

HOUSE BILL 1323

E2
HB 1003/07 – JUD

8lr1735
CF SB 525

By: **Delegates Vallario, Ali, Barkley, Carter, Conaway, Costa, DeBoy, Dumais, Glenn, Healey, Kipke, Love, Manno, Montgomery, Pendergrass, Ramirez, Riley, Shank, Shewell, and Sophocleus**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation – Claims by Victims**

3 FOR the purpose of requiring the Criminal Injuries Compensation Board to reduce the
4 amount of a certain award or deny a certain claim if the Board finds that the
5 victim contributed to the victim's own injury under certain circumstances;
6 repealing a provision authorizing the Board to disregard the responsibility of
7 the victim for the victim's own injury under certain circumstances; repealing a
8 provision prohibiting a certain claimant from receiving an award unless the
9 claimant proves a certain lack of knowledge; repealing a provision prohibiting a
10 claimant from receiving an award under certain circumstances; repealing a
11 reference to a certain schedule of benefits as it existed on a certain date and
12 providing that the effective schedule of benefits applies; modifying certain
13 definitions; providing that certain limitations regarding eligibility for an award
14 do not apply with respect to certain victims; and generally relating to claims by
15 victims for awards from the Criminal Injuries Compensation Board.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 11–801, 11–808(a), 11–810(a) and (d), and 11–811(a)(1)(i)
19 Annotated Code of Maryland
20 (2001 Volume and 2007 Supplement)

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

23 **Article – Criminal Procedure**

24 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 (b) “Board” means the Criminal Injuries Compensation Board.

3 (c) “Claimant” means the person filing a claim under this subtitle.

4 (d) (1) “Crime” means:

5 (i) except as provided in paragraph (2) of this subsection, a
6 criminal offense under state, federal, or common law that is committed in:

7 1. this State; or

8 2. another state against a resident of this State; or

9 (ii) an act of international terrorism as defined in Title 18, §
10 2331 of the United States Code that is committed outside of the United States against
11 a resident of this State.

12 (2) “Crime” does not include an act involving the operation of a vessel
13 or motor vehicle unless the act is:

14 (I) **A VIOLATION OF TITLE 2, SUBTITLE 5, § 2-209, § 3-204,**
15 **OR § 3-211 OF THE CRIMINAL LAW ARTICLE;**

16 (II) **A VIOLATION OF § 8-738 OF THE NATURAL RESOURCES**
17 **ARTICLE;**

18 [(i)] (III) a violation of § 20-102, § 20-104, § 21-902, or §
19 21-904 of the Transportation Article; or

20 [(ii)] (IV) operating a motor vehicle or vessel that results in an
21 intentional injury.

22 (e) “Dependent” means:

23 (1) a surviving spouse or child of a person; or

24 (2) a person who is dependent on another person for principal support.

25 (f) “Victim” means a person:

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

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

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

3 (ii) a [felony] **CRIME** or a delinquent act that would be a
4 [felony] **CRIME** if committed by an adult; or

5 [(iii)] **(II)** physical injury or death directly resulting from a
6 crime or delinquent act; [or]

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

8 (i) trying to prevent a crime or delinquent act or an attempted
9 crime or delinquent act from occurring in the person's presence;

10 (ii) trying to apprehend an offender who had committed a crime
11 or delinquent act in the person's presence or had committed a felony or a delinquent
12 act that would be a felony if committed by an adult; or

13 (iii) helping a law enforcement officer in the performance of the
14 officer's duties or helping a member of a fire department who is being obstructed from
15 performing the member's duties; **OR**

16 **(4) WHO IS A VICTIM OF TRAFFICKING AS DEFINED UNDER 22**
17 **U.S.C. § 7102 OR WHO WAS OTHERWISE FORCED TO PARTICIPATE IN A CRIME**
18 **OR DELINQUENT ACT.**

19 11-808.

