

SENATE BILL 243

Unofficial Copy  
E2  
HB 862/00 - JUD

2001 Regular Session  
11r0651  
CF 11r0652

---

By: **Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)** and **Senators Bromwell, Colburn, Collins, Ferguson, Hollinger, Jimeno, Kelley, Lawlah, Sfikas, and Van Hollen**

Introduced and read first time: January 24, 2001

Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation - Claimants and Awards**

3 FOR the purpose of expanding the definition of crime to include certain motor vehicle  
4 crimes for purposes of determining eligibility for criminal injuries compensation;  
5 allowing certain family members who reside with certain persons to be eligible  
6 for certain criminal injuries compensation awards; altering the circumstances  
7 under which the Criminal Injuries Compensation Board may make an award for  
8 a crime or delinquent act resulting in certain psychological injury; eliminating  
9 certain financial hardship requirements relating to criminal injury  
10 compensation; allowing the Board to make an award for repairing, replacing, or  
11 cleaning property under certain circumstances; establishing a certain monetary  
12 limit on the award the Board is allowed to make for repairing, replacing, or  
13 cleaning property; allowing the Board to make an award for certain disability or  
14 dependency claims; establishing certain limits for certain counseling for certain  
15 family members; and generally relating to criminal injuries compensation.

16 BY repealing and reenacting, with amendments,  
17 Article - Criminal Procedure  
18 Section 11-801, 11-808(a), 11-810, and 11-811  
19 Annotated Code of Maryland  
20 (As enacted by Chapter \_\_\_\_ (S.B. 1) of the Acts of the General Assembly of 2001)

21 BY repealing and reenacting, without amendments,  
22 Article - Transportation  
23 Section 20-102, 20-104, 21-902, and 21-904  
24 Annotated Code of Maryland  
25 (1999 Replacement Volume and 2000 Supplement)

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

**Article - Criminal Procedure**

11-801.

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

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

(c) "Claimant" means the person filing a claim under this subtitle.

(d) (1) "Crime" means:

(i) except as provided in paragraph (2) of this subsection, a criminal offense under state, federal, or common law that is committed in:

1. this State; or

2. another state against a resident of this State; or

(ii) an act of international terrorism as defined in Title 18, § 2331 of the United States Code that is committed outside of the United States against a resident of this State.

(2) "Crime" does not include an act involving the operation of a vessel or motor vehicle unless the act is:

(i) [operating a motor vehicle in] A violation of [§ 21-902] § 20-102, § 20-104, § 21-902, OR § 21-904 of the Transportation Article; or

(ii) operating a motor vehicle or vessel that results in an intentional injury.

(e) "Dependent" means:

(1) a surviving spouse or child of a person; or

(2) a person who is dependent on another person for principal support.

(f) "Victim" means a person:

(1) who suffers physical injury or death as a result of a crime or delinquent act;

(2) who suffers psychological injury as a direct result of:

(i) a fourth degree sexual offense or a delinquent act that would be a fourth degree sexual offense if committed by an adult;

(ii) a felony or a delinquent act that would be a felony if committed by an adult; or

1 (iii) physical injury or death directly resulting from a crime or  
2 delinquent act; or

3 (3) who suffers physical injury or death as a direct result of:

4 (i) trying to prevent a crime or delinquent act or an attempted  
5 crime or delinquent act from occurring in the person's presence;

6 (ii) trying to apprehend an offender who had committed a crime or  
7 delinquent act in the person's presence or had committed a felony or a delinquent act  
8 that would be a felony if committed by an adult; or

9 (iii) helping a law enforcement officer in the performance of the  
10 officer's duties or helping a member of a fire department who is being obstructed from  
11 performing the member's duties.

12 11-808.

13 (a) (1) Except as provided in paragraph (2) of this subsection, the following  
14 persons are eligible for awards IN THE MANNER PROVIDED under this subtitle:

15 (i) a victim;

16 (ii) a dependent of a victim who died as a direct result of:

17 1. a crime or delinquent act;

18 2. trying to prevent a crime or delinquent act or an  
19 attempted crime or delinquent act from occurring in the victim's presence or trying to  
20 apprehend a person who had committed a crime or delinquent act in the victim's  
21 presence or had committed a felony or a delinquent act that would be considered a  
22 felony if committed by an adult; or

23 3. helping a law enforcement officer perform the officer's  
24 duties or helping a member of a fire department who is obstructed from performing  
25 the member's duties; [and]

26 (iii) any person who paid or assumed responsibility for the funeral  
27 expenses of a victim who died as a direct result of:

28 1. a crime or delinquent act;

29 2. trying to prevent a crime or delinquent act or an  
30 attempted crime or delinquent act from occurring in the victim's presence or trying to  
31 apprehend a person who had committed a crime or delinquent act in the victim's  
32 presence or had committed a felony; or

33 3. helping a law enforcement officer perform the officer's  
34 duties or helping a member of a fire department who is obstructed from performing  
35 the member's duties; AND

(IV) FAMILY MEMBERS RESIDING WITH A VICTIM.

