

# SENATE BILL 140

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By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Public Safety and Correctional Services)**

Introduced and read first time: January 18, 2008

Rules suspended

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Criminal Injuries Compensation Board – Claims by**  
3 **Victims**

4 FOR the purpose of requiring the Criminal Injuries Compensation Board to reduce the  
5 amount of an award or deny a certain claim if the Board finds that the victim  
6 contributed to the victim's own injury under certain circumstances; repealing a  
7 provision authorizing the Board to disregard the responsibility of the victim for  
8 the victim's own injury under certain circumstances; repealing a provision  
9 prohibiting a certain claimant from receiving an award unless the claimant  
10 proves a certain lack of knowledge; repealing a provision prohibiting a claimant  
11 from receiving an award under certain circumstances; repealing a reference to a  
12 certain schedule of benefits as it existed on a certain date and providing that  
13 the effective schedule of benefits applies; and generally relating to claims by  
14 victims for awards from the Criminal Injuries Compensation Board.

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Procedure  
17 Section 11–810 and 11–811(a)(1)(i)  
18 Annotated Code of Maryland  
19 (2001 Volume and 2007 Supplement)

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

22 **Article – Criminal Procedure**

23 11–810.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) a crime or delinquent act was committed;
- 2 (ii) the crime or delinquent act directly resulted in:
- 3 1. physical injury to or death of the victim; or
- 4 2. psychological injury to the victim that necessitated
- 5 mental health counseling;
- 6 (iii) police, other law enforcement, or judicial records show that
- 7 the crime or delinquent act or the discovery of child abuse was reported to the proper
- 8 authorities within 48 hours after the occurrence of the crime or delinquent act or the
- 9 discovery of the child abuse; and

10 (iv) the victim has cooperated fully with all law enforcement

11 units.

12 (2) For good cause, the Board may waive the requirements of

13 paragraph (1)(iii) and (iv) of this subsection.

14 (b) Unless total dependency is established, family members are considered to

15 be partly dependent on a parent with whom they reside without regard to actual

16 earnings.

17 (c) The Board may make an award only if the claimant, as a result of the

18 injury on which the claim is based, has:

19 (1) incurred at least \$100 in unreimbursed and unreimbursable

20 expenses or indebtedness reasonably incurred or claimed for:

- 21 (i) medical care;
- 22 (ii) expenses for eyeglasses and other corrective lenses;
- 23 (iii) mental health counseling;
- 24 (iv) funeral expenses;
- 25 (v) repairing, replacing, or cleaning property;
- 26 (vi) disability or dependent claim; or
- 27 (vii) other necessary services; or

28 (2) lost at least 2 continuous weeks' earnings or support.

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

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

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

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

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

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

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

24 (2) A claimant filing for injuries incurred as the occupant of a motor  
25 vehicle or a dependent of an occupant of a motor vehicle operated in violation of §  
26 21-902 of the Transportation Article may not receive an award unless the claimant  
27 proves that the occupant did not know or could not have known of the condition of the  
28 operator of the vehicle.

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

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

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

34 (e) (1) A victim or dependent may not be denied compensation solely  
35 because the victim:

1 (i) is a relative of the offender; or

2 (ii) was living with the offender as a family member or  
3 household member at the time of the injury or death.

4 (2) If the Board can reasonably determine that the offender will not  
5 receive any economic benefit or undue enrichment from the compensation, the Board  
6 may award compensation to a victim or dependent who is a relative, family member,  
7 or household member of the offender.

8 11-811.

9 (a) (1) (i) Except as otherwise provided in this subsection, an award  
10 under this subtitle shall be made in accordance with the schedule of benefits, as it  
11 existed [on January 1, 2001,] **ON THE DATE OF THE OCCURRENCE OF THE CRIME**  
12 **OR DELINQUENT ACT ON WHICH THE CLAIM IS BASED,** and degree of disability as  
13 specified in Title 9, Subtitle 6 of the Labor and Employment Article and any other  
14 applicable provisions of the Labor and Employment Article, except for Title 9, Subtitle  
15 8 of the Labor and Employment Article.

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