

Department of Legislative Services  
 Maryland General Assembly  
 2008 Session

FISCAL AND POLICY NOTE  
 Revised

House Bill 1323  
 Judiciary

(Delegate Vallario, *et al.*)

Judicial Proceedings

Criminal Injuries Compensation - Claims by Victims

This bill authorizes the Criminal Injuries Compensation Board to reduce the amount of an award or deny a claim if the board finds that the victim contributed to the victim’s own injury under specified circumstances. The bill modifies the applicable definition of “crime” to include specified offenses relating to operating a motor vehicle or vessel while impaired or under the influence of alcohol or drugs. The bill also modifies the applicable definition of “victim” to include a person who is a victim of trafficking (as defined in a specified federal provision) or who was otherwise forced to participate in a crime or delinquent act.

Fiscal Summary

**State Effect:** Special fund expenditure increases for the Criminal Injuries Compensation Fund of about \$500,000 annually beginning in FY 2009 and federal fund revenue increases of about \$300,000 annually beginning in FY 2010.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
FF Revenue	\$0	\$300,000	\$300,000	\$300,000	\$300,000
SF Expenditure	500,000	500,000	500,000	500,000	500,000
Net Effect	(\$500,000)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill adds to the number of crime victim compensation claims that may be filed in the State by:

- providing that the term “crime” includes specified offenses relating to operating a motor vehicle or vessel while impaired or under the influence of alcohol or drugs;
- providing that the term “victim” includes a person who suffers psychological injury as a direct result of a “crime” rather than a “felony” (encompassing fourth degree sexual offense or a similar delinquent act under that change);
- adding victims of human trafficking or persons forced to participate in a crime or delinquent act; and
- eliminating the need for victimization of trafficking offenses or forced criminal or delinquent participation to be reported within 48 hours.

The bill specifically allows partial awards, rather than full claim denial, when:

- the victim initiated, consented to, provoked, or unreasonably failed to avoid a physical confrontation with the offender; or
- when the injury was inflicted, the victim was participating in a crime or delinquent act other than the crime or delinquent act that is the basis of the claim.

The board would continue to have discretion on partial payments of awards involving circumstances where the victim was an occupant of a motor vehicle being operated by an alcohol or drug impaired person.

**Current Law:** The State’s Criminal Injuries Compensation Board in the Department of Public Safety and Correctional Services provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical injury for their medical expenses and loss of earnings. 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 the Criminal Injuries Compensation Fund 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 the board 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 • incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or • 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 • from or on behalf of the offender; • from any other public or private source, including an award under the Maryland Workers' Compensation Act; • from any proceeds of life insurance in excess of \$25,000; or • as an emergency award from the board.

**Background:** The Criminal Injuries Compensation Fund had special fund award expenditures of approximately \$5.2 million in fiscal 2007 for 739 claims filed. Based on an assumption of 800 claims filed for all of fiscal 2008, awards for the current fiscal year are estimated to be about \$5.4 million. The budget allowance for claims and awards for fiscal 2009 (\$5.4 million) is the same as for fiscal 2008. Although the fund balance has continued to decline in recent years (mainly due to the fund becoming more widely known, more victim advocates referring victims to the board, and expanding the types of allowable claims), it remains solvent. At the close of fiscal 2007, the fund balance for awards was about \$2.7 million.

The U.S. Department of Justice, through the Victims of Crime Act (VOCA), reimburses each state 60% of money expended on claims. VOCA does not allow reimbursement for property damage claims. Assuming a minimal increase in claims as a result of this bill, federal VOCA reimbursements would increase minimally.

**State Fiscal Effect:** The bill's provisions authorizing the board to reduce the amount of an award or deny a claim upon a finding that the victim contributed to the victim's own injury is not expected to have a significant impact on the fund. Currently, the board may either pay or deny such a claim in its entirety. Under the bill, the board could deny a claim in part. The board believes that this could both increase and decrease awards actually made by relatively equal amounts.

Although there is no reliable data as to the actual number or type of claims that may result from the bill's changes (including instances involving human trafficking) without any direct actual experience, it is estimated the additional annual claims resulting from this bill could increase claims filed and increase actual awards by about \$500,000, annually, beginning in fiscal 2009. While such an increase would not threaten the solvency of the fund, if claims and awards continue on current trends, year-end fund balances would decline at a somewhat faster rate under the bill. Any such increase in State expenditures from the fund to crime victims resulting from this bill would continue to be reimbursed at a rate of 60% by the federal government in the following fiscal year. Thus, this bill could also be expected to increase federal fund revenues by about \$300,000 annually beginning in fiscal 2010.

The board also notes that – except for driving while intoxicated, a hit and run incident, or any crime with an intent to injure – the term “crime” in the applicable current provision already does not include incidents resulting from recklessly or negligently operating a motor vehicle or vessel.

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### **Additional Information**

**Prior Introductions:** HB 1003 of 2007 passed the House, was referred to the Senate Judicial Proceedings Committee and had no further action taken on it. SB 200 had a hearing before Judicial Proceedings and had no further action taken.

**Cross File:** SB 525 (Senator Stone, *et al.*) – Judicial Proceedings.

**Information Source(s):** Department of Public Safety and Correctional Services  
(Criminal Injuries Compensation Board), Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2008  
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