

HOUSE BILL 1300

E2

2lr2902

By: **Delegate Stein**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation Board – Human Trafficking – Victims**

3 FOR the purpose of altering the definition of “victim” for purposes of claims to the
4 Criminal Injuries Compensation Board; providing for a certain exception for
5 claims by a victim of certain crimes relating to human trafficking who would not
6 otherwise be eligible to receive a certain award; providing that a claimant may
7 file a certain claim up to 3 years after the claimant knew or should have known
8 of certain crimes relating to human trafficking; authorizing the Board to waive
9 certain requirements relating to a certain claim when the victim is a minor in
10 certain charges; and generally relating to the Criminal Injuries Compensation
11 Board and victims of human trafficking.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Procedure
14 Section 11–801(a)
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Procedure
19 Section 11–801(f), 11–808, 11–809, and 11–810
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2011 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Criminal Procedure**

25 11–801.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (f) “Victim” means a person:

3 (1) who suffers physical injury or death as a result of a crime or
4 delinquent act;

5 (2) who suffers psychological injury as a direct result of:

6 (i) a fourth degree sexual offense or a delinquent act that would
7 be a fourth degree sexual offense if committed by an adult;

8 (ii) a felony or a delinquent act that would be a felony if
9 committed by an adult; or

10 (iii) physical injury or death directly resulting from a crime or
11 delinquent act; [or]

12 (3) who suffers physical injury or death as a direct result of:

13 (i) trying to prevent a crime or delinquent act or an attempted
14 crime or delinquent act from occurring in the person’s presence;

15 (ii) trying to apprehend an offender who had committed a crime
16 or delinquent act in the person’s presence or had committed a felony or a delinquent
17 act that would be a felony if committed by an adult; or

18 (iii) helping a law enforcement officer in the performance of the
19 officer’s duties or helping a member of a fire department who is being obstructed from
20 performing the member’s duties; OR

21 **(4) WHO SUFFERS PHYSICAL OR PSYCHOLOGICAL INJURY AS A**
22 **DIRECT RESULT OF THE OFFENSES OF SEXUAL SOLICITATION OF A MINOR**
23 **UNDER § 3-324 OF THE CRIMINAL LAW ARTICLE, SALE OF A MINOR UNDER**
24 **§ 3-603 OF THE CRIMINAL LAW ARTICLE, CHILD PORNOGRAPHY UNDER**
25 **§ 11-207 OF THE CRIMINAL LAW ARTICLE, HUMAN TRAFFICKING UNDER**
26 **§ 11-303 OF THE CRIMINAL LAW ARTICLE, OR ABDUCTION OF A CHILD UNDER**
27 **THE AGE OF 16 YEARS UNDER § 11-305 OF THE CRIMINAL LAW ARTICLE, EVEN**
28 **IF THE PERSON IS ALSO CHARGED WITH PROSTITUTION UNDER § 11-306 OF THE**
29 **CRIMINAL LAW ARTICLE.**

30 11-808.

31 (a) (1) Except as provided in paragraph (2) of this subsection, the
32 following persons are eligible for awards in the manner provided under this subtitle:

- 1 (i) a victim;
- 2 (ii) a dependent of a victim who died as a direct result of:
- 3 1. a crime or delinquent act;
- 4 2. trying to prevent a crime or delinquent act or an
5 attempted crime or delinquent act from occurring in the victim's presence or trying to
6 apprehend a person who had committed a crime or delinquent act in the victim's
7 presence or had committed a felony or a delinquent act that would be considered a
8 felony if committed by an adult; or
- 9 3. helping a law enforcement officer perform the officer's
10 duties or helping a member of a fire department who is obstructed from performing
11 the member's duties;
- 12 (iii) any person who paid or assumed responsibility for the
13 funeral expenses of a victim who died as a direct result of:
- 14 1. a crime or delinquent act;
- 15 2. trying to prevent a crime or delinquent act or an
16 attempted crime or delinquent act from occurring in the victim's presence or trying to
17 apprehend a person who had committed a crime or delinquent act in the victim's
18 presence or had committed a felony; or
- 19 3. helping a law enforcement officer perform the officer's
20 duties or helping a member of a fire department who is obstructed from performing
21 the member's duties; and
- 22 (iv) 1. a parent, child, or spouse of a victim who resides with
23 the victim; or
- 24 2. a parent, child, or spouse of an individual who is
25 incarcerated for abuse as defined in § 4-501 of the Family Law Article and who, prior
26 to incarceration:
- 27 A. resided with the parent, child, or spouse; and
- 28 B. provided financial support to the parent, child, or
29 spouse.

