence of the crime; and

25 (iv) The victim has fully cooperated with all law enforcement  
26 agencies.

27 (2) The Board may waive the requirements of paragraph (1)(iii) and (iv)  
28 of this subsection for good cause shown.

29 (3) (i) An award may not be made unless funds are appropriated and  
30 available for the full amount of the award.

31 (ii) If a multiyear award is made, the total amount of the award  
32 shall be obligated and held for any period of time as is necessary to complete payment  
33 in accordance with the provisions of the award.

1 (iii) If payment of the award is terminated for any reason  
2 subsequent to June 30 of the fiscal year in which the award was made, the remainder  
3 of the award shall revert to the Criminal Injuries Compensation Fund established  
4 under § 831 of this subheading.

5 (iv) Any compensation awarded under the provisions of this Act  
6 shall not exceed \$25,000 for any disability-related or dependency-related claim and  
7 \$45,000 for any medical claim. The maximum amount awarded under all of the  
8 provisions of this Act shall not exceed \$45,000, including any subsequent and  
9 supplemental awards.

10 (4) (I) [Any] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
11 PARAGRAPH, ANY compensation awarded under the provisions of this subheading for  
12 the purposes of psychiatric, psychological, or mental health counseling may not  
13 exceed \$5,000 for each claimant.

14 (II) IF A VICTIM DID NOT DIE AS A RESULT OF A CRIME OR AN  
15 ELIGIBLE PERSON DESCRIBED IN § 819(A)(4) OR (7) OF THIS SUBHEADING WAS  
16 INJURED BUT NOT KILLED, FAMILY MEMBERS RESIDING WITH THE VICTIM OR  
17 ELIGIBLE PERSON ARE ELIGIBLE FOR COMPENSATION NOT EXCEEDING THE LESSER  
18 OF THE FOLLOWING AMOUNTS FOR PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL  
19 HEALTH COUNSELING:

20 1. \$1,000 FOR EACH CLAIMANT; AND

21 2. \$5,000 FOR EACH INCIDENT.

22 (5) THE BOARD MAY AWARD NOT MORE THAN \$250 TO A CLAIMANT TO  
23 REPAIR, REPLACE, OR CLEAN PROPERTY DAMAGED, SOILED, OR LITTERED AS A  
24 RESULT OF THE CRIME OR LAW ENFORCEMENT INVESTIGATION OF THE CRIME.

25 [(5)] (6) The Board may negotiate a settlement with a health care  
26 provider for the medical and medically related expenses of a claimant.

27 (b) (1) Except as provided in paragraph (2) of this subsection, any award  
28 made under this subheading shall be made in accordance with the schedule of  
29 benefits, as it existed on January 1, 1989, and degree of disability, as specified in Title  
30 9, Subtitle 6 of the Labor and Employment Article and any other applicable provisions  
31 of the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and  
32 Employment Article. However, the term "average weekly wages", as applied to  
33 determine the award in accordance with Title 9, Subtitle 6 of the Labor and  
34 Employment Article, does not include tips, gratuities and wages that are undeclared  
35 on the claimant's State or federal income tax returns in the applicable years. If a  
36 claimant does not have "average weekly wages" so as to qualify under the formula in  
37 Title 9, Subtitle 6 of the Labor and Employment Article, the award shall be in an  
38 amount equal to the arithmetic average between the maximum and minimum awards  
39 listed in the applicable portion of that subtitle.

1           (2)   (i)   Awards for disability or dependency made pursuant to this  
2 article may be up to two-thirds of the victim's gross average wage, but may not be less  
3 than the amount provided in paragraph (1) of this subsection.

4           (ii)   An award for funeral expenses may be in an amount not to  
5 exceed \$5,000.

6           (3)   Any person who is entitled to an award due to the death of a victim as  
7 the direct result of a crime or who has psychological injury may be eligible, under the  
8 rules established by the Board, to receive psychiatric, psychological, or mental health  
9 counseling, within the specific limitations of [subsection (a)(3)] SUBSECTION (A)(4) of  
10 this section.

11       (c)   If there are two or more persons entitled to an award as a result of the  
12 death of a person which is the direct result of a crime, the award shall be apportioned  
13 among the claimants.

14       (d)   Any award made under this subheading shall be reduced by the amount of  
15 any payments received or to be received as a result of the injury:

16           (1)   From or on behalf of the person who committed the crime;

17           (2)   From any other public or private source, including an award of the  
18 State Workers' Compensation Commission under the Maryland Workers'  
19 Compensation Act; or

20           (3)   As an emergency award under § 824 of this subheading.

21       (e)   (1)   (i)   Except as provided under subparagraph (ii) of this paragraph,  
22 in determining the amount of an award, the Board members shall determine whether,  
23 because of the victim's conduct, the victim of the crime contributed to the infliction of  
24 the victim's injury, and the Board members shall reduce the amount of the award or  
25 reject the claim altogether, in accordance with this determination.

26           (ii)   The Board members may disregard for this purpose the  
27 responsibility of the victim for the victim's own injury where the record shows that  
28 this responsibility was attributable to efforts by the victim to prevent a crime or an  
29 attempted crime from occurring in the victim's presence or to apprehend a person who  
30 had committed a crime in the victim's presence or had, in fact, committed a felony.

31           (2)   Claimants filing for injuries incurred as the occupants of a motor  
32 vehicle or dependents of an occupant of a motor vehicle operated by a person in  
33 violation of the provisions of § 21-902 of the Transportation Article may not recover  
34 unless the claimant can prove that the occupant did not or could not have known of  
35 the condition of the operator of the vehicle.

36           (3)   A person is not eligible for all or a portion of an award if the person  
37 initiated, consented to, provoked, or unreasonably failed to avoid a physical  
38 confrontation with the offender, or the victim was participating in a criminal offense  
39 at the time the injury was inflicted.

1 (f) [(1) (i) If the Board finds that the claimant will not suffer serious  
2 financial hardship, as a result of the loss of earnings or support and the out-of-pocket  
3 expenses incurred as a result of the injury, if not granted financial assistance  
4 pursuant to this article to meet the loss of earnings, support, or out-of-pocket  
5 expenses, the Board shall deny an award.

6 (ii) In determining the serious financial hardship, the Board shall  
7 consider all of the financial resources of the claimant.

8 (iii)] Unless total dependency is established, a family is considered to  
9 be partially dependent on a parent with whom they reside without regard to actual  
10 earnings.

11 [(2) The conditions of paragraph (1) of this subsection do not apply in  
12 determining an award under § 819(a)(4), (5), and (6) of this subheading.

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

### 15 **Article - Transportation**

16 20-102.

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

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

23 20-104.

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

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

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

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

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

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

12 21-904.

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

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

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

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

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

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

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

39 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
40 October 1, 2000.

