

**Department of Legislative Services**  
 Maryland General Assembly  
 2018 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**  
 (Senator Hough, *et al.*)

Senate Bill 963  
 Judicial Proceedings

Judiciary

**Criminal Procedure - Victim Services Unit - Victims' Compensation**

This bill establishes a Victim Services Unit (VSU) in the Governor’s Office of Crime Control and Prevention (GOCCP) to coordinate State responsibilities concerning services to victims, including the collection of restitution and reimbursements for sexual assault forensic evidence examinations (SAFE Exams) and other eligible expenses for cases involving rape, sexual offenses, or child sexual abuse. The bill transfers related functions from the Department of Public Safety and Correctional Services (DPSCS) and the Maryland Department of Health (MDH) to GOCCP/VSU and establishes a reporting requirement for GOCCP. The required transfer of functions must take place on July 1, 2018. **The bill takes effect July 1, 2018.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$160,100 in FY 2019; future years reflect ongoing costs. Federal fund revenues/expenditures increase by \$816,900 annually beginning in FY 2022. Special fund revenues/expenditures may increase beginning as early as FY 2020. Otherwise, the transfer of programs does not impact net State finances.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
SF Rev./Exp.	\$0	-	-	-	-
FF Revenue	\$0	\$0	\$0	\$816,900	\$816,900
GF Expenditure	\$160,100	\$151,100	\$155,400	\$160,800	\$166,300
FF Expenditure	\$0	\$0	\$0	\$816,900	\$816,900
Net Effect	(\$160,100)	(\$151,100)	(\$155,400)	(\$160,800)	(\$166,300)

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

**Local Effect:** The bill does not directly affect local government operations or finances.

**Small Business Effect:** Minimal.

## Analysis

### Bill Summary:

#### *Transfer of Functions to the Governor's Office of Crime Control and Prevention*

The bill transfers the existing oversight functions and operations relating to the Criminal Injuries Compensation Board (CICB) and the Criminal Injuries Compensation Fund (CICF) from DPSCS to GOCCP. In addition, the bill transfers the existing functions and operations relating to SAFE Exams from MDH to VSU and requires that CICB pay for specified forensic examinations and other eligible expenses for cases involving rape, sexual offenses, and child sexual abuse.

Among other provisions relating to the transfer of functions, the bill specifies that:

- all appropriations, including State and federal funds, held by the agencies and units of the State to carry out the functions, programs, and services transferred under the bill are transferred to GOCCP on July 1, 2018, provided that all payments for the SAFE program must be dedicated to the SAFE program;
- on July 1, 2018, all of the functions, powers, duties, books and records (including electronic records), real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of the agencies, units, and entities transferred under the bill are transferred to GOCCP;
- all employees who are transferred to VSU under the bill are transferred without diminution of their rights, benefits, employment, or retirement status, and in order to ensure the equitable treatment of new employees, GOCCP must consider the current job classifications and rights provided to current employees when establishing classifications for new employees; and
- CICB must maintain an office in Baltimore City, that is accessible by public transportation, for the purpose of accepting claims and providing assistance on filing claims.

#### *Victim Services Unit*

The Director of VSU is required to be appointed by and to serve at the pleasure of the Executive Director of GOCCP and must receive a salary as provided in the State budget. The director must regularly consult with, collaborate with, and consider the recommendations of the federally recognized State sexual assault coalition regarding sexual assault crisis programs and policies, practices, and procedures that impact victims of sexual assault, including administration of the program for SAFE Exams.

VSU consists of:

- CICB;
- the program for SAFE Exams;
- a restitution section; and
- any other program that administers victim services under GOCCP that the executive director determines benefits from inclusion under VSU.

VSU must coordinate with the Judiciary, DPSCS, the Department of Juvenile Services, the Central Collection Unit (CCU), State's Attorney's offices, and local correctional facilities to (1) collect data; (2) develop best practices, using data and other evidence to the extent available, for restitution collection; (3) coordinate and improve efforts of State and local entities regarding restitution; (4) ensure the interoperability of justice system databases; (5) require that each of the databases has a data field to indicate that there are outstanding restitution orders; and (6) coordinate efforts to improve restitution collection. In addition, VSU must:

- monitor and provide guidance to the Secretary of Public Safety and Correctional Services on the adoption of regulations establishing minimum mandatory standards for State and local correctional facilities regarding victim notification, restitution, and administrative recordkeeping;
- encourage the use of earnings withholding orders to collect restitution;
- coordinate with CCU to improve restitution collection;
- coordinate with the Division of Parole and Probation (DPP) to modernize and improve collections and collaborate on communicating with parole and probation agents on their role with restitution collection;
- coordinate with DPP and CCU on ways to expedite the referral of cases to CCU;
- develop programs to be presented to the Maryland State's Attorneys' Association to emphasize statutory obligations regarding restitution;
- promote notification to victims; and
- examine the existing remedies available to enforce restitution orders to determine whether the remedies are being effectively used and make recommendations regarding the need for additional remedies.