30 (2) [A] EXCEPT WHEN A CLAIM IS RELATED TO A CHARGE OF
31 HUMAN TRAFFICKING OF A MINOR, A person who commits the crime or delinquent
32 act that is the basis of a claim, or an accomplice of the person, is not eligible to receive
33 an award with respect to the claim.

1 (b) A resident of the State is eligible for an award under this subtitle if the
2 resident becomes a victim in another state other than this State that:

3 (1) does not operate a criminal injuries compensation program;

4 (2) operates a criminal injuries compensation program for which the
5 victim is ineligible; or

6 (3) operates a criminal injuries compensation program for which
7 money has not been appropriated or made available.

8 (c) (1) A person eligible to receive an award under subsection (a) or (b) of
9 this section may file a claim under this subtitle.

10 (2) If a person eligible to receive an award is under 18 years of age, the
11 person's parent or guardian may file a claim under this subtitle.

12 (3) If a person eligible to receive an award is mentally incompetent,
13 the person's guardian or other person authorized to administer the person's estate
14 may file the claim on the person's behalf.

15 11-809.

16 (a) (1) A claimant shall file a claim not later than 3 years after the
17 occurrence of the crime or delinquent act or the death of the victim.

18 (2) [In a case of child abuse, a] A claimant may file a claim up to 3
19 years after the claimant knew or should have known of the [child abuse] **CRIME OF:**

20 (I) **CHILD ABUSE;**

21 (II) **SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF**
22 **THE CRIMINAL LAW ARTICLE;**

23 (III) **SALE OF A MINOR UNDER § 3-603 OF THE CRIMINAL**
24 **LAW ARTICLE;**

25 (IV) **CHILD PORNOGRAPHY UNDER § 11-207 OF THE**
26 **CRIMINAL LAW ARTICLE;**

27 (V) **HUMAN TRAFFICKING UNDER § 11-303 OF THE**
28 **CRIMINAL LAW ARTICLE; OR**

29 (VI) **ABDUCTION OF A CHILD UNDER THE AGE OF 16 YEARS**
30 **UNDER § 11-305 OF THE CRIMINAL LAW ARTICLE.**

1 (b) (1) Claims shall be filed in the office of the Board in person or by mail.

2 (2) The Board shall:

3 (i) accept for filing each claim that meets the requirements of
4 this subtitle and the regulations of the Board; and

5 (ii) notify the claimant within 10 days after receipt of the claim.

6 (c) (1) (i) In this subsection, “debt collection activities” means:

7 1. repeatedly calling or writing to a claimant and
8 threatening to refer the unpaid health care matter to a debt collection agency or to an
9 attorney for collection; or

10 2. filing a legal action or pursuing any legal process or
11 legal proceeding.

12 (ii) “Debt collection activities” does not include routine billing or
13 inquiries about the status of the claim.

14 (2) When a claimant files a claim under this subtitle, all health care
15 providers, as defined in § 3–2A–01(e) of the Courts Article and in § 4–301(g) of the
16 Health – General Article, that have been given notice of a pending claim shall refrain
17 from all debt collection activities relating to health care, as defined in § 4–301(f) of the
18 Health – General Article, received by the claimant in connection with a claim until a
19 final decision is made by the Secretary on the claim.

20 (3) On filing by a party of a notice of a claim filed under this subtitle, a
21 court shall stay all proceedings in an action related to health care provided to a
22 claimant in connection with the claim until the court is notified that a final decision on
23 the claim has been made.

24 (4) Claimants under this subtitle are protected under the Maryland
25 Consumer Debt Collection Act in Title 14, Subtitle 2 of the Commercial Law Article.

26 (5) (i) A health care provider who receives notice that a claim has
27 been filed under this subtitle may notify the Board in writing of the debt owed by the
28 claimant in connection with the claim.

29 (ii) If a health care provider notifies the Board under
30 subparagraph (i) of this paragraph, the Board shall notify the health care provider in
31 writing when a final decision is made on the claim.