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

22 (i) a victim;

23 (ii) a dependent of a victim who died as a direct result of:

24 1. a crime or delinquent act;

25 2. trying to prevent a crime or delinquent act or an
26 attempted crime or delinquent act from occurring in the victim's presence or trying to
27 apprehend a person who had committed a crime or delinquent act in the victim's
28 presence or had committed a felony or a delinquent act that would be considered a
29 felony if committed by an adult; or

30 3. helping a law enforcement officer perform the officer's
31 duties or helping a member of a fire department who is obstructed from performing
32 the member's duties;

1 (iii) any person who paid or assumed responsibility for the
2 funeral expenses 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

8 3. helping a law enforcement officer perform the officer's
9 duties or helping a member of a fire department who is obstructed from performing
10 the member's duties; and

11 (iv) 1. a parent, child, or spouse of a victim who resides with
12 the victim; or

13 2. a parent, child, or spouse of an individual who is
14 incarcerated for abuse as defined in § 4-501 of the Family Law Article and who, prior
15 to incarceration:

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

17 B. provided financial support to the parent, child, or
18 spouse.

19 (2) A person who commits the crime or delinquent act that is the basis
20 of a claim, or an accomplice of the person, **OTHER THAN A VICTIM DESCRIBED IN**
21 **§ 11-801(F)(4) OF THIS SUBTITLE**, is not eligible to receive an award with respect to
22 the claim.

23 11-810.

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

25 (i) a crime or delinquent act was committed;

26 (ii) the crime or delinquent act directly resulted in:

27 1. physical injury to or death of the victim; or

28 2. psychological injury to the victim that necessitated
29 mental health counseling;

30 (iii) **EXCEPT IN THE CASE OF A VICTIM DESCRIBED IN**
31 **§ 11-801(F)(4) OF THIS SUBTITLE**, police, other law enforcement, or judicial records
32 show that the crime or delinquent act or the discovery of child abuse was reported to

1 the proper authorities within 48 hours after the occurrence of the crime or delinquent
2 act or the discovery of the child abuse; and

3 (iv) the victim has cooperated fully with all law enforcement
4 units.

5 (2) For good cause, the Board may waive the requirements of
6 paragraph (1)(iii) and (iv) of this subsection.

7 (d) [(1) (i) Except as provided under subparagraph (ii) of this
8 paragraph, in] **IN** considering a claim and in determining the amount of an award, the
9 Board shall determine whether the victim's conduct contributed to the infliction of the
10 victim's injury, [and, if so,] **AND SHALL** reduce the amount of the award or [reject]
11 **DENY** the claim **IF THE BOARD FINDS THAT THE VICTIM CONTRIBUTED TO THE**
12 **VICTIM'S OWN INJURY BECAUSE:**

13 **(1) THE VICTIM INITIATED, CONSENTED TO, PROVOKED, OR**
14 **UNREASONABLY FAILED TO AVOID A PHYSICAL CONFRONTATION WITH THE**
15 **OFFENDER;**

16 **(2) WHEN THE INJURY WAS INFLICTED, THE VICTIM WAS**
17 **PARTICIPATING IN A CRIME OR DELINQUENT ACT OTHER THAN THE CRIME OR**
18 **DELINQUENT ACT THAT IS THE BASIS OF THE CLAIM; OR**

19 **(3) THE VICTIM WAS AN OCCUPANT OF A MOTOR VEHICLE OR A**
20 **DEPENDENT OF AN OCCUPANT OF A MOTOR VEHICLE OPERATED IN VIOLATION**
21 **OF § 21-902 OF THE TRANSPORTATION ARTICLE, AND THE OCCUPANT KNEW OR**
22 **SHOULD HAVE KNOWN OF THE CONDITION OF THE OPERATOR OF THE VEHICLE.**

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

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

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

30 (2) A claimant filing for injuries incurred as the occupant of a motor
31 vehicle or a dependent of an occupant of a motor vehicle operated in violation of
32 § 21-902 of the Transportation Article may not receive an award unless the claimant
33 proves that the occupant did not know or could not have known of the condition of the
34 operator of the vehicle.

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

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

3 (ii) the victim was participating in a crime or delinquent act
4 when the injury was inflicted.]

5 11-811.

6 (a) (1) (i) Except as otherwise provided in this subsection, an award
7 under this subtitle shall be made in accordance with the **EFFECTIVE** schedule of
8 [benefits, as it existed on January 1, 2001,] **BENEFITS** and degree of disability as
9 specified in Title 9, Subtitle 6 of the Labor and Employment Article and any other
10 applicable provisions of the Labor and Employment Article, except for Title 9, Subtitle
11 8 of the Labor and Employment Article.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2008.