



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES  
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**MEMORANDUM**

DATE: March 2, 2010

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, <sup>DM/ks</sup> Chairperson  
State Council for Persons with Disabilities

RE: S.B. 14 [VCAP Coverage of Property Crimes]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 14 which, as amended, is intended to expand the availability of awards by the Victim's Compensation Assistance Program (VCAP) to non-violent property crimes. Such awards could not exceed \$2,500 per individual and would require proof of pecuniary or economic loss (line 69). Consumers would be precluded from filing claims for losses of entertainment equipment, clothing, art objects, and jewelry (lines 14-17). The VCAP would be precluded from expending an aggregate of \$500,000 in any fiscal year on property claims. SCPD has the following observations.

First, the bill raises fiscal issues. The Delaware Victims' Rights Task Force (VRTF) sent the attached January 27, 2010 letter to Senator McBride, the prime sponsor, outlining financial concerns with the bill. The VRTF notes that the rate of payouts for violent crimes has increased by 40% in the latest 6-month period. Moreover, it is predictable that the Sussex pediatrician case may prospectively generate many claims against the fund. Finally, the VRTF observes that only 3 other states compensate property crime victims under very limited circumstances. The attached fiscal note (Par. 4) recites that the normal 60% federal reimbursement for violent crime victim awards would not be available for property crime victim awards. The VRTF's fiscal concerns are reinforced by the attached financial overview corroborating a 49% increase in VCAP claim expenditures between FY 09 and FY 10.

Second, the attached House Committee report identifies other concerns. For example, the bill's pilot program would require a report by March 1, 2010 and sunset on June 30, 2010. The Committee recommended an amendment to establish the pilot project in FY 11. Moreover, the Committee noted that amendments would be necessary to refer to the VCAP as juxtaposed to the Violent Crimes Compensation Board. Indeed, the legislation is ostensibly based on the 2008 version of the statute which was overhauled by H.B. 133 (signed by the Governor on August 24, 2009) and H.B. 253 (signed by Governor on July 31, 2009).

Third, given the recent overhaul of the enabling legislation, the VCAP is still working on regulations and systems. Moreover, the Victim's Compensation Assistance Program Advisory Council, charged with issuing new regulations pursuant to Title 11 Del.C. §9004, has only met twice as of February 2, 2010. Adding a pilot project to the recently overhauled system may unduly tax the ability of the VCAP to effectively transition to the system contemplated by the new enabling legislation.

In summary, SCPD recommends deferral of the pilot project given the fiscal concerns identified in Par. 1 above and the prospect for overtaxing the ability of the VCAP to effectively transition to the system envisioned by the new enabling legislation. If the sponsors nevertheless wish to promote enactment, the bill should be amended to establish an FY 11 pilot period and conform to the current Code as amended by H.B. 133 and H.B. 253. Alternatively, it would be preferable to simply establish the pilot project through budget epilog to obviate the bill's 4 pages of statutory amendments effective for a one year period. For example, the budget epilogue could include a provision authorizing the VCAP, notwithstanding any contrary law, to initiate a pilot project and issue awards of up to \$2,500 for non-violent property crimes not to exceed an aggregate of \$500,000 in FY11.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack A. Markell  
Mr. Brian Hartman, Esq.  
Ms. Stephanie Hamilton, VRTF  
Ms. Barbara Brown, VCAP  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

Sb14 vcap 3-2-10

# DVRTF

## Delaware Victims' Rights Task Force

January 27, 2010

Senator David B. McBride  
Legislative Hall Office  
411 Legislative Ave  
Dover, DE 19901

Dear Senator McBride,

I am writing on behalf of the Delaware Victims' Rights Task Force in regards to Senate Bill 14 (AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COMPENSATION PER INNOCENT VICTIMS OF CRIME). Over the past year members of the Task Force have worked with members of the Senate and House as well as the Joint Sunset Committee to make recommendations for changes to the Violent Crimes Compensation Board. These changes, which occurred in September 2009, have brought a new era. The new Victims' Compensation Assistance Program has seen an increase in claims and money paid out to victims of violent crimes. At the House Judiciary Committee Hearing on January 13<sup>th</sup> it was reported that in comparison to the same 6 month time period from the pervious year payouts to victims have increased over **40%**. Also, at this time our state is facing an increase in the number of victims who may need to access services. There is an investigation currently that might bring about a number of victims who have not yet been identified. This will significantly impact the VCAP fund.

