

HOUSE BILL 1003

E2

71r1007
CF SB 200

By: **Delegate Vallario**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Criminal Injuries Compensation – Claims by Victims**

3 FOR the purpose of requiring the Criminal Injuries Compensation Board to reduce the
4 amount of a certain award or deny a certain claim if the Board finds that the
5 victim contributed to the victim's own injury under certain circumstances;
6 repealing a provision authorizing the Board to disregard the responsibility of
7 the victim for the victim's own injury under certain circumstances; repealing a
8 provision prohibiting a certain claimant from receiving an award unless the
9 claimant proves a certain lack of knowledge; repealing a provision prohibiting a
10 claimant from receiving an award under certain circumstances; repealing a
11 reference to a certain schedule of benefits as it existed on a certain date and
12 providing that the effective schedule of benefits applies; modifying certain
13 definitions; providing that certain limitations regarding eligibility for an award
14 do not apply with respect to certain victims; and generally relating to claims by
15 victims for awards from the Criminal Injuries Compensation Board.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 11–801, 11–808(a), 11–810(a) and (d), and 11–811(a)(1)(i)
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Criminal Procedure**

4 11–801.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Board” means the Criminal Injuries Compensation Board.

7 (c) “Claimant” means the person filing a claim under this subtitle.

8 (d) (1) “Crime” means:

9 (i) except as provided in paragraph (2) of this subsection, a
10 criminal offense under state, federal, or common law that is committed in:

11 1. this State; or

12 2. another state against a resident of this State; or

13 (ii) an act of international terrorism as defined in Title 18, §
14 2331 of the United States Code that is committed outside of the United States against
15 a resident of this State.

16 (2) “Crime” does not include an act involving the operation of a vessel
17 or motor vehicle unless the act is:

18 (I) **A VIOLATION OF TITLE 2, SUBTITLE 5, § 2–209, § 3–204,**
19 **OR § 3–211 OF THE CRIMINAL LAW ARTICLE;**

20 (II) **A VIOLATION OF § 8–738 OF THE NATURAL RESOURCES**
21 **ARTICLE;**

22 [(i)] (III) a violation of § 20–102, § 20–104, § 21–902, or §
23 21–904 of the Transportation Article; or

24 [(ii)] (IV) operating a motor vehicle or vessel that results in an
25 intentional injury.

1 (e) “Dependent” means:

2 (1) a surviving spouse or child of a person; or

3 (2) a person who is dependent on another person for principal support.

4 (f) “Victim” means a person:

5 (1) who suffers physical injury or death as a result of a crime or
6 delinquent act;

7 (2) who suffers psychological injury as a direct result of:

8 (i) [a fourth degree sexual offense or a delinquent act that
9 would be a fourth degree sexual offense if committed by an adult;

10 (ii) a [felony] **CRIME** or a delinquent act that would be a
11 [felony] **CRIME** if committed by an adult; or

12 [(iii)] **(II)** physical injury or death directly resulting from a
13 crime or delinquent act; or

14 (3) who suffers physical injury or death as a direct result of:

15 (i) trying to prevent a crime or delinquent act or an attempted
16 crime or delinquent act from occurring in the person’s presence;

17 (ii) trying to apprehend an offender who had committed a crime
18 or delinquent act in the person’s presence or had committed a felony or a delinquent
19 act that would be a felony if committed by an adult; or

20 (iii) helping a law enforcement officer in the performance of the
21 officer’s duties or helping a member of a fire department who is being obstructed from
22 performing the member’s duties; **OR**

23 **(4) WHO IS A VICTIM OF TRAFFICKING AS DEFINED UNDER 22**
24 **U.S.C. § 7102 OR WHO WAS OTHERWISE FORCED TO PARTICIPATE IN A CRIME**
25 **OR DELINQUENT ACT.**

26 11-808.

