

HOUSE BILL 1278

E2
HB 1329/08 – JUD

9lr2332
CF SB 619

By: **Delegates Valderrama, Barnes, Dumais, Kelly, Kramer, Lee, Levi, Ramirez, Rosenberg, Simmons, Vallario, and Waldstreicher**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2009

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Criminal Injuries Compensation Board – Delegation of**
3 **Contested Claims to Office of Administrative Hearings**

4 FOR the purpose of establishing that a member of the Criminal Injuries Compensation
5 Board is not entitled to compensation or reimbursement to attend a certain
6 hearing; authorizing the ~~Criminal Injuries Compensation~~ Board to adopt
7 regulations for the approval of attorneys' fees for representation before the
8 Office of Administrative Hearings; repealing the authority of the Board to hear
9 and determine a certain claim, hold hearings, administer oaths, examine any
10 person under oath, and issue certain subpoenas; authorizing the Board to
11 tentatively determine a certain claim and request certain subpoenas; repealing
12 the authority of the Board to delegate certain power to a certain member or
13 employee; requiring the Board to provide a certain report to a certain claimant
14 and a certain attorney; requiring the Secretary of Public Safety and
15 Correctional Services to delegate the authority to conduct a certain hearing to
16 the Office of Administrative Hearings under certain circumstances; requiring
17 the Office to hold a certain hearing at a certain location under certain
18 circumstances; altering a certain provision of law to require the Secretary to
19 modify, affirm, or reverse a certain decision within a certain time period under
20 certain circumstances; requiring that a certain claimant and a certain attorney
21 be given a copy of a certain decision; authorizing a certain claimant to appeal a
22 certain decision within a certain time period; authorizing the transfer and
23 appropriation of certain money in a certain manner to the Office for a certain
24 purpose; providing for the application of this Act; and generally relating to the
25 Criminal Injuries Compensation Board.

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 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 11–804, 11–805, 11–814, and 11–815
4 Annotated Code of Maryland
5 (2008 Replacement Volume)

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

8 **Article – Criminal Procedure**

9 11–804.

10 (a) There is a Criminal Injuries Compensation Board in the Department.

11 (b) (1) The Board consists of five members.

12 (2) Of the five members of the Board:

13 (i) no more than four may belong to the same political party;
14 and

15 (ii) one shall have been admitted to practice law in the State for
16 at least 5 years immediately preceding the appointment.

17 (3) The Secretary shall appoint the members of the Board, with the
18 approval of the Governor and the advice and consent of the Senate.

19 (c) (1) The term of a member is 5 years.

20 (2) A member who is appointed to fill a vacancy occurring other than
21 by expiration of a term serves for the rest of the unexpired term.

22 (d) (1) With the approval of the Governor, the Secretary shall designate
23 one member of the Board as chairman.

24 (2) The chairman serves at the pleasure of the Secretary.

25 (e) (1) Each member of the Board shall devote the time necessary to
26 perform the duties listed under this subtitle.

27 (2) [Each]EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
28 SUBSECTION, EACH member of the Board is entitled to:

29 (i) compensation in accordance with the State budget; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(3) A MEMBER OF THE BOARD IS NOT ENTITLED TO COMPENSATION OR REIMBURSEMENT TO ATTEND A CONTESTED HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS.

11-805.

(a) Subject to the authority of the Secretary as set forth in Title 2, Subtitle 1 of the Correctional Services Article, the Board has the following powers and duties:

(1) to establish and maintain an office and to appoint and prescribe the duties of a claims examiner, a secretary, clerks, and any other employees and agents as may be necessary;

(2) to adopt regulations to carry out the provisions and purposes of this subtitle, including procedures for the review and evaluation of claims and regulations for the approval of attorneys' fees for representation before the [Board] **BOARD, OFFICE OF ADMINISTRATIVE HEARINGS**, or before the court on judicial review;

(3) to request from the State's Attorney, the Department of State Police, or county or municipal police departments any investigation and information that will help the Board to determine:

(i) whether a crime or a delinquent act was committed or attempted; and

(ii) whether and to what extent the victim or claimant was responsible for the victim's or claimant's own injury;

