

# HOUSE BILL 1297

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HB 1278/09 – JUD

0lr1716

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By: **Delegates Valderrama and Vallario**  
Introduced and read first time: February 18, 2010  
Assigned to: Judiciary

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## A BILL ENTITLED

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 Board to adopt regulations for the approval of  
7 attorney's fees for representation before the Office of Administrative Hearings;  
8 repealing the authority of the Board to hear and determine a certain claim, hold  
9 hearings, administer oaths, examine any person under oath, and issue certain  
10 subpoenas; authorizing the Board to tentatively determine a certain claim and  
11 request certain subpoenas; repealing the authority of the Board to delegate  
12 certain power to a certain member or employee; requiring the Board to provide  
13 a certain report to a certain claimant and a certain attorney; requiring the  
14 Secretary of Public Safety and Correctional Services to delegate the authority to  
15 conduct a certain hearing to the Office of Administrative Hearings under  
16 certain circumstances and requiring the Office to hold the hearing at a certain  
17 location under certain circumstances; altering a certain provision of law to  
18 require the Secretary to modify, affirm, or reverse a certain decision within a  
19 certain time period under certain circumstances; requiring that a certain  
20 claimant and a certain attorney be given a copy of a certain decision;  
21 authorizing a certain claimant to appeal a certain decision within a certain time  
22 period; authorizing the transfer and appropriation of certain money in a certain  
23 manner to the Office of Administrative Hearings for a certain purpose;  
24 providing for the application of this Act; and generally relating to the Criminal  
25 Injuries Compensation Board.

26 BY repealing and reenacting, with amendments,  
27 Article – Criminal Procedure  
28 Section 11–804, 11–805, 11–814, and 11–815  
29 Annotated Code of Maryland  
30 (2008 Replacement Volume and 2009 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



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 11–804.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 11-805.

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

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

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

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

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

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

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

21 (5) to direct medical examination of victims;

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

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

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

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

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

4                   (2) A subpoena issued under this section is subject to the Maryland  
5 Rules.]

6 11–814.

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

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

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

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

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

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

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

22           **(c) (1) IF THE CLAIMANT NOTIFIES THE SECRETARY WITHIN 30 DAYS**  
23 **AFTER RECEIPT OF A WRITTEN REPORT FROM THE BOARD THAT THE CLAIMANT**  
24 **CONTESTS THE BOARD’S DECISION, THE SECRETARY SHALL DELEGATE TO THE**  
25 **OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY TO CONDUCT A**  
26 **CONTESTED CASE HEARING REGARDING ALL MATTERS RELATING TO THE CLAIM**  
27 **AND ISSUE FINAL FINDINGS OF FACT, FINAL CONCLUSIONS OF LAW, AND THE**  
28 **FINAL ADMINISTRATIVE DECISION OF THE BOARD AS PROVIDED UNDER TITLE**  
29 **10, SUBTITLE 2 (ADMINISTRATIVE PROCEDURE ACT – CONTESTED CASES) OF**  
30 **THE STATE GOVERNMENT ARTICLE.**

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

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

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

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

9 11-815.

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

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

19           **SECTION 3. AND BE IT FURTHER ENACTED**, That the provisions of this Act  
20 shall apply to all claims that are not final as of the end of September 30, 2010.

21           **SECTION 4. AND BE IT FURTHER ENACTED**, That this Act shall take effect  
22 October 1, 2010.