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Assigned to: Judiciary

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House action: Adopted
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CHAPTER _____

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)

1 BY repealing and reenacting, without amendments,
2 Article - Transportation
3 Section 20-102, 20-104, and 21-904
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 1999 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 815.

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

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

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

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

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

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

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

22 (iv) Operating a motor vehicle in violation of [§ 21-902] §§ 20-102,
23 20-104, 21-902, AND 21-904 of the Transportation Article;

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

26 (vi) A delinquent act.

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

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

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

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

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

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

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

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

5 (i) A fourth degree sexual offense;

6 (ii) A felony; or

7 (iii) Physical injury or death directly resulting from a crime.

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

10 819.

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

13 (1) A victim of a crime;

14 (2) A surviving spouse or child of a victim of a crime who died as a direct
15 result of a crime;

16 (3) Any other person dependent for principal support upon a victim of a
17 crime who died as a direct result of such crime;

18 (4) Any person who is injured or killed while trying to prevent a crime or
19 an attempted crime from occurring in the person's presence or trying to apprehend a
20 person who had committed a crime in the person's presence or had, in fact, committed
21 a felony;

22 (5) A surviving spouse or child of any person who dies as a direct result
23 of trying to prevent a crime or an attempted crime from occurring in the person's
24 presence or trying to apprehend a person who had committed a crime in the person's
25 presence or had, in fact, committed a felony;

26 (6) Any other person dependent for principal support upon any person
27 who dies as a direct result of trying to prevent a crime or an attempted crime from
28 occurring in the person's presence or trying to apprehend a person who had
29 committed a crime in the person's presence or had, in fact, committed a felony;

30 (7) Any person who is injured or killed while giving aid and assistance to
31 a law enforcement officer in the performance of the officer's lawful duties or to a
32 member of a fire department who is being obstructed from performing the officer's
33 lawful duties; [and]

1 (8) Any person who paid or assumed responsibility for the funeral
2 expenses of a victim who died as a result of a crime or an eligible person who is killed
3 as a direct result under paragraphs (4) and (7) of this subsection; AND

4 (9) FAMILY MEMBERS.

5 821.

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

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

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

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

12 (1) [medical] MEDICAL care;

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

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

16 (4) [, funeral] FUNERAL expenses;

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

18 (6) DISABILITY OR DEPENDENCY CLAIMS; OR

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

21 825.

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

23 (i) A crime was committed;

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

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

31 (iv) The victim has fully cooperated with all law enforcement
32 agencies.

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

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

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

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

12 (iv) Any compensation awarded under the provisions of this Act
13 shall not exceed \$25,000 for any disability-related or dependency-related claim and
14 \$45,000 for any medical claim. The maximum amount awarded under all of the
15 provisions of this Act shall not exceed \$45,000, including any subsequent and
16 supplemental awards.

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

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

27 1. \$1,000 FOR EACH CLAIMANT; AND

28 2. \$5,000 FOR EACH INCIDENT.

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

32 [(5)] (6) The Board may negotiate a settlement with a health care
33 provider for the medical and medically related expenses of a claimant.

34 (b) (1) Except as provided in paragraph (2) of this subsection, any award
35 made under this subheading shall be made in accordance with the schedule of
36 benefits, as it existed on January 1, 1989, and degree of disability, as specified in Title
37 9, Subtitle 6 of the Labor and Employment Article and any other applicable provisions
38 of the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and
39 Employment Article. However, the term "average weekly wages", as applied to

1 determine the award in accordance with Title 9, Subtitle 6 of the Labor and
2 Employment Article, does not include tips, gratuities and wages that are undeclared
3 on the claimant's State or federal income tax returns in the applicable years. If a
4 claimant does not have "average weekly wages" so as to qualify under the formula in
5 Title 9, Subtitle 6 of the Labor and Employment Article, the award shall be in an
6 amount equal to the arithmetic average between the maximum and minimum awards
7 listed in the applicable portion of that subtitle.

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

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

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

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

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

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

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

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

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

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

38 (2) Claimants filing for injuries incurred as the occupants of a motor
39 vehicle or dependents of an occupant of a motor vehicle operated by a person in

1 violation of the provisions of § 21-902 of the Transportation Article may not recover
2 unless the claimant can prove that the occupant did not or could not have known of
3 the condition of the operator of the vehicle.

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

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

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

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

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

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

22 **Article - Transportation**

23 20-102.

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

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

30 20-104.

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

1 (b) 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 his name, his address, and the registration number of the vehicle
4 he is driving and, on request, exhibit his license to drive, if it is available, to:

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

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

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

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

19 21-904.

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

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

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

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

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

38 (f) If a police officer gives a visual or audible signal to stop and the police
39 officer, whether or not in uniform, is in a vehicle appropriately marked as an official

1 police vehicle, a driver of a vehicle may not attempt to elude the police officer by
2 fleeing on foot.

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

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