

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 243 (Senator Stone, *et al.*)
(Task Force to Examine Maryland's Crime Victims' Rights
Laws)

Judicial Proceedings

Judiciary

Criminal Injuries Compensation - Claimants and Awards

This bill allows a parent, child, or spouse of a crime victim who resides with the victim and who is eligible for an award as a result of the injury to the victim to be eligible for mental health counseling compensation from the Criminal Injuries Compensation Fund. The bill establishes limits for such compensation at \$1,000 per person or \$5,000 per incident. The bill also allows the fund to make awards up to \$250 to repair, replace, or clean property damaged or soiled in a crime.

The bill expands the definition of crime under criminal injuries compensation provisions to include the motor vehicle crimes of "hit and run" and "fleeing and eluding." The bill also eliminates the standard of "serious financial hardship" by which the Criminal Injuries Compensation Board grants awards and updates, as specified, the applicable schedule of benefits for disability awards by the board.

Fiscal Summary

State Effect: Any increased expenditures for the Criminal Injuries Compensation Fund resulting from this bill are not expected to significantly affect the resources of the fund or the operations of its governing board. Fund revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Mental health counseling awards from the fund are available only to family members of a victim when the underlying crime has been a homicide. There are no awards available to repair, replace, or clean property damaged or soiled in a crime. The motor vehicle crimes of “hit and run” and “fleeing and eluding” are not included as compensatory from the fund. The general standard by which the board may make awards includes a standard by which a claimant must have suffered a “serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance” by the board.

The applicable schedule of benefits for disability awards by the Criminal Injuries Compensation Board is the same as the Workers’ Compensation benefits schedule in existence on January 1, 1989.

Background: In 1994, a victims’ rights provision was added to the State Constitution. The Legislative Policy Committee formed the Task Force to Examine Maryland’s Crime Victims’ Rights Laws as a Joint Statutory Committee in 1995. The charge of the task force was to take a comprehensive look at Maryland’s victims’ rights laws, and to recommend substantive changes to improve the State’s statutory scheme.

Also in 1995, the General Assembly passed the child sexual offender registration law, also known as “Megan’s Law,” and increased court costs that certain defendants have to pay when convicted of nonjailable motor vehicle offenses to create additional funding for the Maryland Victims of Crime Fund, the Criminal Injuries Compensation Fund, and the Victim and Witness Protection and Relocation Program.

Since 1995, the task force has joined in the introduction and enactment of legislation that included expanding the procedures for notifying crime victims of their rights during the criminal justice process, enacting the Victims’ Rights Act of 1997, broadening victims’ rights laws to apply to juvenile delinquent acts and proceedings, and expanding eligibility for awards from the Criminal Injuries Compensation Board. This bill is the result of considerations and deliberations by the task force during the 1999 interim.

Chapter 622 of the Acts of 1999 required the Department of Public Safety and Correctional Services to conduct a study relating to certain issues concerning the Criminal Injuries Compensation Board. The study was done by the Maryland Justice Analysis Center (MJAC) at the University of Maryland. Chapter 622 required, in part, for the study to recommend a model to replace the current serious financial hardship

standard. MJAC recommended to simply eliminate the standard. As a result, the task force also has recommended the elimination of this standard.

State Expenditures: Any increased expenditures from the fund can be absorbed by the expected resources of the fund, including federal grant income.

While it is difficult to quantify the impact of expanding mental health counseling coverage, those states that now provide such criminal injuries compensation coverage do not experience significant numbers of additional claims. That experience is expected to be repeated here. Likewise, the board anticipates that the number claims for repairing, replacing, or cleaning property damaged or soiled as a result of a crime or police investigation would also be small. In 1999, if all awards by the board had included repair, replacement, or cleaning awards at the \$250 maximum, expenditures by the fund would have increased by 4%.

The board denied six motor vehicle claims in fiscal 1999 involving hit-and-run accidents. Under current law, these claims were not eligible for award, and were denied. If these claims had been eligible for award, as is provided for under this bill, the total payments from the fund are estimated to have been approximately \$35,200.

The number and amount of additional claims that may result from expanding eligibility of motor vehicle claims and from eliminating the serious financial hardship standard for awards cannot be reliably projected. However, any such resulting effect is not anticipated to put any strain on the resources of the fund or the board.

The report by MJAC found, in part, that the board had not been properly applying the standard of serious financial hardship and, rather than recommend a replacement standard, recommended that this standard should simply be eliminated. In fiscal 1999, the board denied 28 claims on a stated basis of no serious financial hardship. However, MJAC found that these claims were, in fact, cases for which there was no actual compensable loss incurred. MJAC concluded that the board was not correctly applying the standard. Accordingly, while eliminating the financial hardship standard could result in more people seeking compensation, it would not necessarily result in more claims being granted by the board.

As of July 1, 2000, the fund had a balance of \$3,215,329 which is expected to be maintained at the same level at the close of fiscal 2001. For fiscal 2002, 845 awards from the fund are expected for a total of \$5,242,416, which equals the anticipated revenue stream for the fund, including federal funds, for fiscal 2002.

Altering the applicable schedule of benefits for disability awards by the board to be the same as the Workers' Compensation benefits schedule existing on January 1, 2001, rather than on January 1, 1989, is estimated to increase total award payouts by about \$100,000 annually. The current schedule of workers' compensation benefit payments allows two-thirds of salary or \$668 per week (for up to eight weeks). The schedule in effect on January 1, 1989 allowed payment amounts of two-thirds of salary or \$407 per week. However, most disability awards by the board are not made for the maximum allowable amount. In fiscal 2000, 50 awards were made at the maximum amount out of 176 total disability awards by the board. A resulting annual increase of \$100,000 for all such awards is not expected to affect the solvency of the fund or the overall operations of the board.

Additional Information

Prior Introductions: A similar bill, HB 862, was introduced during the 2000 session. That bill passed the House and had no further action taken on it.

Cross File: HB 504 (Delegate Vallario, *et al.*) – Judiciary.

Information Source(s): Department of Legislative Services

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