

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 115 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Public Safety and Correctional Services)

Judicial Proceedings

Judiciary

Criminal Procedure - Criminal Injuries Compensation Board - Claims

This departmental bill provides that a claim to the Criminal Injuries Compensation Board must be filed within three years after the occurrence of the crime or delinquent act or the death of the victim. In addition, it prohibits the processing of debt collection relating to health care while a claimant is awaiting a compensation judgment from the board. The bill specifies that a compensation judgment claimant is protected by the Maryland Consumer Debt Collection Act.

A court must stay all proceedings in an action related to health care provided to a claimant until notified that a final decision in the criminal injuries compensation claim is made. Notification provisions are made relating to a health care provider owed a connected debt by a claimant. After a final decision on a claim, a notified health care provider may engage in debt collection activities or file a civil action until the later of: (1) the expiration of the time for filing the action; or (2) six months after the date of the final decision on the criminal injuries claim.

Fiscal Summary

State Effect: None. Extending the filing deadline codifies current practice of the board, and the bill's prohibition against certain debt collection activities prior to a final decision on a claim should have no fiscal impact on the claim itself.

Local Effect: None.

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

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 three 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 three 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 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. A claim awarded for lost wages may not exceed two-thirds of gross weekly salary or \$668 per week, whichever is greater.

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. A parent or guardian of a child crime victim sharing residence with the child is eligible for an award from the fund of up to 30 days of lost earnings resulting from having to provide care to the child victim. A crime victim who suffers catastrophic injury resulting in permanent, total disability may 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.

Chapter 128 of 2005 allows a parent, child, or spouse of an individual incarcerated for abuse under the State's prohibitions against domestic violence to be eligible for an award from the fund if, prior to incarceration, the individual: (1) resided with the parent, child, or spouse; and (2) provided financial support to the parent, child, or spouse.

Under the Maryland Consumer Debt Collection Act, in collecting or attempting to collect an alleged debt a collector may not:

- use or threaten force or violence;
- threaten criminal prosecution, unless the transaction involved the violation of a criminal statute;
- disclose or threaten to disclose information which affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- except as permitted by statute, contact a person's employer with respect to a delinquent indebtedness before obtaining final judgment against the debtor;
- except as permitted by statute, disclose or threaten to disclose to a person other than the debtor or his spouse or, if the debtor is a minor, his parent, information which affects the debtor's reputation, whether or not for credit worthiness, with knowledge that the other person does not have a legitimate business need for the information;
- communicate with the debtor or a person related to him with the frequency, at the unusual hours, or in any other manner as reasonably can be expected to abuse or harass the debtor;
- use obscene or grossly abusive language in communicating with the debtor or a person related to him;
- claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or

- use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not.

A collector who violates any provision of this subtitle is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

Background: The Criminal Injuries Compensation Board currently receives numerous claims after the 180-day deadline and virtually all are accepted under aegis of the board's authority to extend the deadline for good cause. According to the board, a claim has never been denied solely for filing after 180 days.

Currently, according to DPSCS, while a compensation claim is being processed, health care providers begin collection procedures for unpaid bills. As a result, many crime victims find themselves being pursued by the providers and debt collection agencies using "debt collection activities." These same bills may eventually be paid by the Criminal Injuries Compensation Board, but the debt collection practices have already begun. This change is similar to provisions of the Virginia victim compensation program.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Department of Health and Mental Hygiene, Department of Legislative Services

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M/jr

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