The Delaware Victims' Rights Task Force has concerns about this bill at this time and the impact it will have on the fund. There are currently only three (3) other states that compensate property crime victims. Those states that do have stringent guidelines for those who apply to the fund. The newly formed VCAP Advisory Council could assist with ensuring with the compliance of the newly mandated state statute. The Task Force believes that the collaborative effort of the legislative body and the advisory group could help to further advance and ensure that crime victim's needs are being properly assessed.

We would like to meet with you in the near future to discuss our concerns and considerations with SB 14.

Sincerely,  
Stephanie Hamilton  
Chair

Phone: 302-576-3648

Cc  
Jane Williams

*Emil: DelVRTF@gmail.com Mail: DVRTF c/o Victim Services 300 N Walnut St Wilmington DE 19801*

*Phone: 302-576-3648 Web: <http://sites.google.com/site/delawarevrtf/>*

*Member Agencies: Child Inc., Contactlifeline, Delaware Coalition Against Domestic Violence, Delaware Center for Justice, Inc., Delaware State Police Victims Center, Department of Correction, Department of Justice, Developmental Disabilities Council, Domestic Violence Coordinating Council, Dover Police Department Victim Services, Newark Police Department Victim Services, New Castle County Police Victim Services, People's Place II, Sexual Offense Support, University of Delaware, SOAR Inc., U.S. Attorney's Office, Victims' Compensation Assistance Program, Victims' Voices Heard, Wilmington Police Department Victim Services*

**Only 3 states pay for property damage: New York, New Jersey and Florida**

NY: people who are under 18, over 60, disabled; or injured.

***What if my property was lost, damaged or destroyed because of the crime?***

If you are under 18, 60 or over, disabled or were injured, you may apply for benefits to repair or replace your *essential* personal property lost, damaged or destroyed as the direct result of a crime that was not covered by any other resource.

*Essential* means necessary for your health and welfare, like eyeglasses, cash and clothes.

NJ: limits its benefit to stolen cash up to \$200 for disabled and senior citizens below poverty level

FL: Disabled and senior citizens, with a maximum of \$500 for property directly impacting quality of life.

The federal government would not allow use of any VOCA funds to pay for property damage. This would have to be entirely out of state money.

**145TH GENERAL ASSEMBLY**

**FISCAL NOTE**

BILL:	SENATE BILL NO. 14 W/ SENATE AMENDMENT NO. 1
SPONSOR:	Senator McBride
DESCRIPTION:	AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COMPENSATION PER INNOCENT VICTIMS OF CRIME.

ASSUMPTIONS:

1. Effective upon enactment.
2. This Act establishes a Violent Crime Compensation pilot program which allows property crime victims to be compensated for their uninsured economic or pecuniary losses. The Executive Director of the agency would be required to submit reports to the Office of Management and Budget and Controller General's Office regarding the number of applications and total amount awarded. In addition, the reports are to include the staff time required for the additional workload.
3. This legislation would be funded through the Victim's Compensation Fund (VCF). The VCF revenues are generated from an 18% surcharge attached to all fine and court costs. Revenue is also received in other forms such as restitution, interest, and refunds.
4. While Delaware receives a 60 percent federal reimbursement on awards given to crime victims, reimbursement would not apply to property crime victims.
5. According to the Violent Crimes Compensation Board, the State Fund balance is approximately \$6 Million. No additional funds would be required to begin this legislation, but the funds must be watched over time to ensure the stability of the Fund. This legislation sets a limit of \$500,000 for property crime compensation annually.
6. If this pilot program becomes a permanent program, the Violent Crime Compensation Board estimates that one additional staff would be required to handle to additional workload for payment vouchers, interviews, research, reconciliation, etc. The Violent Crime Compensation Board is required to report on staff time during this pilot program so that proper staffing or resources can be authorized.
7. No inflation is assumed.