VSU may adopt regulations to carry out its duties. VSU must adopt regulations, after consultation with MDH, to fulfill specified provisions.

The Justice Reinvestment Oversight Board must (1) monitor the formation of VSU and provide oversight and guidance to VSU; (2) ensure that data systems developed and used by VSU enhance victim services and are user friendly for persons responsible for the data

systems; (3) ensure that VSU adopts appropriate outcome measures, reviews outcomes, and recommends any appropriate actions based on the outcomes; (4) assess whether the current system of collecting restitution should remain within the existing State and local entities; and (5) report to the Governor and the General Assembly by December 31, 2019, on any recommendations to improve the process of restitution.

By December 31, 2020, GOCCP must provide a report to the Governor and the General Assembly that provides an update on issues relating to the implementation of this Act, including the office locations of VSU, the number of employees at each location, any budgetary concerns, improvements to the restitution collection process, and any significant changes planned for VSU.

### **Current Law:**

#### *Criminal Injuries Compensation Board*

CICB, in DPSCS, provides financial assistance for innocent victims of crime. The board may pay out compensation for medical expenses and loss of earnings to victims who suffer physical or psychological injury, 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. Funding for the assistance is generated by CICF from fees assessed by circuit and District courts. CICF is also supplemented by federal funds.

#### *Sexual Assault Forensic Examination*

Under provisions set forth in the Criminal Procedure Article relating to assistance for victims of sexual assault offenses, the nearest facility to which a victim of sexual assault may be taken must be designated by MDH in cooperation with (1) the Medical and Chirurgical Faculty of the State of Maryland and (2) the State's Attorney in the subdivision where the sexual assault occurred. A police officer, sheriff, or deputy sheriff who receives a report of an alleged sexual assault must offer the alleged victim the opportunity to be taken immediately to the nearest facility. That offer must be made without regard for the place of the alleged sexual assault or where it is reported.

A victim of an alleged rape, sexual offense, or child sexual abuse may receive (1) a physical examination to gather information and evidence relating to the alleged crime; (2) emergency hospital treatment and follow-up medical testing for up to 90 days after the initial physical examination; and (3) up to five hours professional time to gather information and evidence. Applicable health care services must be given without charge to a victim of sexual abuse. The physician or hospital providing the services is entitled to be paid by MDH.

A physician who examines a victim of alleged child sexual abuse under applicable provisions is immune from any civil liability that may result from the failure of the physician to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child. The immunity extends to any hospital with which the physician is affiliated or to which the child is brought and any individual working under the control or supervision of the hospital.

## **Background:**

### *GOCCP Report on Restitution Recommends the Creation of a Victims' Services Unit*

Chapter 515 of 2016 (the Justice Reinvestment Act) required GOCCP to study restitution and make recommendations concerning the restitution process, including determining which State unit should assume the duties regarding collection of restitution. In the December 2016 [\*Report on Restitution Study\*](#), GOCCP recommended that a new unit called the Victims' Services Unit be formed within GOCCP to collect data, develop best practices, and coordinate with State and local entities regarding restitution. The bill is a direct result of that recommendation.

### *Federal Victims of Crime Act Funds*

The purpose of the federal Victims of Crime Act (VOCA) program is to improve the treatment of victims of crime by providing victims with the assistance and services necessary to aid their restoration after a violent criminal act, and to support and aid victims as they move through the criminal justice process. Victim assistance includes services such as crisis intervention, counseling, emergency transportation to court, temporary housing, and criminal justice support and advocacy. In 2017, Maryland received approximately \$37.5 million in VOCA grants. All VOCA grants are allocated through GOCCP.

## **State Fiscal Effect:**

### *Overview*

General fund expenditures increase by \$160,106 in fiscal 2019 for GOCCP to hire two full-time employees to collect data on restitution and to coordinate restitution efforts and victim services in VSU. Future year estimates reflect ongoing costs. The consolidation of entities serving victims in the State results in a federal fund revenue increase of \$816,949 annually beginning in fiscal 2022; federal fund expenditures increase correspondingly. Special fund revenues from restitution collections may also increase, as discussed below, providing additional funding for victims. Otherwise, the transfer of functions from DPSCS and MDH to GOCCP has no net effect on State finances, as discussed below.