1 (6) After a final decision on the claim under this subtitle, a health care
 2 provider that has received notice of a pending claim under this subtitle may engage in
 3 debt collection activities or file a civil action in court until the later of:

- 4 (i) the expiration of the time for filing a civil action in court; or
 5 (ii) 6 months after the date of the final decision on the claim
 6 under this subtitle.

7 11–810.

8 (a) (1) The Board may make an award only if the Board finds that:

- 9 (i) a crime or delinquent act was committed;
 10 (ii) the crime or delinquent act directly resulted in:
 11 1. physical injury to or death of the victim; or
 12 2. psychological injury to the victim that necessitated
 13 mental health counseling;
 14 (iii) police, other law enforcement, or judicial records show that
 15 the crime or delinquent act or the discovery of child abuse was reported to the proper
 16 authorities within 48 hours after the occurrence of the crime or delinquent act or the
 17 discovery of the child abuse; and
 18 (iv) the victim has cooperated fully with all law enforcement
 19 units.

20 (2) [For good cause, the] **THE** Board may waive the requirements of
 21 paragraph (1)(iii) and (iv) of this subsection:

22 **(I) FOR GOOD CAUSE; OR**

23 **(II) FOR A VICTIM WHO IS A MINOR IN A CHARGE OF:**

24 **1. SEXUAL SOLICITATION OF A MINOR UNDER**
 25 **§ 3–324 OF THE CRIMINAL LAW ARTICLE;**

26 **2. SALE OF A MINOR UNDER § 3–603 OF THE**
 27 **CRIMINAL LAW ARTICLE;**

28 **3. CHILD PORNOGRAPHY UNDER § 11–207 OF THE**
 29 **CRIMINAL LAW ARTICLE;**

1 **4. HUMAN TRAFFICKING UNDER § 11-303 OF THE**
2 **CRIMINAL LAW ARTICLE; OR**

3 **5. ABDUCTION OF A CHILD UNDER THE AGE OF 16**
4 **YEARS UNDER § 11-305 OF THE CRIMINAL LAW ARTICLE.**

5 (b) Unless total dependency is established, family members are considered to
6 be partly dependent on a parent with whom they reside without regard to actual
7 earnings.

8 (c) The Board may make an award only if the claimant, as a result of the
9 injury on which the claim is based, has:

10 (1) incurred at least \$100 in unreimbursed and unreimbursable
11 expenses or indebtedness reasonably incurred or claimed for:

12 (i) medical care;

13 (ii) expenses for eyeglasses and other corrective lenses;

14 (iii) mental health counseling;

15 (iv) funeral expenses;

16 (v) repairing, replacing, or cleaning property;

17 (vi) disability or dependent claim; or

18 (vii) other necessary services; or

19 (2) lost at least 2 continuous weeks' earnings or support.

20 (d) (1) (i) Except as provided under subparagraph (ii) of this
21 paragraph, in considering a claim and in determining the amount of an award, the
22 Board shall determine whether the victim's conduct contributed to the infliction of the
23 victim's injury, and, if so, reduce the amount of the award or reject the claim.

24 (ii) The Board may disregard the responsibility of the victim for
25 the victim's own injury if that responsibility is attributable to efforts by the victim:

26 1. to prevent a crime or delinquent act or an attempted
27 crime or delinquent act from occurring in the victim's presence; or

28 2. to apprehend an offender who had committed a crime
29 or delinquent act in the victim's presence or had committed a felony or delinquent act
30 that would be a felony if committed by an adult.

1 (2) A claimant filing for injuries incurred as the occupant of a motor
2 vehicle or a dependent of an occupant of a motor vehicle operated in violation of
3 § 21-902 of the Transportation Article may not receive an award unless the claimant
4 proves that the occupant did not know or could not have known of the condition of the
5 operator of the vehicle.

6 (3) A claimant may not receive an award if:

7 (i) the victim initiated, consented to, provoked, or unreasonably
8 failed to avoid a physical confrontation with the offender; or

9 (ii) the victim was participating in a crime or delinquent act
10 when the injury was inflicted.

11 (e) (1) A victim or dependent may not be denied compensation solely
12 because the victim:

13 (i) is a relative of the offender; or

14 (ii) was living with the offender as a family member or
15 household member at the time of the injury or death.

16 (2) If the Board can reasonably determine that the offender will not
17 receive any economic benefit or undue enrichment from the compensation, the Board
18 may award compensation to a victim or dependent who is a relative, family member,
19 or household member of the offender.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2012.