

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1300 (Delegate Stein)
Judiciary

Criminal Injuries Compensation Board - Human Trafficking - Victims

This bill expands eligibility for financial assistance to crime victims from the Criminal Injuries Compensation Fund (CICF) to victims of human trafficking.

Fiscal Summary

State Effect: None. The bill codifies the current practice of the Criminal Injuries Compensation Board (CICB), which considers victims of human trafficking and related offenses eligible for financial assistance under the fund.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill expands the definition of the term “victim” to include a person who suffers physical or psychological injury as a direct result of the offenses of sexual solicitation of a minor, sale of a minor, child pornography, human trafficking, or abduction of a child under the age of 16, even if the person is also charged with prostitution. The bill specifies that, in cases of human trafficking only, a person who commits a crime or delinquent act that is the basis of a compensation claim, or an accomplice of the person, is eligible to receive an award from CICF.

The bill extends the specified three-year filing period now applicable to child abuse to the crimes of sexual solicitation of a minor, sale of a minor, child pornography, human trafficking, or abduction of a child under the age of 16.

The bill authorizes the board to waive certain requirements for an award, in addition to for good cause, for a minor victim in a charge of sexual solicitation of a minor, sale of a minor, child pornography, human trafficking, or abduction of a child under the age of 16.

Current Law: CICB in the Department of Public Safety and Correctional Services (DPSCS) provides financial assistance for innocent victims of crime through this special fund. 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 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: DPSCS advises that the fees have not been altered since 1997. Although the revenue from the court costs has been relatively stable (approximately \$3.7 million annually), the amount paid by CICB has increased from \$3.7 million in fiscal 2001 to \$7.4 million in fiscal 2010.

In fiscal 2011, a total of 1,630 claims were filed, of which 1,628 initially met the statutory minimum requirements. In fiscal 2011, CICB ordered \$8.2 million in awards, but was only able to disburse \$5.2 million during the fiscal year because of fiscal constraints. An additional \$875,400 was spent on administrative costs. The proposed State budget estimates payments of \$4.8 million for more than 900 awards in fiscal 2013.

The U.S. Department of Justice, through the Victims of Crime Act (VOCA), reimburses states for 60% of funds expended on claims. Federal reimbursements via VOCA average about \$2.0 million annually.

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 (among several requirements), on 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. Legislative initiatives in 2011 to increase the fees failed.

Additional Information

Prior Introductions: None.

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 - March 9, 2012
mlm/hlb

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