

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 123

(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 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: Criminal Injuries Compensation Fund expenditures may increase by \$38,800 in FY 2011. Federal reimbursements to the fund increase by \$23,300 in FY 2012. Future years reflect a growth rate of 100% per year.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
FF Revenue	\$0	\$23,300	\$46,500	\$93,000	\$186,000
SF Expenditure	\$38,800	\$77,500	\$155,000	\$310,000	\$620,000
Net Effect	(\$38,800)	(\$54,300)	(\$108,500)	(\$217,000)	(\$434,000)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The State's Criminal Injuries Compensation Board (CICB) in the Department of Public Safety and Correctional Services (DPSCS) provides financial assistance for innocent victims of crime. The board may compensate victims who suffer

physical or psychological 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 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.

The Family Law Article defines a "victim of domestic violence" as an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, or a current or former cohabitant. "Domestic violence" means abuse occurring between: (1) current or former spouses or cohabitants; (2) persons who have a child in common; or (3) persons currently or formerly involved in a dating relationship.

Background: The Criminal Injuries Compensation Fund (CICF) paid out approximately \$6.5 million in fiscal 2009 for 823 claims filed. Assuming 800 claims are filed in fiscal 2010, awards for the current fiscal year will total about \$6.5 million. The proposed fiscal 2011 State budget includes \$6.5 million for awards.

CICF revenues average approximately \$3.6 million annually and are used to support crime victim compensation as well as CICB operating expenses. A fund balance in excess of \$2.5 million existed in the account since fiscal 2002. As a result of a number of operational improvements between fiscal 2002 and 2004, such as a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased the number of awards made to victims of crime and the amount of State funding used to support this purpose. CICB used the available fund balance to help support this growth. As a result, the special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. As of fiscal 2009, the CICF fund balance has been exhausted. CICB estimates that by fiscal 2013 and each subsequent year, total funding for crime victim compensation will be reduced to \$4.4 million, as opposed to the more than \$6.0 million provided annually for the past two years.

State Fiscal Effect: CICB assumes that the potential costs resulting from the bill would include the provision of food and transportation to a place of lodging such as a hotel or motel. In addition, since it is likely that a hotel/motel would want payment upfront, arrangements will need to be made with possible accommodations in each jurisdiction to accept victims as they present themselves. These arrangements are already in place through recognized domestic violence agencies in jurisdictions around the State and funded through the federal Victims of Crime Act (VOCA) and similar grant programs.

CICB assumes that “reasonable costs” under the bill would total \$1,550 per claim, which include:

- a single room at \$75 per night for 14 nights (\$1,050);
- food cards at a cost of \$100 per week (the amount issued under a Washington, DC program, regardless of family size);
- incidental expenses such as cab fares, hygiene items, clothing, baby formula and diapers at a cost of about \$150 per week.

CICB paid 32 claims related to domestic violence victims in 2009 (six resulting in a homicide). Assuming that, under the bill, 25 claims for temporary lodging will be made in fiscal 2011, CICB will pay a total of \$38,750 from the fund for temporary lodging, of which 60% (or \$23,250) would be covered by the federal government in the following fiscal year through VOCA, which reimburses each state 60% of money expended on claims.

CICB indicates that future year costs may double each year as knowledge of the bill’s provisions becomes more widespread. While Legislative Services is unsure that such a growth rate is likely, there is insufficient data to provide a more accurate assessment of growth. Actual claims by victims of domestic violence cannot be known without any actual experience under the bill. Accordingly, while the bill is not expected to meaningfully affect the fund balance or the ability to meet future obligations for awards in the near term, a sustained annual growth rate of 100% may affect the fund in the future.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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