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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

Committee Report: Favorable with amendments

Senate action: Recommitted to Committee, March 21, 2001

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2001

CHAPTER

#### 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 eertain family members parents, children, or spouses who reside with
- 6 certain persons to be eligible for certain criminal injuries compensation awards;
- 7 altering the circumstances under which the Criminal Injuries Compensation
- 8 Board may make an award for a crime or delinquent act resulting in certain
- 9 psychological injury; eliminating certain financial hardship requirements
- 10 relating to criminal injury compensation; allowing the Board to make an award
- for repairing, replacing, or cleaning property under certain circumstances;
- establishing a certain monetary limit on the award the Board is allowed to make
- for repairing, replacing, or cleaning property; allowing the Board to make an
- 14 award for certain disability or dependency claims; establishing certain limits for
- 15 certain counseling for certain family members parents, children, or spouses of
- 16 <u>certain persons</u>; and generally relating to criminal injuries compensation.
- 17 BY repealing and reenacting, with amendments,
- 18 Article Criminal Procedure
- 19 Section 11-801, 11-808(a), 11-810, and 11-811
- 20 Annotated Code of Maryland
- 21 (As enacted by Chapter \_\_\_(S.B. 1) of the Acts of the General Assembly of 2001)
- 22 BY repealing and reenacting, without amendments,

1 2 3 4	Article - Transportation Section 20-102, 20-104, 21-902, and 21-904 Annotated Code of Maryland (1999 Replacement Volume and 2000 Supplement)						
5 6	5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 6 MARYLAND, That the Laws of Maryland read as follows:						
7	Article - Criminal Procedure						
8	11-801.						
9	(a) In this subtitle the following words have the meanings indicated.						
10	(b) "Board" means the Criminal Injuries Compensation Board.						
11	(c) "Claimant" means the person filing a claim under this subtitle.						
12	(d) (1) "Crime" means:						
13 14	(i) except as provided in paragraph (2) of this subsection, a criminal offense under state, federal, or common law that is committed in:						
15	1. this State; or						
16	2. another state against a resident of this State; or						
	(ii) an act of international terrorism as defined in Title 18, $\S$ 2331 of the United States Code that is committed outside of the United States against a resident of this State.						
20 21	(2) "Crime" does not include an act involving the operation of a vessel or motor vehicle unless the act is:						
22 23	(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						
24 25	(ii) operating a motor vehicle or vessel that results in an intentional injury.						
26	(e) "Dependent" means:						
27	(1) a surviving spouse or child of a person; or						
28	(2) a person who is dependent on another person for principal support.						
29	(f) "Victim" means a person:						
30 31	(1) who suffers physical injury or death as a result of a crime or delinquent act;						

1	(2)	who suff	fers psych	nological injury as a direct result of:
2 3	a fourth degree sexual	(i) offense		degree sexual offense or a delinquent act that would be tted by an adult;
4 5	by an adult; or	(ii)	a felony	or a delinquent act that would be a felony if committed
6 7	delinquent act; or	(iii)	physical	injury or death directly resulting from a crime or
8	(3)	who suff	fers physi	cal injury or death as a direct result of:
9 10	crime or delinquent a	(i) ct from o		prevent a crime or delinquent act or an attempted in the person's presence;
	delinquent act in the puthat would be a felon		presence (	apprehend an offender who had committed a crime or or had committed a felony or a delinquent act an adult; or
	officer's duties or help performing the memb		ember of	a law enforcement officer in the performance of the a fire department who is being obstructed from
17	11-808.			
18 19				ed in paragraph (2) of this subsection, the following MANNER PROVIDED under this subtitle:
20		(i)	a victim	
21		(ii)	a depend	lent of a victim who died as a direct result of:
22			1.	a crime or delinquent act;
25 26	apprehend a person w	ho had c	ommitted elony or a	trying to prevent a crime or delinquent act or an occurring in the victim's presence or trying to a crime or delinquent act in the victim's a delinquent act that would be considered a
	duties or helping a me the member's duties;		3. a fire dep	helping a law enforcement officer perform the officer's partment who is obstructed from performing
31 32	expenses of a victim	(iii) who died		on who paid or assumed responsibility for the funeral ct result of:
33			1.	a crime or delinquent act;