(2) A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award with respect to the claim.

11-810.

(a) (1) The Board may make an award only if the Board finds that:

(i) a crime or delinquent act was committed;

(ii) [1.] the crime or delinquent act directly resulted in:

1. physical injury to or death of the victim; or

2. [a fourth degree sexual offense, a felony, or a delinquent act that would be a fourth degree sexual offense or a felony if committed by an adult directly resulted in] psychological injury to the victim THAT NECESSITATED MENTAL HEALTH COUNSELING;

(iii) 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 of the crime or delinquent act or the discovery of the child abuse; and

(iv) the victim has cooperated fully with all law enforcement units.

(2) For good cause, the Board may waive the requirements of paragraph (1)(iii) and (iv) of this subsection.

(b) [(1) (i) The Board may make an award under this subtitle only if the Board determines that, without the award, the claimant will suffer serious financial hardship from the loss of earnings or support and medical and other expenses incurred as a result of the injury or death.

(ii) 1. In determining whether the claimant will suffer serious financial hardship, the Board shall consider all of the financial resources of the claimant.

2.] Unless total dependency is established, family members are considered to be partly dependent on a parent with whom they reside without regard to actual earnings.

[(2) Paragraph (1) of this subsection does not apply to a claim if the victim suffered physical injury or death as a direct result of trying to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the victim's presence or trying to apprehend an offender who had committed a crime or delinquent act in the victim's presence or had committed a felony.

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

3       (c)       The Board may make an award only if the claimant, as a result of the  
4 injury on which the claim is based, has:

5           (1)       incurred at least \$100 in unreimbursed and unreimbursable  
6 expenses or indebtedness reasonably incurred OR CLAIMED for:

7                   (I)       medical care[, including];

8                   (II)      expenses for eyeglasses and other corrective lenses[.];

9                   (III)     mental health counseling[.];

10                  (IV)     funeral expenses[.];

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

12                  (VI)     DISABILITY OR DEPENDENT CLAIM; or

13                  (VII)    other necessary services; or

14           (2)       lost at least 2 continuous weeks' earnings or support.

15       (d)       (1)       (i)       Except as provided under subparagraph (ii) of this paragraph,  
16 in considering a claim and in determining the amount of an award, the Board shall  
17 determine whether the victim's conduct contributed to the infliction of the victim's  
18 injury, and, if so, reduce the amount of the award or reject the claim.

19                   (ii)      The Board may disregard the responsibility of the victim for the  
20 victim's own injury if that responsibility is attributable to efforts by the victim:

21                               1.       to prevent a crime or delinquent act or an attempted crime  
22 or delinquent act from occurring in the victim's presence; or

23                               2.       to apprehend an offender who had committed a crime or  
24 delinquent act in the victim's presence or had committed a felony or delinquent act  
25 that would be a felony if committed by an adult.

26           (2)       A claimant filing for injuries incurred as the occupant of a motor  
27 vehicle or a dependent of an occupant of a motor vehicle operated in violation of §  
28 21-902 of the Transportation Article may not receive an award unless the claimant  
29 proves that the occupant did not know or could not have known of the condition of the  
30 operator of the vehicle.

31           (3)       A claimant may not receive an award if:

32                   (i)       the victim initiated, consented to, provoked, or unreasonably  
33 failed to avoid a physical confrontation with the offender; or

1 (ii) the victim was participating in a crime or delinquent act when  
2 the injury was inflicted.

3 (e) (1) A victim or dependent may not be denied compensation solely  
4 because the victim:

5 (i) is a relative of the offender; or

6 (ii) was living with the offender as a family member or household  
7 member at the time of the injury or death.

8 (2) If the Board can reasonably determine that the offender will not  
9 receive any economic benefit or undue enrichment from the compensation, the Board  
10 may award compensation to a victim or dependent who is a relative, family member,  
11 or household member of the offender.

12 11-811.

13 (a) (1) (i) Except as otherwise provided in this subsection, an award  
14 under this subtitle shall be made in accordance with the schedule of benefits, as it  
15 existed on January 1, [1989] 2001, and degree of disability as specified in Title 9,  
16 Subtitle 6 of the Labor and Employment Article and any other applicable provisions of  
17 the Labor and Employment Article, except for Title 9, Subtitle 8 of the Labor and  
18 Employment Article.

