

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 794
Judiciary

(Delegate Lee, *et al.*)

Criminal Injuries Compensation - Crime Victim - Definition

This bill expands the definition of the term “victim” under provisions governing the Criminal Injuries Compensation Board (CICB) by including a person who suffers psychological injury as a direct result of a “crime” or delinquent act and a person who suffers actual or threatened physical, emotional, or financial harm as a direct result of any crime or a delinquent act that would be a crime.

Fiscal Summary

State Effect: Minimal. Assuming that it is not the intent of the bill to provide compensation from the Criminal Injuries Compensation Fund for financial crimes, *per se*, the bill’s requirements will not threaten the solvency of the fund.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The CICB in the Department of Public Safety and Correctional Services (DPSCS) provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings. In cases of homicide, the board may assist with funeral expenses and loss of support on the part of the victim’s dependents. A claimant seeking compensation from the Criminal Injuries Compensation Fund must file a claim no later than three years after the occurrence of the crime or delinquent act or the death of the victim. In a case of child abuse, a claimant may file a claim up to three years after the

claimant knew or should have known of the abuse. A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award.

The term “victim” is defined as a person who suffers:

- physical injury or death as a result of a crime or delinquent act;
- psychological injury as a direct result of: (1) a fourth degree sexual offense or a delinquent act that would be a fourth degree sexual offense if committed by an adult; (2) a felony or a delinquent act that would be a felony if committed by an adult; or (3) physical injury or death directly resulting from a crime or delinquent act; or
- physical injury or death as a direct result of: (1) trying to prevent a crime or delinquent act or an attempted crime or delinquent act from occurring in the person’s presence; (2) trying to apprehend an offender who had committed a crime or delinquent act in the person’s presence or had committed a felony or a delinquent act that would be a felony if committed by an adult; or (3) helping a law enforcement officer in the performance of the officer’s duties or helping a member of a fire department who is being obstructed from performing the member’s duties.

The term “crime” is defined as a criminal offense under state, federal, or common law that is committed in Maryland or another state against a resident of Maryland or an act of international terrorism under the United States Code that is committed outside of the United States against a resident of Maryland. It does not include certain acts involving the operation of a vessel or motor vehicle.

By statute and COMAR, the board has the discretion to decide a claim with or without a hearing. The board may make an award only if it finds that:

- a crime or delinquent act was committed;
- the crime or delinquent act directly resulted in physical injury to or death of the victim or psychological injury to the victim that necessitated mental health counseling;
- police, other law enforcement, or judicial records show that the crime or delinquent act or the discovery of child abuse was reported to the proper authorities within 48 hours after the occurrence of the crime or delinquent act or the discovery of the child abuse; and
- the victim has cooperated fully with all law enforcement units.

The board may make an award only if the claimant, as a result of the injury on which the claim is based, has: (1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or (2) lost at least two continuous weeks' earnings or support. A claim awarded for lost wages may not exceed two-thirds of gross weekly salary or \$668 per week, whichever is greater.

Compensation from the fund may not exceed:

- \$25,000 for a disability-related or dependency-related claim;
- \$45,000 for a medical claim;
- \$5,000 for each claimant for psychiatric, psychological, or mental health counseling;
- a total of \$45,000, including any subsequent and supplemental awards;
- \$250 for each claimant for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime; or
- for an award for psychiatric, psychological, or mental health counseling resulting from the death of a victim: \$1,000 for each claimant; and \$5,000 for each incident.

An award must be reduced by the amount of any payment received or to be received as a result of the injury: (1) from or on behalf of the offender; (2) from any other public or private source, including an award under the Maryland Workers' Compensation Act; (3) from any proceeds of life insurance in excess of \$25,000; or (4) as an emergency award from the board.

Background: The Criminal Injuries Compensation Fund paid out approximately \$6.5 million in fiscal 2009 for 823 claims filed. Assuming 800 claims are filed in fiscal 2010, awards for the current fiscal year will total about \$6.5 million. The proposed fiscal 2011 State budget includes \$6.5 million for awards. While the fund remains solvent, the fund balance has continued to decline in recent years, due primarily to the fund becoming more widely known, more victim advocates referring victims to the board, and the expansion in the types of allowable claims.

Additional Information

Prior Introductions: None.

Cross File: SB 819 (Senator Forehand, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services
(Criminal Injuries Compensation Board), Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2010
ncs/hlb

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