

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 76 (Chair, Judiciary Committee)(By Request - Departmental -
Public Safety and Correctional Services)
Judiciary

Criminal Procedure - Criminal Injuries Compensation Board - Claimant
Confidentiality

This departmental bill prohibits the Criminal Injuries Compensation Board from allowing the inspection, use, or disclosure of a claimant's name, address, telephone number, or Social Security number, except as necessary for the board to accomplish its statutory functions.

Fiscal Summary

State Effect: The bill's prohibition against the inspection, use, or disclosure of a claimant's identifying information can be handled by the board with existing budgeted resources.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The State's Criminal Injuries Compensation Board in DPSCS provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical 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 board may make an award only if the board finds that: (1) a crime or delinquent act was committed; (2) 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; (3) 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 (4) 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 incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or has 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.

The record of a board proceeding is a public record. However, if the confidentiality of a record or report that the board obtains is protected by other statutory or regulatory confidentiality provisions (such as a medical record), that record or report must remain confidential.

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 with respect to the claim.

Background: The board reports that many persons have submitted claims only with the assurance that the board would not disclose their identity or contact information to persons not connected with the claim. For instance, domestic violence victims frequently do not want their abusers to know that they have filed for compensation, and sexual assault victims do not want their victimization to be disclosed to friends or family. The board received an opinion from the department's counsel advising that claimant contact information is public record and must be disclosed upon request.

Additional Information

Prior Introductions: The confidentiality provisions of this bill were contained in SB 127/HB 261 of 2009 and HB 264 of 2008. SB 127 passed the Senate and received an unfavorable report from the House Judiciary Committee; HB 261 was withdrawn. In 2008, the Senate and House versions of HB 264 were not reconciled.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 18, 2010
mam/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Procedure – Criminal Injuries Compensation Board –
Claimant Confidentiality

BILL NUMBER: HB 76

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.