

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 50

(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 (CICF) 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: Special fund expenditures and federal reimbursements increase minimally in FY 2012 and beyond. This projected increase can be handled with assumed increases in special fund revenues. Based on the number of awards made to domestic violence victims in FY 2010, awards for temporary lodging may increase expenditures by as much as \$40,000, a portion of which is offset by federal reimbursements.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Criminal Injuries Compensation Board (CICB) in the Department of Public Safety and Correctional Services (DPSCS) provides financial assistance for innocent victims of crime through this special fund. The board may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings, but only if the injury is a direct result of a criminal or delinquent offense. 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 CICF 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.

Chapters 69 and 70 of 2010 subject a claim filed with CICB to review under applicable provisions of the Administrative Procedure Act. If a claimant requests a hearing after the board has issued proposed findings of fact, conclusions of law, or orders, the board must hold a hearing in accordance with the Administrative Procedure Act before issuing final findings of fact, conclusions of law, or orders.

Background: CICF paid out \$7.4 million in fiscal 2010 for 950 awards. In that year, a total of 1,644 claims were filed, of which 1,559 initially met the statutory minimum requirements. An additional \$765,200 was spent on administrative costs. The board estimates that a total of \$7.0 million will be awarded for 900 claims in fiscal 2011. The proposed State budget estimates payments of \$7.3 million for 900 awards in fiscal 2012.

Recent Fund Balance Concerns

CICF special fund revenues are used to support crime victim compensation as well as CICB operating expenses. As a result of operational improvements enacted between fiscal 2002 and 2004, including a new automated tracking system, increased staffing, and a more aggressive outreach effort, CICB increased both the number of awards made to crime victims and the amount of State funding used to support this purpose. CICB used the previously available fund balance to help support this growth. As a result, special fund appropriation for CICB has exceeded annual revenues since fiscal 2005. From fiscal 2009 through 2010, the CICF fund balance had been exhausted.

Chapter 482 of 2010 (the budget bill) provided \$570,600 in deficiency funds in fiscal 2009 from the federal American Recovery and Reinvestment Act. To address its fiscal situation, CICB was required to report to the legislative budget committees by October 15, 2010, on among several requirements, proposed solutions for addressing the fiscal concerns regarding the amount of funding available for making awards to victims of crime, including potential legislation. Failure to comply with the reporting requirement risked the loss of \$6.7 million in State and federal appropriations to the CICF for fiscal 2011. In that report, CICB recommended legislation increasing fee amounts collected by the courts, as well as to "more fully exercise its subrogation rights and utilize the resources available to collect on revenue owed to CICB." These collections involve both restitution amounts ordered by the courts and civil judgments. To that end, CICB has added two additional full-time positions to the revenue recovery team.

State Fiscal Effect: To implement the bill, CICB would work closely with existing local domestic violence service providers to locate temporary lodging for claimants. The board anticipates that the majority of the additional claims resulting from the bill would come from a local service provider after a victim has incurred an expense related to temporary lodging. While CICB indicates that the bill will have a minimal operational and fiscal impact, the board is unable to quantify the additional number of temporary lodging claims or awards.

During fiscal 2010, CICB made awards to 33 victims of domestic violence at a cost of \$206,800. Of those awards, 8 were associated with a domestic violence-related homicide for which temporary lodging would not be necessary. For a similar bill introduced in 2010, CICB estimated per-claim awards for temporary lodging to total \$1,550 which included lodging, food, and incidental expenses. Based on the number of awards made to domestic violence victims in fiscal 2010, awards for temporary lodging may increase expenditures by as much as \$40,000, a portion of which is offset by federal reimbursements. While CICB anticipates additional domestic violence claims due to an increased outreach effort, it does not anticipate that the increase will result in a significant fiscal impact.

The proposed State budget assumes the enactment of legislation that would increase special fund income by \$3.7 million in fiscal 2012. Therefore, it is assumed that the bill's requirements can be handled with existing special fund resources. In addition, 60% of any increase in awards from the fund would be covered by the federal government in the following fiscal year through the Victims of Crime Act, which reimburses each state 60% of money expended on claims.

Additional Information

Prior Introductions: SB 123 of 2010 passed the Senate and received a hearing before the House Judiciary Committee, but no further action was taken on it.

Cross File: None.

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

Fiscal Note History: First Reader - January 25, 2011
ncs/hlb

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510