

Assembly Bill No. 2869

CHAPTER 582

An act to amend Sections 13952 and 13955 of the Government Code, relating to crime victims.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2869, Leno. Crime victims: compensation: burial expenses.

Existing law provides for the indemnification of victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria. A person is generally eligible for compensation if he or she is a victim or derivative victim of a crime, as defined, or he or she voluntarily paid the funeral and burial expenses of a victim of a crime. Existing law provides that no person who is convicted of a felony may be granted compensation by the board until after discharge from probation or release from a correctional institution and discharge from parole.

This bill would specify that the provisions authorizing reimbursement for funeral and burial expenses apply without respect to any felon status of the victim.

This bill would also make other technical, conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 13952 of the Government Code is amended to read:

13952. (a) An application for compensation shall be filed with the board in the manner determined by the board.

(b) (1) The application for compensation shall be verified under penalty of perjury by the individual who is seeking compensation, who may be the victim or derivative victim, or an individual seeking reimbursement for burial, funeral, or crime scene cleanup expenses pursuant to subdivision (a) of Section 13957. If the individual seeking compensation is a minor or is incompetent, the application shall be verified under penalty of perjury or on information and belief by the parent with legal custody, guardian, conservator, or relative caregiver of the victim or derivative victim for whom the application is made. However, if a minor seeks compensation only for expenses for medical, medical related, psychiatric, psychological, or other mental health counseling-related services and the minor is authorized by statute to

consent to those services, the minor may verify the application for compensation under penalty of perjury.

(2) For purposes of this subdivision, “relative caregiver” means a relative as defined in subdivision (i) of Section 6550 of the Family Code, who assumed primary responsibility for the child while the child was in the relative’s care and control, and who is not a biological or adoptive parent.

(c) (1) The board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation.

(2) The staff of the board shall determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. The applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff’s determination to the board, which shall review the application to determine whether it is complete.

(d) (1) The board may recognize an authorized representative of the victim or derivative victim, who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(2) For purposes of this subdivision, an “authorized representative” means any of the following:

(A) An attorney.

(B) If the victim or derivative victim is a minor or an incompetent adult, the legal guardian or conservator, or an immediate family member, parent, or relative caregiver who is not the perpetrator of the crime that gave rise to the claim.

(C) A victim assistance advocate certified pursuant to Section 13835.10 of the Penal Code.

(D) An immediate family member of the victim or derivative victim, who has written authorization by the victim or derivative victim, and who is not the perpetrator of the crime that gave rise to the claim.

(E) Other persons who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(3) Except for attorney’s fees awarded under this chapter, no authorized representative described in paragraph (2) shall charge, demand, receive, or collect any amount for services rendered under this subdivision.

SEC. 2. Section 13955 of the Government Code is amended to read:

13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of the following:

(1) A victim.

(2) A derivative victim.

(3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph (9) of subdivision (a) of Section 13957.

(B) This paragraph applies without respect to any felon status of the victim.

(b) Either of the following conditions is met:

(1) The crime occurred within this state, whether or not the victim is a resident of the state. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

(2) Whether or not the crime occurred within the State of California, the victim was any of the following:

(A) A resident of the state.

(B) A member of the military stationed in California.

(C) A family member living with a member of the military stationed in this state.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of this state, or resident of another state, who is any of the following:

(1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(2) At the time of the crime was living in the household of the victim.

(3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

(4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.

(d) The application is timely pursuant to Section 13953.

(e) (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.

(2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.

(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

(F) Caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

(C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

SEC. 3. The Legislature finds and declares that the amendments made to paragraph (3) of subdivision (a) of Section 13995 of the Government Code by Section 2 of this act are declaratory of existing law.