(4) to [hear and] **TENTATIVELY** determine each claim for an award filed with the Board under this subtitle and to reinvestigate or reopen a case as the Board determines to be necessary;

(5) to direct medical examination of victims;

(6) to [hold hearings, administer oaths, examine any person under oath, and issue] **REQUEST** subpoenas requiring the attendance and testimony of witnesses or requiring the production of documents or other evidence **IN A HEARING TO DETERMINE A CLAIM BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**;

(7) to take or cause to be taken affidavits or depositions within or outside the State; and

(8) to submit each year to the Governor, to the Secretary, and, subject to § 2-1246 of the State Government Article, to the General Assembly a written report of the activities of the Board.

(b) Except as otherwise provided by law, an employee of the Board is subject to the State Personnel and Pensions Article.

[(c) (1) The Board may delegate to a member or employee of the Board its powers under this section to hold hearings, administer oaths, examine a person under oath, and issue subpoenas.

(2) A subpoena issued under this section is subject to the Maryland Rules.]
11-814.

(a) Within 30 days after the receipt of a claim, the Board shall notify the claimant if additional material is required.

(b) (1) Except as provided in paragraph (2) of this subsection, within 90 days after the receipt of a claim and all necessary supporting material, the Board shall:

(i) complete the review and evaluation of each claim; and

(ii) file with the Secretary **AND PROVIDE TO THE CLAIMANT AND ANY ATTORNEY OF RECORD FOR THE CLAIMANT** a written report setting forth the decision and the reasons in support of the decision.

(2) For good cause shown, for a period not to exceed 1 year the Board may extend the time to file its report with the Secretary after receipt of the claim and all necessary supporting material until the first to occur of the following events:

(i) the claimant no longer has expenses related to the crime; or

(ii) the claimant has been awarded the maximum amount authorized under §§ 11-811(b) and 11-812 of this subtitle.

(C) (1) IF THE CLAIMANT NOTIFIES THE SECRETARY WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REPORT FROM THE BOARD THAT THE CLAIMANT CONTESTS THE BOARD'S DECISION, THE SECRETARY SHALL DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY TO CONDUCT A CONTESTED CASE HEARING REGARDING ALL MATTERS RELATING TO THE CLAIM AND ISSUE FINAL FINDINGS OF FACT, FINAL CONCLUSIONS OF LAW, AND THE FINAL ADMINISTRATIVE DECISION OF THE BOARD AS PROVIDED UNDER TITLE

10, SUBTITLE 2 (ADMINISTRATIVE PROCEDURE ACT – CONTESTED CASES) OF THE STATE GOVERNMENT ARTICLE.

(2) AT THE REQUEST OF THE CLAIMANT, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL HOLD A HEARING UNDER THIS SUBSECTION IN A COUNTY WHERE THE CRIME OR DELINQUENT ACT OCCURRED, THE CLAIMANT RESIDES, OR THE CLAIMANT IS REGULARLY EMPLOYED.

[(c)] (D) (1) [Within 30] IF THE CLAIMANT DOES NOT CONTEST THE BOARD’S DECISION, WITHIN 60 days after the receipt of a written report from the Board, the Secretary shall modify, affirm, or reverse the decision of the Board.

[(d)] (2) The decision of the Secretary to affirm, modify, or reverse the decision of the Board is final.

(e) The claimant AND ANY ATTORNEY OF RECORD FOR THE CLAIMANT shall be given a copy of the final [report on request] DECISION OF THE SECRETARY OR OFFICE OF ADMINISTRATIVE HEARINGS.

11–815.

Within 30 days after the final decision of the Secretary **OR THE OFFICE OF ADMINISTRATIVE HEARINGS**, a claimant aggrieved by that decision may appeal the decision under §§ 10–222 and 10–223 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, any money saved by eliminating hearings that would have been conducted by the Criminal Injuries Compensation Board prior to the effective date of this Act may be transferred and appropriated in the annual budget bill or by budget amendment to the Office of Administrative Hearings for the purpose of conducting hearings as required under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of this Act shall apply to all claims that are not final as of the end of September 30, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.