

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 800 (Senators Ruben and Forehand)
Judicial Proceedings

Criminal Injuries Compensation Fund - Claims after Discovery of Body

This bill authorizes a claimant for an award from the Criminal Injuries Compensation Fund in a murder case to file a claim up to five years after the discovery of the body of the victim. The bill's provisions are applied to any claims made or that could have been made to the fund on or after January 1, 2000.

Fiscal Summary

State Effect: The bill's requirements could be handled with the existing resources of the Criminal Injuries Compensation Fund.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A claimant seeking compensation from the Criminal Injuries Compensation Fund must file a claim no later than 180 days after the occurrence of the crime or delinquent act or the death of the victim. For good cause, the board may extend the filing time up to two years after the occurrence of the crime or delinquent act or death of the victim. In a case of child abuse, a claimant may file a claim up to two years after the claimant knew or should have known of the abuse. 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.

The Criminal Injuries Compensation Board (CICB) 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.

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

Chapter 16 of 2003 provides that a parent or guardian of a child crime victim sharing residence is 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, Chapter 16 also allows a crime victim who suffers catastrophic injury resulting in permanent, total disability to be awarded an additional \$25,000 above the \$25,000 limit.

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 any life insurance payments; 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: The Criminal Injuries Compensation Fund, a nonreverting special fund, had a fiscal year end balance of about \$2.6 million on June 30, 2003. Under provisions of the federal Victims of Crimes Act, the federal government reimburses states 60% of victims' awards actually paid during the prior fiscal year.

In a recent episode where a mother whose daughter disappeared about 15 years ago but whose body was found only four years ago, the current provisions precluded an award.

State Expenditures: Special fund expenditures could increase by \$6,000 for each case that qualifies for a claim award during the window of opportunity provided under this bill (\$5,000 for funeral expenses and \$1,000 for counseling). CICB believes that the bill's provisions could be read to apply to any body found since 1995, but has no way of knowing how many such claims might be filed. In any event, such additional special fund expenditures could be handled with the fund's existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1225 (Delegate Montgomery) – Judiciary.

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

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ncs/jr

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