

HOUSE BILL 801

E2

3lr1734

By: **Delegate Attar**

Introduced and read first time: February 8, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation Board – Eligible Individuals and Direct**
3 **Reimbursement for Mental Health Services**

4 FOR the purpose of altering which individuals are eligible to receive mental health
5 counseling paid for by the Criminal Injuries Compensation Fund; requiring the
6 Criminal Injuries Compensation Board to provide direct reimbursement to mental
7 health professionals providing mental health services to a victim of a crime or a
8 parent, a child, a sibling, a stepchild, or an intimate partner of a victim of a crime;
9 and generally relating to the Criminal Injuries Compensation Board.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 11–808 and 11–811
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2022 Supplement)

15 BY adding to
16 Article – Criminal Procedure
17 Section 11–816.2
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2022 Supplement)

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

22 **Article – Criminal Procedure**

23 11–808.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 attempted
5 crime or delinquent act from occurring in the victim's presence or trying to apprehend a
6 person who had committed a crime or delinquent act in the victim's presence or had
7 committed a felony or a delinquent act that would be considered a felony if committed by
8 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 the
11 member's duties;

12 (iii) any person who paid or assumed responsibility for the funeral
13 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 attempted
16 crime or delinquent act from occurring in the victim's presence or trying to apprehend a
17 person who had committed a crime or delinquent act in the victim's presence or had
18 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 the
21 member's duties; [and]

22 (iv) 1. A parent, child, or spouse of a victim who resides with the
23 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 to
26 incarceration:

27 A. resided with the parent, child, or spouse; and

28 B. provided financial support to the parent, child, or spouse;

29 **AND**

30 **(V) A PARENT, A CHILD, A STEPCHILD, A SIBLING, OR AN**
31 **INTIMATE PARTNER OF A VICTIM WHO RECEIVED PSYCHIATRIC, PSYCHOLOGICAL,**
32 **OR MENTAL HEALTH COUNSELING DUE TO THE INJURY OF THE VICTIM.**

1 (2) A person who commits the crime or delinquent act that is the basis of a
2 claim, or an accomplice of the person, is not eligible to receive an award with respect to the
3 claim.

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

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

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

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

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

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

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

18 11-811.

19 (a) (1) (i) Except as otherwise provided in this subsection, an award under
20 this subtitle shall be made in accordance with the schedule of benefits, as it existed on
21 January 1, 2001, and degree of disability as specified in Title 9, Subtitle 6 of the Labor and
22 Employment Article and any other applicable provisions of the Labor and Employment
23 Article, except for Title 9, Subtitle 8 of the Labor and Employment Article.

24 (ii) For determining the amount of an award under this subtitle, the
25 term "average weekly wages" does not include tips, gratuities, and wages that are
26 undeclared on the claimant's State or federal income tax returns for the applicable years.

27 (iii) If a claimant does not have "average weekly wages" to qualify
28 under the formula in Title 9, Subtitle 6 of the Labor and Employment Article, the award
29 shall be in an amount equal to the average of the maximum and minimum awards listed in
30 the applicable portion of that subtitle.

31 (2) An award for loss of earnings or support made under this subtitle may
32 be up to two-thirds of the victim's gross average wage, but may not be less than the amount
33 provided in paragraph (1) of this subsection.

1 (3) The parent or guardian of a victim who is a child and who resides with
2 the victim may be eligible for an award of up to 30 days of lost earnings as a result of caring
3 for the victim.

4 (4) An award for funeral expenses may not exceed \$7,500.

5 (5) Subject to the limitation under subsection (b)(3) of this section and §
6 11–812 of this subtitle, a person who is eligible for an award as the result of the death of a
7 victim or psychological injury may be eligible, under the regulations that the Board adopts,
8 to receive psychiatric, psychological, or mental health counseling.

9 (6) Subject to the limitation under subsection (b)(6) of this section and §
10 11–812 of this subtitle, a parent, A child, A **STEPCHILD**, A **SIBLING**, or [spouse] AN
11 **INTIMATE PARTNER** of a victim [who resides with the victim and] who is eligible for an
12 award as the result of the injury of a victim is eligible to receive psychiatric, psychological,
13 or mental health counseling.

14 (7) Subject to the limitation under subsection (b)(7) of this section and §
15 11–812 of this subtitle, a parent, child, or spouse of a victim who died as a direct result of
16 a crime or delinquent act is eligible for an award of up to 2 weeks of lost average weekly
17 wages.