19 (ii) For determining the amount of an award under this subtitle,  
20 the term "average weekly wages" does not include tips, gratuities, and wages that are  
21 undeclared on the claimant's State or federal income tax returns for the applicable  
22 years.

23 (iii) If a claimant does not have "average weekly wages" to qualify  
24 under the formula in Title 9, Subtitle 6 of the Labor and Employment Article, the  
25 award shall be in an amount equal to the average of the maximum and minimum  
26 awards listed in the applicable portion of that subtitle.

27 (2) An award for loss of earnings or support made under this subtitle  
28 may be up to two-thirds of the victim's gross average wage, but may not be less than  
29 the amount provided in paragraph (1) of this subsection.

30 (3) An award for funeral expenses may not exceed \$5,000.

31 (4) Subject to the limitation under subsection (b)(3) of this section and §  
32 11-812 of this [title] SUBTITLE, a person who is eligible for an award as the result of  
33 the death of a victim or psychological injury may be eligible, under the regulations  
34 that the Board adopts, to receive psychiatric, psychological, or mental health  
35 counseling.

36 (5) SUBJECT TO THE LIMITATION UNDER SUBSECTION (B)(6) OF THIS  
37 SECTION AND § 11-812 OF THIS SUBTITLE, A FAMILY MEMBER WHO IS ELIGIBLE FOR

1 AN AWARD AS THE RESULT OF THE INJURY OF A VICTIM IS ELIGIBLE TO RECEIVE  
2 PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL HEALTH COUNSELING.

3 (b) Compensation awarded under this subtitle may not exceed:

4 (1) \$25,000 for a disability-related or dependency-related claim;

5 (2) \$45,000 for a medical claim;

6 (3) \$5,000 for each claimant for psychiatric, psychological, or mental  
7 health counseling UNDER SUBSECTION (A)(4) OF THIS SECTION; [or]

8 (4) a total of \$45,000, including any subsequent and supplemental  
9 awards;

10 (5) \$250 FOR EACH CLAIMANT FOR REPAIR, REPLACEMENT, OR  
11 CLEANING OF PROPERTY DAMAGED, SOILED, OR LITTERED AS A RESULT OF A CRIME  
12 OR LAW ENFORCEMENT INVESTIGATION OF A CRIME; OR

13 (6) FOR AN AWARD FOR PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL  
14 HEALTH COUNSELING MADE UNDER SUBSECTION (A)(5) OF THIS SECTION:

15 (I) \$1,000 FOR EACH CLAIMANT; AND

16 (II) \$5,000 FOR EACH INCIDENT.

17 (c) An award made under this subtitle shall be reduced by the amount of any  
18 payments received or to be received as a result of the injury:

19 (1) from or on behalf of the offender;

20 (2) from any other public or private source, including an award of the  
21 State Workers' Compensation Commission under the Maryland Workers'  
22 Compensation Act; or

23 (3) as an emergency award under § 11-813 of this subtitle.

24 (d) If there are two or more persons entitled to an award as a result of the  
25 death of a victim, the award shall be apportioned among the claimants.

26 (e) The Board may negotiate a settlement with a health care provider for the  
27 medical and medically related expenses.

28 **Article - Transportation**

29 20-102.

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

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

4 20-104.

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

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

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

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

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

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

29 21-902.

30 (a) (1) A person may not drive or attempt to drive any vehicle while  
31 intoxicated.

32 (2) A person may not drive or attempt to drive any vehicle while the  
33 person is intoxicated per se.

34 (b) A person may not drive or attempt to drive any vehicle while under the  
35 influence of alcohol.

36 (c) (1) A person may not drive or attempt to drive any vehicle while he is so  
37 far under the influence of any drug, any combination of drugs, or a combination of one  
38 or more drugs and alcohol that he cannot drive a vehicle safely.



1           (2)       It is not a defense to any charge of violating this subsection that the  
2 person charged is or was entitled under the laws of this State to use the drug,  
3 combination of drugs, or combination of one or more drugs and alcohol, unless the  
4 person was unaware that the drug or combination would make him incapable of  
5 safely driving a vehicle.

6       (d)       A person may not drive or attempt to drive any vehicle while he is under  
7 the influence of any controlled dangerous substance, as that term is defined in Article  
8 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous  
9 substance under the laws of this State.

10 21-904.

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

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

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

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

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

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

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

37       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
38 October 1, 2001.