3	2. 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 a person who had committed a crime or delinquent act in the victim's presence or had committed a felony; or			
	duties or helping a the member's dutie		3. a fire de	helping a law enforcement officer perform the officer's epartment who is obstructed from performing
8 9	OR SPOUSE OF A	(IV) <u>A VICTIM V</u>		LY MEMBERS RESIDING WITH A VICTIM A PARENT, CHILD, ESIDES WITH THE VICTIM.
	(2) a claim, or an accepto the claim.			ommits the crime or delinquent act that is the basis of n, is not eligible to receive an award with respect
13	11-810.			
14	(a) (1)	The Boa	ard may	make an award only if the Board finds that:
15		(i)	a crime	e or delinquent act was committed;
16		(ii)	[1.]	the crime or delinquent act directly resulted in:
17			1.	physical injury to or death of the victim; or
20	act that would be directly resulted in HEALTH COUN	n] psycholog	2. ree sexu gical inju	[a fourth degree sexual offense, a felony, or a delinquent al offense or a felony if committed by an adult ary to the victim THAT NECESSITATED MENTAL
24	(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			
26		(iv)	the vict	tim has cooperated fully with all law enforcement units.
27 28	(2) (1)(iii) and (iv) of	_		the Board may waive the requirements of paragraph
31	9 (b) [(1) (i) The Board may make an award under this subtitle only if the 0 Board determines that, without the award, the claimant will suffer serious financial 1 hardship from the loss of earnings or support and medical and other expenses 2 incurred as a result of the injury or death.			
	financial hardship claimant.	(ii) , the Board	1. shall cor	In determining whether the claimant will suffer serious nsider all of the financial resources of the

	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.					
6 7	[(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.					
9 10	(3) The Board may not find that a claimant fails to suffer serious financial hardship because a claimant is indigent or judgment proof.]					
11 12	11 (c) The Board may make an award only if the claimant, as a result of the 12 injury on which the claim is based, has:					
13 14	(1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred OR CLAIMED for:					
15		(I)	medical care[, including];			
16		(II)	expenses for eyeglasses and other corrective lenses[,];			
17		(III)	mental health counseling[,];			
18		(IV)	<pre>funeral expenses[,];</pre>			
19		(V)	REPAIRING, REPLACING, OR CLEANING PROPERTY;			
20		(VI)	DISABILITY OR DEPENDENT CLAIM; or			
21		(VII)	other necessary services; or			
22	(2)	lost at le	east 2 continuous weeks' earnings or support.			
25	determine whether th	e victim's	Except as provided under subparagraph (ii) of this paragraph, determining the amount of an award, the Board shall s conduct contributed to the infliction of the victim's mount of the award or reject the claim.			
27 28	victim's own injury it	(ii) f that resp	The Board may disregard the responsibility of the victim for the consibility is attributable to efforts by the victim:			
29 30	or delinquent act from	n occurri	1. to prevent a crime or delinquent act or an attempted crime ng in the victim's presence; or			
	delinquent act in the that would be a felon		2. to apprehend an offender who had committed a crime or presence or had committed a felony or delinquent act mitted by an adult.			