18 (b) Compensation awarded under this subtitle may not exceed:

19 (1) for a disability–related or dependency–related claim:

20 (i) except as provided in item (ii) of this paragraph, \$25,000; or

21 (ii) if the injury to the victim results in permanent total disability,
22 up to an additional \$25,000 after a disability–related claim has been awarded to the victim;

23 (2) \$45,000 for a medical claim;

24 (3) \$10,000 for each claimant for psychiatric, psychological, or mental
25 health counseling under subsection (a)(5) of this section;

26 (4) except as provided in item (1)(ii) of this subsection, a total of \$45,000,
27 including any subsequent and supplemental awards;

28 (5) \$250 for each claimant for repair, replacement, or cleaning of property
29 damaged, soiled, or littered as a result of a crime or law enforcement investigation of a
30 crime;

31 (6) for an award for psychiatric, psychological, or mental health counseling
32 made under subsection (a)(6) of this section:

33 (i) \$10,000 for each claimant; and

1 (ii) \$20,000 for each incident; or

2 (7) \$2,000 for lost average weekly wage claims made under subsection
3 (a)(7) of this section.

4 (c) An award made under this subtitle shall be reduced by the amount of any
5 payments received or to be received as a result of the injury:

6 (1) from or on behalf of the offender;

7 (2) except as provided in item (3) of this subsection, from any other public
8 or private source, including an award of the State Workers' Compensation Commission
9 under the Maryland Workers' Compensation Act;

10 (3) from any proceeds of life insurance in excess of \$25,000; [or]

11 (4) as an emergency award under § 11-813 of this subtitle; OR

12 **(5) THAT WERE PROVIDED DIRECTLY TO A MENTAL HEALTH**
13 **PROFESSIONAL AS REIMBURSEMENT UNDER § 11-816.2 OF THIS SUBTITLE.**

14 (d) If there are two or more persons entitled to an award as a result of the death
15 of a victim, the award shall be apportioned among the claimants.

16 (e) The Board may negotiate a settlement with:

17 (1) a health care provider for the medical and medically related expenses;
18 or

19 (2) a person that has provided funeral or death-related services in relation
20 to the death of a victim.

21 **11-816.2.**

22 **(A) IF A MENTAL HEALTH PROFESSIONAL PROVIDES MENTAL HEALTH**
23 **COUNSELING TO A VICTIM OR A PARENT, A CHILD, A STEPCHILD, A SIBLING, OR AN**
24 **INTIMATE PARTNER OF A VICTIM:**

25 **(1) THE SERVICES SHALL BE PROVIDED WITHOUT CHARGE TO THE**
26 **INDIVIDUAL; AND**

27 **(2) THE MENTAL HEALTH PROFESSIONAL:**

1 **(I) SHALL BE PAID BY THE BOARD FOR THE COSTS OF**
2 **PROVIDING THE SERVICES;**

3 **(II) SHALL PROVIDE WRITTEN OR ELECTRONIC VERIFICATION**
4 **SIGNED BY A QUALIFIED HEALTH CARE PROVIDER TO THE BOARD THAT MENTAL**
5 **HEALTH COUNSELING SERVICES WERE RENDERED TO A VICTIM OF A CRIME OR A**
6 **PARENT, A CHILD, A STEPCHILD, A SIBLING, OR AN INTIMATE PARTNER OF A VICTIM;**
7 **AND**

8 **(III) MAY NOT INCLUDE IN ANY REQUEST TO OBTAIN PAYMENT**
9 **UNDER THIS SUBSECTION A NARRATIVE DESCRIBING THE ALLEGED OFFENSE OF A**
10 **VICTIM OR A PHOTOGRAPH OF THE VICTIM.**

11 **(B) SERVICES PROVIDED UNDER THIS SECTION ARE SUBJECT TO THE**
12 **COMPENSATION LIMITS UNDER § 11-811(B) OF THIS SUBTITLE.**

13 **(C) THE BOARD, IN CONSULTATION WITH THE MARYLAND DEPARTMENT OF**
14 **HEALTH, SHALL ADOPT REGULATIONS TO IMPLEMENT THE DIRECT**
15 **REIMBURSEMENT OF MENTAL HEALTH PROFESSIONALS FOR SERVICES PROVIDED**
16 **UNDER THIS SECTION.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2023.