COSTS:

F.Y. 2010      Up to \$500,000 ASF (No new funds would need to be added at this time)

**Delaware Victims Compensation Assistance Program**  
**900 North King Street, Suite 4**  
**Wilmington, Delaware 19801**  
**(302) 255-1770**

**Claims Paid & Claims Received by VCAP**  
**1st & 2nd Quarter Comparison for FY 2009 & 2010**

Claims Paid	FY 09	FY 09	FY10	FY10	Increase/ Decrease
	12/31/2008 <i>Federal Funds</i>	12/31/2008 <i>State Funds</i>	12/31/2009 <i>Federal Funds</i>	12/31/2009 <i>State Funds</i>	
1 Loss of support & temporary housing	201,582	42,149	466,007	205,403	
2 Other Professional Services	150,191	29,711	69,069	89,196	
3 Medical Expenses	328,139	120,139	502,592	385,785	
	<u>\$679,913</u>	<u>\$191,999</u>	<u>\$1,037,668</u>	<u>\$680,385</u>	
	<i>total</i>	<u>\$871,912</u>	<i>total</i>	<u>\$1,718,062</u>	<u>\$846,140</u> 49.25%

49 % increase in claim expenditures

**VCAP Victim Claims Received**  
**First & Second Quarters FY 2009 & 2010**

Claims Received	FYE 09	FYE 10	Increase/ Decrease
July	104	73	-31
August	27	52	25
September	70	89	19
October	52	90	38
November	40	96	56
December	43	70	27
<b>Total Cases</b>	<u>336</u>	<u>470</u>	<u>134</u> 28.51%

28% increase in claims

**Expenditures/Claims Paid with the Following Funds:**

7/1/09 to 9/30/09 - State Funds Used  
10/1/09 to 12/30/09 - Federal Funds Used  
1/1/10 to 3/30/10 - State Funds Used  
4/1/10 to 6/30/10 - Federal Funds Used

**Cost Savings for the State of Delaware**

**Cost of Board Members until Term is completed**

<u>Board Members</u>	<u>Salary</u>	<u>Term Expires</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
Chairman	\$12,000.00	4/23/2011	\$12,000.00	\$9,681.00	-
Vice Chairman	\$11,000.00	5/10/2012	\$11,000.00	\$11,000.00	\$9,306.00
Board Member	\$10,000.00	6/28/2010	\$10,000.00	-	-
Board Member	\$10,000.00	6/30/2011	\$10,000.00	\$10,000.00	-
Board Member	\$10,000.00	6/28/2010	\$10,000.00	-	-
<b>Costs of Board for Future Fiscal Years</b>			<u>\$53,000.00</u>	<u>\$30,681.00</u>	<u>\$9,306.00</u>

As the result of the move from our 10 year leased property in Newport, Delaware, to our new location in a state owned building located at 900 King Street, downtown Wilmington, we project a savings of approximately \$53,000 per year in contractual expense (Appropriation 9850) in future years.

Total Future Cost Savings due to moving into a state owned office building and the elimination of the salaried board, whereby we will no longer be required to pay those salaries & benefits will be a savings of \$106,000 each fiscal year.



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## Delaware General Assembly



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### HOUSE OF REPRESENTATIVES Committee Report

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**Legislation:** SB 14 w/SA 2  
**Sponsor:** McBride  
**Long Title:** AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COMPENSATION PER INNOCENT VICTIMS OF CRIME.  
**Committee:** JUDICIARY  
**Number of Committee Members:** 10  
**Date of Report:** 01/13/2010

<b>Committee Vote:</b>	<b>Favorable:</b>	<b>On Its Merits:</b>	<b>Unfavorable:</b>
	0	6	0

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**Purpose of the Bill :** This bill will authorize the Violent Crimes Compensation Board to compensate property crime victims for their uninsured economic or pecuniary losses in amount up to \$2,500 upon a showing of substantial economic hardship by the victim. This bill, though, will limit the total amount of compensation awarded to property crime victims in any one fiscal year to \$500,000. This program will be a one-year pilot program with a written report discussing the effectiveness of the program and possible extension of the program submitted near the end of the pilot program.

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**Committee Findings:** The committee found that this bill would provide property crime victims some relief by utilizing money that is available within the Violent Crimes Compensation Board allotment. The committee also found that amendments needed to be made to the bill to clarify and reflect the pilot-program starting in the FY 2011 and the recently renamed agencies that would be affected by the pilot-program. Finally, the committee expressed concern over the long-term availability of funds and federal reimbursement for funds spent to reimburse property crime victims, but found the one-year nature of the pilot program to be a viable option for addressing these concerns.

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**Committee Meeting Minutes:**

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