3 4	21-902 of the Transpo	t of an occ ortation Ar ant did not	ant filing for injuries incurred as the occupant of a motor cupant of a motor vehicle operated in violation of § rticle may not receive an award unless the claimant t know or could not have known of the condition of the
6	(3)	A claima	nt may not receive an award if:
7 8	failed to avoid a physi		the victim initiated, consented to, provoked, or unreasonably ontation with the offender; or
9 10	the injury was inflicted		the victim was participating in a crime or delinquent act when
11 12	(e) (1) because the victim:	A victim	or dependent may not be denied compensation solely
13		(i)	is a relative of the offender; or
14 15	member at the time o	, ,	was living with the offender as a family member or household by or death.
18	receive any economic	e benefit o ation to a v	ard can reasonably determine that the offender will not or undue enrichment from the compensation, the Board victim or dependent who is a relative, family member, fender.
20	11-811.		
23 24 25	under this subtitle sha existed on January 1, Subtitle 6 of the Labo	all be mad [1989] 20 or and Em yment Art	Except as otherwise provided in this subsection, an award le in accordance with the schedule of benefits, as it 001, and degree of disability as specified in Title 9, ployment Article and any other applicable provisions of ticle, except for Title 9, Subtitle 8 of the Labor and
29		ekly wage	For determining the amount of an award under this subtitle, es" does not include tips, gratuities, and wages that are tate or federal income tax returns for the applicable
33	award shall be in an a	Title 9, Su amount eq	If a claimant does not have "average weekly wages" to qualify ubtitle 6 of the Labor and Employment Article, the ual to the average of the maximum and minimum portion of that subtitle.
		rds of the	d for loss of earnings or support made under this subtitle victim's gross average wage, but may not be less than aph (1) of this subsection.

1		(3)	An awai	rd for funeral expenses may not exceed \$5,000.					
4 5	the death of	(4) Subject to the limitation under subsection (b)(3) of this section and § this [title] SUBTITLE, a person who is eligible for an award as the result of of a victim or psychological injury may be eligible, under the regulations oard adopts, to receive psychiatric, psychological, or mental health g.							
9 10	(5) SUBJECT TO THE LIMITATION UNDER SUBSECTION (B)(6) OF THIS SECTION AND § 11-812 OF THIS SUBTITLE, A FAMILY MEMBER PARENT, CHILD, OR SPOUSE OF A VICTIM WHO RESIDES WITH THE VICTIM AND WHO IS ELIGIBLE FOR AN AWARD AS THE RESULT OF THE INJURY OF A VICTIM IS ELIGIBLE TO RECEIVE PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL HEALTH COUNSELING.								
12	(b)	Compen	sation av	sation awarded under this subtitle may not exceed:					
13		(1)	\$25,000	for a disability-related or dependency-related claim;					
14		(2)	\$45,000	for a medical claim;					
15 16	health couns	(3) seling UN		For each claimant for psychiatric, psychological, or mental UBSECTION (A)(4) OF THIS SECTION; [or]					
17 18	awards;	(4)	a total o	f \$45,000, including any subsequent and supplemental					
			PERTY	OR EACH CLAIMANT FOR REPAIR, REPLACEMENT, OR DAMAGED, SOILED, OR LITTERED AS A RESULT OF A CRIME NVESTIGATION OF A CRIME; OR					
22 23	HEALTH C	(6) OUNSEI		N AWARD FOR PSYCHIATRIC, PSYCHOLOGICAL, OR MENTAL ADE UNDER SUBSECTION (A)(5) OF THIS SECTION:					
24			(I)	\$1,000 FOR EACH CLAIMANT; AND					
25			(II)	\$5,000 FOR EACH INCIDENT.					
26 27	6 (c) An award made under this subtitle shall be reduced by the amount of any payments received or to be received as a result of the injury:								
28		(1)	from or	on behalf of the offender;					
	9 (2) from any other public or private source, including an award of the O State Workers' Compensation Commission under the Maryland Workers' Compensation Act; or								
32		(3)	as an em	nergency award under § 11-813 of this subtitle.					
33 34	3 (d) If there are two or more persons entitled to an award as a result of the 4 death of a victim, the award shall be apportioned among the claimants.								

1 (e) The Board may negotiate a settlement with a health care provider for the 2 medical and medically related expenses.