1 (a) (1) Except as provided in paragraph (2) of this subsection, the
2 following persons are eligible for awards in the manner provided under this subtitle:

3 (i) a victim;

4 (ii) a dependent of a victim who died as a direct result of:

5 1. a crime or delinquent act;

6 2. trying to prevent a crime or delinquent act or an
7 attempted crime or delinquent act from occurring in the victim's presence or trying to
8 apprehend a person who had committed a crime or delinquent act in the victim's
9 presence or had committed a felony or a delinquent act that would be considered a
10 felony if committed by an adult; or

11 3. helping a law enforcement officer perform the officer's
12 duties or helping a member of a fire department who is obstructed from performing
13 the member's duties;

14 (iii) any person who paid or assumed responsibility for the
15 funeral expenses of a victim who died as a direct result of:

16 1. a crime or delinquent act;

17 2. trying to prevent a crime or delinquent act or an
18 attempted crime or delinquent act from occurring in the victim's presence or trying to
19 apprehend a person who had committed a crime or delinquent act in the victim's
20 presence or had committed a felony; or

21 3. helping a law enforcement officer perform the officer's
22 duties or helping a member of a fire department who is obstructed from performing
23 the member's duties; and

24 (iv) 1. a parent, child, or spouse of a victim who resides with
25 the victim; or

26 2. a parent, child, or spouse of an individual who is
27 incarcerated for abuse as defined in § 4-501 of the Family Law Article and who, prior
28 to incarceration:

29 A. resided with the parent, child, or spouse; and

1 B. provided financial support to the parent, child, or
2 spouse.

3 (2) A person who commits the crime or delinquent act that is the basis
4 of a claim, or an accomplice of the person, **OTHER THAN A VICTIM DESCRIBED IN**
5 **§ 11-801(F)(4) OF THIS SUBTITLE**, is not eligible to receive an award with respect to
6 the claim.

7 11-810.

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

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

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

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

12 2. psychological injury to the victim that necessitated
13 mental health counseling;

14 (iii) **EXCEPT IN THE CASE OF A VICTIM DESCRIBED IN**
15 **§ 11-801(F)(4) OF THIS SUBTITLE**, police, other law enforcement, or judicial records
16 show that the crime or delinquent act or the discovery of child abuse was reported to
17 the proper authorities within 48 hours after the occurrence of the crime or delinquent
18 act or the discovery of the child abuse; and

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

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

23 (d) [(1) (i) Except as provided under subparagraph (ii) of this
24 paragraph, in] **IN** considering a claim and in determining the amount of an award, the
25 Board shall determine whether the victim's conduct contributed to the infliction of the
26 victim's injury, [and, if so,] **AND SHALL** reduce the amount of the award or [reject]
27 **DENY** the claim **IF THE BOARD FINDS THAT THE VICTIM CONTRIBUTED TO THE**
28 **VICTIM'S OWN INJURY BECAUSE:**

1 **(1) THE VICTIM INITIATED, CONSENTED TO, PROVOKED, OR**
2 **UNREASONABLY FAILED TO AVOID A PHYSICAL CONFRONTATION WITH THE**
3 **OFFENDER;**

4 **(2) WHEN THE INJURY WAS INFLICTED, THE VICTIM WAS**
5 **PARTICIPATING IN A CRIME OR DELINQUENT ACT OTHER THAN THE CRIME OR**
6 **DELINQUENT ACT THAT IS THE BASIS OF THE CLAIM; OR**

7 **(3) THE VICTIM WAS AN OCCUPANT OF A MOTOR VEHICLE OR A**
8 **DEPENDENT OF AN OCCUPANT OF A MOTOR VEHICLE OPERATED IN VIOLATION**
9 **OF § 21-902 OF THE TRANSPORTATION ARTICLE, AND THE OCCUPANT KNEW OR**
10 **SHOULD HAVE KNOWN OF THE CONDITION OF THE OPERATOR OF THE VEHICLE.**

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

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

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

18 (2) A claimant filing for injuries incurred as the occupant of a motor
19 vehicle or a dependent of an occupant of a motor vehicle operated in violation of
20 § 21-902 of the Transportation Article may not receive an award unless the claimant
21 proves that the occupant did not know or could not have known of the condition of the
22 operator of the vehicle.

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

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

26 (ii) the victim was participating in a crime or delinquent act
27 when the injury was inflicted.]

28 11-811.

29 (a) (1) (i) Except as otherwise provided in this subsection, an award
30 under this subtitle shall be made in accordance with the **EFFECTIVE** schedule of

1 [benefits, as it existed on January 1, 2001,] **BENEFITS** and degree of disability as
2 specified in Title 9, Subtitle 6 of the Labor and Employment Article and any other
3 applicable provisions of the Labor and Employment Article, except for Title 9, Subtitle
4 8 of the Labor and Employment Article.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.