
By: **Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

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)

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

24 **Article 27 - Crimes and Punishments**

25 815.

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

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

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

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

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

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

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

11 (iv) Operating a motor vehicle in violation of [§ 21-902] §§ 20-102,
12 20-104, 21-902, AND 21-904 of the Transportation Article;

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

15 (vi) A delinquent act.

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

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

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

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

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

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

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

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

26 (i) A fourth degree sexual offense;

27 (ii) A felony; or

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

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

1 819.

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

4 (1) A victim of a crime;

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

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

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

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

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

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

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

28 (9) FAMILY MEMBERS.

29 821.

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

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

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

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

- 1 (1) [medical] MEDICAL care;
- 2 (2) [, including expenses] EXPENSES for eyeglasses and other corrective
3 lenses;
- 4 (3) [, mental] MENTAL health counseling;
- 5 (4) [, funeral] FUNERAL expenses;
- 6 (5) REPAIRING, REPLACING, OR CLEANING PROPERTY;
- 7 (6) DISABILITY OR DEPENDENCY CLAIMS; OR
- 8 (7) [, or other] OTHER services necessary as a result of the injury OR
9 DEATH upon which the claim is based.

10 825.

- 11 (a) (1) An award may not be made unless the Board members find that:
- 12 (i) A crime was committed;
- 13 (ii) The crime directly resulted in physical injury to, or death of the
14 victim, or [in the case of sexual assault or child abuse,] AN ELIGIBLE CLAIMANT HAD
15 psychological or emotional injury THAT NECESSITATED MENTAL HEALTH
16 COUNSELING;
- 17 (iii) Police, other law enforcement, or judicial records show that the
18 crime or the discovery of child abuse was reported to the proper authorities within 48
19 hours after the occurrence of the crime; and
- 20 (iv) The victim has fully cooperated with all law enforcement
21 agencies.
- 22 (2) The Board may waive the requirements of paragraph (1)(iii) and (iv)
23 of this subsection for good cause shown.
- 24 (3) (i) An award may not be made unless funds are appropriated and
25 available for the full amount of the award.
- 26 (ii) If a multiyear award is made, the total amount of the award
27 shall be obligated and held for any period of time as is necessary to complete payment
28 in accordance with the provisions of the award.
- 29 (iii) If payment of the award is terminated for any reason
30 subsequent to June 30 of the fiscal year in which the award was made, the remainder
31 of the award shall revert to the Criminal Injuries Compensation Fund established
32 under § 831 of this subheading.
- 33 (iv) Any compensation awarded under the provisions of this Act
34 shall not exceed \$25,000 for any disability-related or dependency-related claim and

1 \$45,000 for any medical claim. The maximum amount awarded under all of the
2 provisions of this Act shall not exceed \$45,000, including any subsequent and
3 supplemental awards.

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

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

14 1. \$1,000 FOR EACH CLAIMANT; AND

15 2. \$5,000 FOR EACH INCIDENT.

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

19 [(5)] (6) The Board may negotiate a settlement with a health care
20 provider for the medical and medically related expenses of a claimant.

21 (b) (1) Except as provided in paragraph (2) of this subsection, any award
22 made under this subheading shall be made in accordance with the schedule of
23 benefits, as it existed on January 1, 1989, and degree of disability, as specified in Title
24 9, Subtitle 6 of the Labor and Employment Article and any other applicable provisions
25 of the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and
26 Employment Article. However, the term "average weekly wages", as applied to
27 determine the award in accordance with Title 9, Subtitle 6 of the Labor and
28 Employment Article, does not include tips, gratuities and wages that are undeclared
29 on the claimant's State or federal income tax returns in the applicable years. If a
30 claimant does not have "average weekly wages" so as to qualify under the formula in
31 Title 9, Subtitle 6 of the Labor and Employment Article, the award shall be in an
32 amount equal to the arithmetic average between the maximum and minimum awards
33 listed in the applicable portion of that subtitle.

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

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

39 (3) Any person who is entitled to an award due to the death of a victim as
40 the direct result of a crime or who has psychological injury may be eligible, under the

1 rules established by the Board, to receive psychiatric, psychological, or mental health
2 counseling, within the specific limitations of [subsection (a)(3)] SUBSECTION (A)(4) of
3 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **Article - Transportation**

9 20-102.

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

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

16 20-104.

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

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

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

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

30 (c) 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 the same information described in subsection (b) of this section
33 and, on request, exhibit his license to drive, if it is available, to any police officer who
34 is at the scene of or otherwise is investigating the accident.

35 (d) If a police officer is not present and none of the specified persons is in
36 condition to receive the information to which the person otherwise would be entitled
37 under this section, the driver, after fulfilling to the extent possible every other

1 requirement of § 20-102 of this title and subsection (a) of this section, immediately
2 shall report the accident to the nearest office of an authorized police authority and
3 give the information specified in subsection (b) of this section.

4 21-904.

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

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

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

15 (d) 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 may not attempt to elude the police officer by any other
18 means.

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

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

27 (g) 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 any
30 other means.

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