### 3 Article - Transportation

- 4 20-102.
- 5 (a) The driver of each vehicle involved in an accident that results in bodily 6 injury to or death of another person immediately shall stop the vehicle as close as 7 possible to the scene of the accident, without obstructing traffic more than necessary.
- 8 (b) The driver of each vehicle involved in an accident that results in bodily 9 injury to or death of another person immediately shall return to and remain at the 10 scene of the accident until the driver has complied with § 20-104 of this title.
- 11 20-104.
- 12 (a) The driver of each vehicle involved in an accident that results in bodily
  13 injury to or death of any person or in damage to an attended vehicle or other attended
  14 property shall render reasonable assistance to any person injured in the accident and,
  15 if the person requests medical treatment or it is apparent that medical treatment is
  16 necessary, arrange for the transportation of the person to a physician, surgeon, or
  17 hospital for medical treatment.
- 18 (b) 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 his name, his address, and the registration number of the vehicle 21 he is driving and, on request, exhibit his license to drive, if it is available, to:
- 22 (1) Any person injured in the accident; and
- 23 (2) The driver, occupant of, or person attending any vehicle or other 24 property damaged in the accident.
- 25 (c) The driver of each vehicle involved in an accident that results in bodily 26 injury to or death of any person or in damage to an attended vehicle or other attended 27 property shall give the same information described in subsection (b) of this section 28 and, on request, exhibit his license to drive, if it is available, to any police officer who 29 is at the scene of or otherwise is investigating the accident.
- 30 (d) If a police officer is not present and none of the specified persons is in 31 condition to receive the information to which the person otherwise would be entitled 32 under this section, the driver, after fulfilling to the extent possible every other 33 requirement of § 20-102 of this title and subsection (a) of this section, immediately 34 shall report the accident to the nearest office of an authorized police authority and 35 give the information specified in subsection (b) of this section.

- 1 21-902.
- 2 A person may not drive or attempt to drive any vehicle while (a) (1) 3 intoxicated.
- A person may not drive or attempt to drive any vehicle while the (2)5 person is intoxicated per se.
- A person may not drive or attempt to drive any vehicle while under the 6 7 influence of alcohol.
- 8 (c) (1) A person may not drive or attempt to drive any vehicle while he is so 9 far under the influence of any drug, any combination of drugs, or a combination of one 10 or more drugs and alcohol that he cannot drive a vehicle safely.
- 11 It is not a defense to any charge of violating this subsection that the 12 person charged is or was entitled under the laws of this State to use the drug,
- 13 combination of drugs, or combination of one or more drugs and alcohol, unless the
- 14 person was unaware that the drug or combination would make him incapable of
- 15 safely driving a vehicle.
- A person may not drive or attempt to drive any vehicle while he is under 16 the influence of any controlled dangerous substance, as that term is defined in Article 17
- 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous
- 19 substance under the laws of this State.
- 20 21-904.
- 21 In this section "visual or audible signal" includes a signal by hand, voice, (a) 22 emergency light or siren.
- 23 If a police officer gives a visual or audible signal to stop and the police (b) 24 officer is in uniform, prominently displaying the police officer's badge or other 25 insignia of office, a driver of a vehicle may not attempt to elude the police officer by 26 willfully failing to stop the driver's vehicle.
- 27 (c) If a police officer gives a visual or audible signal to stop and the police 28 officer is in uniform, prominently displaying the police officer's badge or other 29 insignia of office, a driver may not attempt to elude the police officer by fleeing on 30 foot.
- If a police officer gives a visual or audible signal to stop and the police 31 32 officer is in uniform, prominently displaying the police officer's badge or other 33 insignia of office, a driver may not attempt to elude the police officer by any other
- 34 means.
- 35 If a police officer gives a visual or audible signal to stop and the police (e) 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
- 38 willfully failing to stop the driver's vehicle.

- 1 (f) If a police officer gives a visual or audible signal to stop and the police 2 officer, whether or not in uniform, is in a vehicle appropriately marked as an official 3 police vehicle, a driver of a vehicle may not attempt to elude the police officer by 4 fleeing on foot.
- 5 (g) If a police officer gives a visual or audible signal to stop and the police 6 officer, whether or not in uniform, is in a vehicle appropriately marked as an official 7 police vehicle, a driver of a vehicle may not attempt to elude the police officer by any 8 other means.
- 9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 10 October 1, 2001.