

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 186 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Public Safety and Correctional Services)
Judicial Proceedings Judiciary

**Criminal Injuries Compensation - Awards for Lost Earnings and Injury
Resulting in Permanent Total Disability**

This departmental bill allows a parent or guardian of a child crime victim sharing residence to be eligible for an award from the Criminal Injuries Compensation Fund of up to 30 days of lost earnings resulting from having to provide care to the child victim. In addition, the bill allows a crime victim who suffers catastrophic injury resulting in permanent, total disability to be awarded an additional \$25,000 above the current \$25,000 limit.

Fiscal Summary

State Effect: Based on recent experience relating to lost earnings and an expectation of fewer than ten additional claims per year relating to catastrophic injury, the provisions of this bill are estimated to increase claims awards paid from the Criminal Injuries Compensation Fund by \$250,000 annually. Such an increase could be handled with existing and future fund balances without threatening the continuing viability of the fund.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The following persons are eligible for awards from the Criminal Injuries Compensation Fund:

- a victim;
- a dependent of a victim who died as a direct result of:
 - a crime or delinquent act;
 - 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 a delinquent act that would be considered a felony if committed by an adult; or
 - helping a law enforcement officer perform the officer's duties or helping a member of a fire department who is obstructed from performing the member's duties;
- any person who paid or assumed responsibility for the funeral expenses of a victim who died as a direct result of:
 - a crime or delinquent act;
 - 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
 - helping a law enforcement officer perform the officer's duties or helping a member of a fire department who is obstructed from performing the member's duties; and
- a parent, child, or spouse of a victim who resides with the victim.

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.

A claimant must file a claim not later than 180 days after the occurrence of the crime or delinquent act on which the claim is based or 180 days after the death of the victim.

The Criminal Injuries Compensation Board may make an award only if the board finds that: (1) a crime or delinquent act was committed; (2) the crime or delinquent act directly resulted in physical injury to or death of the victim or psychological injury to the victim

that necessitated mental health counseling; (3) 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 (4) the victim has cooperated fully with all law enforcement units.

The board may make an award only if the claimant, as a result of the injury on which the claim is based, has: (1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or (2) lost at least two continuous weeks' earnings or support.

An award for funeral expenses may not exceed \$5,000.

Compensation from the fund may not exceed:

- \$25,000 for a disability-related or dependency-related claim;
- \$45,000 for a medical claim;
- \$5,000 for each claimant for psychiatric, psychological, or mental health counseling;
- a total of \$45,000, including any subsequent and supplemental awards;
- \$250 for each claimant for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime; or
- for an award for psychiatric, psychological, or mental health counseling resulting from the death of a victim: (1) \$1,000 for each claimant; and (2) \$5,000 for each incident.

An award made under this subtitle must be reduced by the amount of any payments received or to be received as a result of the injury: (1) from or on behalf of the offender; (2) from any other public or private source, including an award under the Maryland Workers' Compensation Act; or (3) as an emergency award.

If there are two or more persons entitled to an award as a result of the death of a victim, the award must be apportioned among the claimants. The board may negotiate a settlement with a health care provider for the medical and medically-related expenses.

Background: Leave taken by parents to care for a child crime victim under the Family and Medical Leave Act is often unpaid.

The Criminal Injuries Compensation Fund, a nonreverting special fund, currently has a balance of more than \$3,500,000. Under provisions of the federal Victims of Crimes Act,

the federal government reimburses states 40% of victims' awards. Under federal legislation now under consideration, the federal reimbursement rate is expected to increase to 60%. That would increase federal reimbursements to Maryland by an estimated \$800,000 annually beginning in fiscal 2004.

The Governor's fiscal 2004 budget allocation for the fund anticipates special fund income from State sources to be \$4,584,480 and federal fund income to be \$1,349,000. Expenditures are estimated to be equal to total income, or \$5,933,480. However, the fund continues to maintain a balance, after annual expenditures, of over \$3,500,00.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Criminal Injuries Compensation Board), Department of Legislative Services

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