*Transfer of Functions and Related Funding*

The bill specifies that all appropriations, including State and federal funds, held by the agencies and units of the State to carry out the functions, programs, and services transferred under the bill are transferred to GOCCP on July 1, 2018. For fiscal 2020, funding for the services and programs that are transferred to GOCCP must be as provided in the fiscal 2020 State budget. Under the bill, VOCA funds directed to the State through other State agencies must be transferred to GOCCP on July 1, 2018.

Operating costs for CICB are covered by special fund revenues available in CICF and federal fund contributions, and do not involve any general fund appropriations. Specifically, the fiscal 2019 budget assumes special fund revenues of \$2.9 million, federal fund revenues of \$1.7 million, and reimbursable fund revenues of \$54,987 for CICB. The fiscal 2019 budget for CICB is as follows:

Full-time Positions	11
Contractual Positions	4
Salaries and Fringe Benefits	\$831,785
Technical and Special Fees	155,152
Fixed Charges (Rent)	39,535
Grants	3,575,000
Other Operating Expenses	<u>55,550</u>
<b>Total</b>	<b>\$4,657,022</b>

The fiscal 2019 budget includes two positions and \$1.4 million in general funds for the evidence collection program within the Prevention and Health Promotion Administration in MDH. It also includes nearly \$600,000 in federal funds for rape and sexual assault prevention.

Thus, \$4.7 million in special/federal/reimbursable funds, 11 regular positions, and 4 contractual positions are transferred from DPSCS to GOCCP and \$2.0 million in general/federal funds and 2 positions are transferred from MDH to GOCCP in fiscal 2019 under the bill; this reflects the bill's July 1, 2018 required date of transfer.

*New Costs for GOCCP to Establish VSU*

General fund expenditures increase by \$160,106 in fiscal 2019 for GOCCP, which reflects the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring two full-time employees for VSU to collect data on restitution and to coordinate restitution efforts. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses (including rent).

Positions	2
Salaries and Fringe Benefits	\$141,806
Operating Expenses (including rent)	<u>18,300</u>
<b>Total FY 2019 State Expenditures</b>	<b>\$160,106</b>

Future year expenditures reflect annual increases in salaries and employee turnover and ongoing operating expenses.

Although GOCCP advises that it intends to use federal funds to cover these costs, this analysis assumes that general funds are used so as not to reduce the amount of federal funds that are available for victim services and assistance.

*New Federal Fund Revenues Anticipated*

The consolidation of entities serving victims in the State results in a federal fund revenue increase of \$816,949 annually beginning in fiscal 2022. If payments for SAFE Exams are made through CICB rather than MDH, the State becomes eligible for 60% matching federal funds to CICF. Generally, states are reimbursed in the fiscal year three years following the expenditures; thus, based on current payments through the program, the State is likely eligible for matching funds beginning in fiscal 2022 in the amount of \$816,949 annually. Federal fund expenditures increase correspondingly.

*Potential Additional Special Fund Revenues from Restitution Efforts*

It is likely that special fund revenues also increase from increased restitution collection due to the consolidation of efforts and services. Any such increase cannot be predicted, however. Although the timing of any additional special fund revenues is unknown, this analysis assumes that additional special fund revenues could accrue as early as fiscal 2020. Special fund expenditures increase correspondingly to provide funding to victims.

*Department of Budget and Management*

The Department of Budget and Management advises that transferring coordination of collection efforts under the bill to CCU results in an operational impact but can be handled with existing budgeted resources.

*Judiciary*

The Judiciary has previously advised that revisions to forms are necessary and that the standard operating procedures for clerks, judges, and other departments within the Judiciary require changes; however, the changes can likely be handled with only a minimal increase in general fund expenditures.

## **Additional Information**

**Prior Introductions:** HB 1428 of 2017 passed in the House with amendments but received no further action from the Senate Judicial Proceedings Committee.

**Cross File:** Although HB 247 (Chair, Judiciary Committee - By Request - Departmental - Office of Crime Control and Prevention – Judiciary) is designated as a cross file, it is not identical.

**Information Source(s):** Harford and Montgomery counties; cities of College Park and Rockville; Governor’s Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Maryland Department of Health; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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