

HOUSE BILL 1323

E2
HB 1003/07 – JUD

8lr1735
CF SB 525

By: **Delegates Vallario, Ali, Barkley, Carter, Conaway, Costa, DeBoy, Dumais, Glenn, Healey, Kipke, Love, Manno, Montgomery, Pendergrass, Ramirez, Riley, Shank, Shewell, and Sophocleus**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2008

CHAPTER _____

1 AN ACT concerning

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

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

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Procedure
19 Section 11–801, 11–808(a), 11–810(a) and (d), and 11–811(a)(1)(i)
20 Annotated Code of Maryland
21 (2001 Volume and 2007 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.

26 (e) “Dependent” means:

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

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

1 (f) "Victim" means a person:

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

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

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

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

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

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

12 (i) trying to prevent a crime or delinquent act or an attempted
13 crime or delinquent act from occurring in the person's presence;

14 (ii) trying to apprehend an offender who had committed a crime
15 or delinquent act in the person's presence or had committed a felony or a delinquent
16 act that would be a felony if committed by an adult; or

17 (iii) helping a law enforcement officer in the performance of the
18 officer's duties or helping a member of a fire department who is being obstructed from
19 performing the member's duties; **OR**

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

23 11-808.

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

26 (i) a victim;

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

28 1. a crime or delinquent act;

29 2. trying to prevent a crime or delinquent act or an
30 attempted crime or delinquent act from occurring in the victim's presence or trying to
31 apprehend a person who had committed a crime or delinquent act in the victim's

1 presence or had committed a felony or a delinquent act that would be considered a
2 felony if committed by an adult; or

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

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

8 1. a crime or delinquent act;

9 2. trying to prevent a crime or delinquent act or an
10 attempted crime or delinquent act from occurring in the victim's presence or trying to
11 apprehend a person who had committed a crime or delinquent act in the victim's
12 presence or had committed a felony; or

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

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

18 2. a parent, child, or spouse of an individual who is
19 incarcerated for abuse as defined in § 4–501 of the Family Law Article and who, prior
20 to incarceration:

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

22 B. provided financial support to the parent, child, or
23 spouse.

24 (2) A person who commits the crime or delinquent act that is the basis
25 of a claim, or an accomplice of the person, **OTHER THAN A VICTIM DESCRIBED IN**
26 **§ 11–801(F)(4) OF THIS SUBTITLE**, is not eligible to receive an award with respect to
27 the claim.

28 11–810.

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

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

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

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

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

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

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

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

12 (d) [(1) (i) Except as provided under subparagraph (ii) of this
13 paragraph, in] **IN** considering a claim and in determining the amount of an award, the
14 Board shall determine whether the victim’s conduct contributed to the infliction of the
15 victim’s injury, [and, if so,] **AND ~~SHALL~~ MAY** reduce the amount of the award or
16 [reject] **DENY** the claim **IF THE BOARD FINDS THAT THE VICTIM CONTRIBUTED TO**
17 **THE VICTIM’S OWN INJURY BECAUSE:**

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

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

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

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

30 1. to prevent a crime or delinquent act or an attempted
31 crime or delinquent act from occurring in the victim’s presence; or

32 2. to apprehend an offender who had committed a crime
33 or delinquent act in the victim’s presence or had committed a felony or delinquent act
34 that would be a felony if committed by an adult.

1 (2) A claimant filing for injuries incurred as the occupant of a motor
2 vehicle or a dependent of an occupant of a motor vehicle operated in violation of
3 § 21-902 of the Transportation Article may not receive an award unless the claimant
4 proves that the occupant did not know or could not have known of the condition of the
5 operator of the vehicle.

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

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

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

11 11-811.

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.