

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 168

(Senator Brochin, *et al.*)

Judicial Proceedings

Judiciary

Criminal Procedure - Victim's Compensation - Temporary Lodging for Domestic Violence Victims

This bill makes a victim of domestic violence eligible to receive an award from the Criminal Injuries Compensation Fund (CICF) for the reasonable costs of up to 14 days of temporary lodging if the victim is eligible for an award from the fund as the result of an injury from the domestic violence incident and sought temporary lodging to avoid further injury.

Fiscal Summary

State Effect: Assuming 100 temporary lodging awards annually, special fund expenditures increase by \$78,800 and federal fund revenues increase by \$47,300 in FY 2013. Out-year revenues and expenditures reflect annualization and inflation.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
FF Revenue	\$47,300	\$63,600	\$64,300	\$64,900	\$65,600
SF Expenditure	\$78,800	\$106,100	\$107,100	\$108,200	\$109,300
Net Effect	(\$31,500)	(\$42,400)	(\$42,800)	(\$43,300)	(\$43,700)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Criminal Injuries Compensation Board (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.

State Fiscal Effect: To implement the bill, CICB would work closely with existing local domestic violence service providers to locate temporary lodging for claimants. The board anticipates that the majority of the additional claims resulting from the bill would come from a local service provider after a victim has incurred an expense related to temporary lodging.

Perhaps due to an increased outreach effort, CICB receives several inquiries each week from domestic violence victims who have no compensable expenses under current law. Assuming these same persons would be eligible for and seek temporary lodging under the bill, CICB estimates that about 100 awards per year may be made for temporary emergency housing. It is also assumed that each award would be made for the full 14 days allowed, and that a safe, clean, and comfortable hotel room could be obtained for about \$75. Accordingly, CICF expenditures increase by \$78,750 in fiscal 2013, which accounts for the bill’s October 1, 2012 effective date. Future year costs assume a 1% annual increase.

In addition, 60% of any increase in awards from the fund would be covered by the federal government in the following fiscal year through the Victims of Crime Act, which reimburses each state 60% of money expended on claims.

CICB also notes a potential operational impact from the bill involving the method of payment. In order to be effective in providing emergency temporary housing, CICB would likely need to be able to make immediate payment to the lodging property owner. Currently, the board only has the capability of making such payments as emergency awards payable from the DPSCS’s working fund. Because there are always several other demands on this working fund from all agencies in DPSCS, immediate access to these funds is not always possible.

Additional Information

Prior Introductions: SB 50 of 2011 and SB 123 of 2010 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken on either bill.

Cross File: None.

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