

HOUSE BILL 794

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01r0960
CF 01r3063

By: **Delegates Lee, Barkley, Boteler, Cane, Frick, Glenn, Heller, Howard, Kach, Kipke, Montgomery, Pendergrass, Shewell, and Stocksdale**
Introduced and read first time: February 9, 2010
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Injuries Compensation – Crime Victim – Definition**

3 FOR the purpose of expanding the definition of “victim” under certain laws relating to
4 restitution to mean a person who suffers actual or threatened physical,
5 emotional, or financial harm as a direct result of a crime or delinquent act; and
6 generally relating to restitution and criminal injuries compensation.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Procedure
9 Section 11–801(f)
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2009 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Procedure
14 Section 11–811
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2009 Supplement)

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

19 **Article – Criminal Procedure**

20 11–801.

21 (f) “Victim” means a person:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2) who suffers psychological injury as a direct result of **A CRIME OR**
2 **DELINQUENT ACT;**

3 **(3) WHO SUFFERS ACTUAL OR THREATENED PHYSICAL,**
4 **EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT OF:**

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

7 (ii) a felony] **A CRIME**, or a delinquent act that would be a
8 **[felony] CRIME** if committed by an adult; or

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

11 **[(3)] (4)** who suffers physical injury or death as a direct result of:

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

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

17 (iii) helping a law enforcement officer in the performance of the
18 officer's duties or helping a member of a fire department who is being obstructed from
19 performing the member's duties.

20 11-811.

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

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

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

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

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

7 (4) An award for funeral expenses may not exceed \$5,000.

8 (5) Subject to the limitation under subsection (b)(3) of this section and
9 § 11-812 of this subtitle, a person who is eligible for an award as the result of the
10 death of a victim or psychological injury may be eligible, under the regulations that
11 the Board adopts, to receive psychiatric, psychological, or mental health counseling.

12 (6) Subject to the limitation under subsection (b)(6) of this section and
13 § 11-812 of this subtitle, a parent, child, or spouse of a victim who resides with the
14 victim and who is eligible for an award as the result of the injury of a victim is eligible
15 to receive psychiatric, psychological, or mental health counseling.

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

17 (1) for a disability-related or dependency-related claim:

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

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

22 (2) \$45,000 for a medical claim;

23 (3) \$5,000 for each claimant for psychiatric, psychological, or mental
24 health counseling under subsection (a)(4) of this section;

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

27 (5) \$250 for each claimant for repair, replacement, or cleaning of
28 property damaged, soiled, or littered as a result of a crime or law enforcement
29 investigation of a crime; or

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

32 (i) \$1,000 for each claimant; and

1 (ii) \$5,000 for each incident.

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

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

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

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

9 (4) as an emergency award under § 11-813 of this subtitle.

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

12 (e) The Board may negotiate a settlement with a health care provider for the
13 medical and medically related expenses.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2010.