

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 77 (Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)
Judiciary Judicial Proceedings

**Criminal Procedure - Criminal Injuries Compensation Board - Claims by Victims
Outside the United States**

This departmental bill expands the definition of the term “crime” under provisions relating to the Criminal Injuries Compensation Fund by including under that definition an act committed against a resident of Maryland in another country that, if committed in the United States or a territory or commonwealth of the United States, would constitute a criminal offense under State, federal, or common law.

Fiscal Summary

State Effect: Criminal Injuries Compensation Fund expenditures increase by \$42,000 in FY 2011. Federal reimbursements to the fund increase by \$25,200 in FY 2012. Future years reflect one additional claim each year.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
ReimB. Rev.	\$0	\$25,200	\$29,400	\$33,600	\$37,800
SF Expenditure	\$42,000	\$49,000	\$56,000	\$63,000	\$70,000
Net Effect	(\$42,000)	(\$23,800)	(\$26,600)	(\$29,400)	(\$32,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

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. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: The State's Criminal Injuries Compensation Board (CICB) in 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 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: Under current law, a Maryland citizen abroad is unable to make claims for injuries resulting from a criminal act unless the citizen is a victim of international terrorism. With some exceptions, there are generally no criminal injury compensation programs in foreign countries. The U.S. State Department has established an office to assist U.S. citizens, who are crime victims, to obtain needed documentation for criminal injury compensation claims in the states that allow for such awards. According to the CICB, more than half of the states in the United States now allow for such claims and awards.

The Criminal Injuries Compensation Fund (CICF) 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.

CICF revenues average approximately \$3.6 million annually and are used to support crime victim compensation as well as CICB operating expenses. A fund balance in excess of \$2.5 million existed in the account since fiscal 2002. As a result of a number of operational improvements between fiscal 2002 and 2004, such as a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased the number of awards made to victims of crime and the amount of State funding used to support this purpose. CICB used the available fund balance to help support this growth. As a result, the special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. As of fiscal 2009, the CICF fund balance has been exhausted. CICB estimates that by fiscal 2013 and each subsequent year, total funding for crime victim compensation will be reduced to \$4.4 million, as opposed to the more than \$6.0 million provided annually for the past two years.

State Fiscal Effect: The bill is not expected to meaningfully affect the fund balance or the ability to meet future obligations for awards. The U.S. Department of Justice, through the Victims of Crime Act (VOCA), reimburses each state 60% of money expended on claims. VOCA does not allow reimbursement for property damage claims. Based on the actual experience of other states (such as Virginia), DPSCS estimates that six additional claims could be paid out by the fund in fiscal 2011, increasing by one additional claim each year. At a cost of about \$7,000 per claim, special fund expenditures will increase by \$42,000 in fiscal 2011, of which 60% (or \$25,200) would be covered by the federal government in the following fiscal year.

Additional Information

Prior Introductions: HB 1386 of 2009 passed the House and Senate, with amendments; however, an agreement between the two chambers was not reached. HB 266 of 2008 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2010
mpc/hlb Revised - House Third Reader - March 25, 2010
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Procedure – Criminal Injuries Compensation Board – Claims by Victims Outside of the United States

BILL NUMBER: HB 77

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.