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By: **Delegate Nathan-Pulliam**

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Activities - Compensation for Injury Claims**

3 FOR the purpose of altering the amounts that may be awarded by the Criminal  
4 Injuries Compensation Board for certain injuries sustained relating to certain  
5 governmental activities; altering the amounts of certain security that must be  
6 provided for certain vehicles in certain self-insuring jurisdictions; authorizing  
7 the filing of certain claims; providing for the retroactive application of this Act to  
8 certain actions arising from certain injuries; providing for the termination of  
9 this Act; and generally relating to compensation for injuries and law  
10 enforcement activities.

11 BY repealing and reenacting, without amendments,  
12 Article - Courts and Judicial Proceedings  
13 Section 5-639  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article - Criminal Procedure  
18 Section 11-811  
19 Annotated Code of Maryland  
20 (2001 Volume)

21 BY repealing and reenacting, without amendments,  
22 Article - Criminal Procedure  
23 Section 11-809 and 11-810  
24 Annotated Code of Maryland  
25 (2001 Volume)

26 BY repealing and reenacting, without amendments,  
27 Article - Transportation  
28 Section 11-118 and 19-103  
29 Annotated Code of Maryland

1 (1999 Replacement Volume and 2001 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Transportation

4 Section 17-103

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2001 Supplement)

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

9 **Article - Courts and Judicial Proceedings**

10 5-639.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) "Emergency service" has the meaning stated in § 19-103 of the  
13 Transportation Article.

14 (3) "Emergency vehicle" has the meaning stated in § 11-118 of the  
15 Transportation Article.

16 (b) (1) An operator of an emergency vehicle, who is authorized to operate the  
17 emergency vehicle by its owner or lessee, is immune from suit in the operator's  
18 individual capacity for damages resulting from a negligent act or omission while  
19 operating the emergency vehicle in the performance of emergency service.

20 (2) This subsection does not provide immunity from suit to an operator  
21 for a malicious act or omission or for gross negligence of the operator.

22 (c) (1) An owner or lessee of an emergency vehicle, including a political  
23 subdivision, is liable to the extent provided in subsection (d) of this section for any  
24 damages caused by a negligent act or omission of an authorized operator while  
25 operating the emergency vehicle in the performance of emergency service.

26 (2) This subsection does not subject an owner or lessee to liability for the  
27 operator's malicious act or omission or for the operator's gross negligence.

28 (3) A political subdivision may not raise the defense of governmental  
29 immunity in an action against it under this section.

30 (d) Liability under this section for self-insured jurisdictions is limited to the  
31 amount of the minimum benefits that a vehicle liability insurance policy must provide  
32 under § 17-103 of the Transportation Article, except that an owner or lessee may be  
33 liable in an amount up to the maximum limit of any basic vehicle liability insurance  
34 policy it has in effect exclusive of excess liability coverage.

1 (e) A judgment under this section against the owner or lessee of an emergency  
2 vehicle constitutes a complete bar to any action or judgment deriving from the same  
3 occurrence against the operator of the emergency vehicle.

4

#### Article - Criminal Procedure

5 11-809.

6 (a) (1) A claimant shall file a claim not later than:

7 (i) 180 days after the occurrence of the crime or delinquent act on  
8 which the claim is based; or

9 (ii) 180 days after the death of the victim.

10 (2) For good cause, the Board may extend the time for filing up to 2 years  
11 after the occurrence of the crime or delinquent act or the death of the victim.

12 (3) In a case of child abuse, a claimant may file a claim up to 2 years  
13 after the claimant knew or should have known of the child abuse.

14 (b) (1) Claims shall be filed in the office of the Board in person or by mail.

15 (2) The Board shall:

16 (i) accept for filing each claim that meets the requirements of this  
17 subtitle and the regulations of the Board; and

18 (ii) notify the claimant within 10 days after receipt of the claim.

19 11-810.

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

21 (i) a crime or delinquent act was committed;

22 (ii) the crime or delinquent act directly resulted in:

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

24 2. psychological injury to the victim that necessitated mental  
25 health counseling;

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

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

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

3     (b)     Unless total dependency is established, family members are considered to  
4 be partly dependent on a parent with whom they reside without regard to actual  
5 earnings.

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

8           (1)     incurred at least \$100 in unreimbursed and unreimbursable  
9 expenses or indebtedness reasonably incurred or claimed for:

10                   (i)     medical care;

11                   (ii)    expenses for eyeglasses and other corrective lenses;

12                   (iii)   mental health counseling;

13                   (iv)   funeral expenses;

14                   (v)    repairing, replacing, or cleaning property;

15                   (vi)   disability or dependent claim; or

16                   (vii)   other necessary services; or

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

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

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

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

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

29           (2)     A claimant filing for injuries incurred as the occupant of a motor  
30 vehicle or a dependent of an occupant of a motor vehicle operated in violation of §  
31 21-902 of the Transportation Article may not receive an award unless the claimant  
32 proves that the occupant did not know or could not have known of the condition of the  
33 operator of the vehicle.

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

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

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

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

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

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

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

14 11-811.

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

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

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

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

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

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

1           (5)     Subject to the limitation under subsection (b)(6) of this section and §  
2 11-812 of this subtitle, a parent, child, or spouse of a victim who resides with the  
3 victim and who is eligible for an award as the result of the injury of a victim is eligible  
4 to receive psychiatric, psychological, or mental health counseling.

