

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 64

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

Judicial Proceedings

**Criminal Procedure - Criminal Injuries Compensation Board - Definition of
Victim**

This departmental bill expands the definition of the term “victim,” as it relates to the Criminal Injuries Compensation Board (CICB), to include a person who suffers psychological injury as a result of the following additional crimes:

- stalking, harassment, misuse of telephone facilities and equipment, misuse of electronic mail, visual surveillance, visual surveillance with prurient interest, camera surveillance, or sale of a minor; and
- a delinquent act that would constitute one of those offenses if committed by an adult.

The bill also eliminates the need for a psychological injury to have been a “direct” result of an offense.

Fiscal Summary

State Effect: Special fund expenditures increase by a maximum \$5,000 for each additional psychological injury claim awarded under the bill. This projected increase can be handled with the assumed increase in special fund revenues in FY 2012 and beyond.

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: 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, but only if the injury is a direct result of a criminal or delinquent offense. 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 (CICF) 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.

Chapters 69 and 70 of 2010 subject a claim filed with CICB to review under applicable provisions of the Administrative Procedure Act. If a claimant requests a hearing after the board has issued proposed findings of fact, conclusions of law, or orders, the board must hold a hearing in accordance with the Administrative Procedure Act before issuing final findings of fact, conclusions of law, or orders.

Background: CICF paid out \$7.4 million in fiscal 2010 for 950 awards. In that year, a total of 1,644 claims were filed, of which 1,559 initially met the statutory minimum requirements. An additional \$765,200 was spent on administrative costs. The board estimates that a total of \$7.0 million will be awarded for 900 claims in fiscal 2011. The proposed State budget estimates payments of \$7.3 million for 900 awards in fiscal 2012.

Recent Fund Balance Concerns

CICF special fund revenues are used to support crime victim compensation as well as CICB operating expenses. As a result of operational improvements enacted between fiscal 2002 and 2004, including a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased both the number of awards made to crime victims and the amount of State funding used to support this purpose. CICB used the previously available fund balance to help support this growth. As a result, special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. From fiscal 2009 through 2010, the CICF fund balance had been exhausted.

Chapter 482 of 2010 (the Budget Bill) provided \$570,600 in deficiency funds in fiscal 2009 from the federal American Recovery and Reinvestment Act. To address its fiscal situation, CICB was required to report to the legislative budget committees by October 15, 2010, on among several requirements, proposed solutions for addressing the fiscal concerns regarding the amount of funding available for making awards to victims of crime, including potential legislation. Failure to comply with the reporting

requirement risked the loss of \$6.7 million in State and federal appropriations to the CICF for fiscal 2011. In that report, CICB recommended legislation increasing fee amounts collected by the courts, as well as to “more fully exercise its subrogation rights and utilize the resources available to collect on revenue owed to CICB.” These collections involve both restitution amounts ordered by the courts and civil judgments. To that end, CICB has added two additional full-time positions to the revenue recovery team.

State Fiscal Effect: The board made 46 awards from CICF for mental health care costs in fiscal 2010 totaling \$58,400. Pursuant to this legislation, additional individuals would become eligible to receive awards. DPSCS does not know how many new claims will be filed or how many additional awards will be made as a result of the bill. The maximum award for each psychological injury claim under the bill is \$5,000. Assuming projected increases in special fund revenue, as discussed above, it is assumed that the bill’s requirements could be handled with existing special fund resources. The proposed State budget assumes the enactment of legislation that would increase special fund income by \$3.7 million in fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 24, 2011
ncs/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Procedure – Criminal Injuries Compensation Board –
Definition of Victim

BILL NUMBER: SB 64

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.