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

6           (1)     [\$25,000] \$100,000 for a disability-related or dependency-related  
7 claim;

8           (2)     [\$45,000] \$180,000 for a medical claim;

9           (3)     [\$5,000] \$20,000 for each claimant for psychiatric, psychological, or  
10 mental health counseling under subsection (a)(4) of this section;

11          (4)     a total of [\$45,000] \$250,000, including any subsequent and  
12 supplemental awards;

13          (5)     \$250 for each claimant for repair, replacement, or cleaning of  
14 property damaged, soiled, or littered as a result of a crime or law enforcement  
15 investigation of a crime; or

16          (6)     for an award for psychiatric, psychological, or mental health  
17 counseling made under subsection (a)(5) of this section:

18               (i)     [\$1,000] \$10,000 for each claimant; and

19               (ii)    [\$5,000] \$20,000 for each incident.

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

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

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

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

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

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

1 **Article - Transportation**

2 11-118.

3 "Emergency vehicle" means any of the following vehicles that are designated by  
4 the Administration as entitled to the exemptions and privileges set forth in the  
5 Maryland Vehicle Law for emergency vehicles:

6 (1) Vehicles of federal, State, or local law enforcement agencies;

7 (2) Vehicles of volunteer fire companies, rescue squads, fire  
8 departments, the Maryland Institute for Emergency Medical Services Systems, and  
9 the Maryland Fire and Rescue Institute;

10 (3) State vehicles used in response to oil or hazardous materials spills;

11 (4) State vehicles designated for emergency use by the Commissioner of  
12 Correction;

13 (5) Ambulances; and

14 (6) Special vehicles funded or provided by federal, State, or local  
15 government and used for emergency or rescue purposes in this State.

16 17-103.

17 (a) (1) Except as provided in paragraph (2) of this subsection, the form of  
18 security required under this subtitle is a vehicle liability insurance policy written by  
19 an insurer authorized to write these policies in this State.

20 (2) The Administration may accept another form of security in place of a  
21 vehicle liability insurance policy if it finds that the other form of security adequately  
22 provides the benefits required by subsection (b) of this section.

23 (3) The Administration shall, by regulation, assess each self-insurer an  
24 annual sum which may not exceed \$750, and which shall be used for actuarial studies  
25 and audits to determine financial solvency.

26 (b) The security required under this subtitle shall provide for at least:

27 (1) The payment of claims for bodily injury or death arising from an  
28 accident of up to [\$20,000] \$80,000 for any one person and up to [\$40,000] \$200,000 for  
29 any two or more persons, in addition to interest and costs;

30 (2) The payment of claims for property of others damaged or destroyed in  
31 an accident of up to [\$15,000] \$60,000, in addition to interest and costs;

32 (3) Unless waived, the benefits described under § 19-505 of the  
33 Insurance Article as to basic required primary coverage; and

1 (4) The benefits required under § 19-509 of the Insurance Article as to  
2 required additional coverage.

3 19-103.

4 (a) (1) In this section, the following words have the meanings indicated.

5 (2) "Emergency vehicle" has the same meaning as in § 11-118 of this  
6 article.

7 (3) "Emergency service" means:

8 (i) Responding to an emergency call;

9 (ii) Pursuing a violator or a suspected violator of the law; or

10 (iii) Responding to, but not while returning from, a fire alarm.

11 (b) An operator of an emergency vehicle, who is authorized to operate the  
12 emergency vehicle by its owner or lessee while operating the emergency vehicle in the  
13 performance of emergency service as defined in subsection (a) of this section shall  
14 have the immunity from liability described under § 5-639(b) of the Courts and  
15 Judicial Proceedings Article.

16 (c) (1) An owner or lessee of an emergency vehicle, including a political  
17 subdivision, is liable to the extent provided in § 5-639(c) of the Courts and Judicial  
18 Proceedings Article for any damages caused by a negligent act or omission of an  
19 authorized operator while operating the emergency vehicle in the performance of  
20 emergency service as defined in subsection (a) of this section.

21 (2) An owner or lessee of an emergency vehicle, including a political  
22 subdivision, shall have the immunity from liability described under § 5-639(c) of the  
23 Courts and Judicial Proceedings Article.

24 (d) A self-insured jurisdiction shall have the immunity from liability under  
25 this section as described under § 5-639(d) of the Courts and Judicial Proceedings  
26 Article.

27 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding any  
28 provision of law or judgment to the contrary, a person who has suffered injury that is  
29 otherwise compensable under this Act but whose claim under § 5-639 of the Courts  
30 Article, § 11-809 of the Criminal Procedure Article, or former Article 27, § 820 of the  
31 Code has previously been dismissed or denied may file or reopen any proceeding on  
32 the claim that may be available under this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
34 construed to apply retroactively and shall be applied to and interpreted to affect  
35 liability for injuries occurring on or after January 27, 1996 as a result of the pursuit  
36 by a law enforcement officer of an allegedly stolen vehicle that resulted in serious  
37 physical injury to a bystander.



1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2002. It shall remain effective for a period of 3 years and, at the end of June  
3 30, 2005, with no further action required by the General Assembly, this Act shall be  
4 abrogated and of no further force and effect.