

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2809

Introduced by Assembly Members Leno and Price

February 22, 2008

~~An act relating to crime victims. An act to amend Section 13957 of the Government Code, relating to crime victims, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Leno. Crime victims: mental health counseling.

Existing law provides that crime victims and derivative victims, as defined, may be awarded compensation by the California Victim Compensation and Government Claims Board from the state Restitution Fund, a continuously appropriated fund, for the pecuniary losses they suffer as a direct result of criminal acts. The awarding of compensation is subject to application procedures, eligibility requirements, and specified limits on the amount of compensation, subject to specified criteria.

~~This bill would declare the intent of the Legislature to enact legislation that would make a minor who suffers emotional injury as a result of witnessing a violent crime eligible for compensation from the California Victim Compensation and Government Claims Board for mental health counseling if the minor is not otherwise eligible for compensation as a victim or derivative victim of that crime.~~

~~This bill would authorize the board to reimburse the cost of outpatient mental health counseling in an amount not to exceed \$3,000 for any minor who suffers emotional injury as a direct result of witnessing a~~

violent crime if the minor was in close physical proximity to the victim when witnessing the crime or, at the time of the crime, was a cousin, sibling, spouse, child, or parent of the victim. By making money in a continuously appropriated fund available for a new purpose, this bill would make an appropriation.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. Section 13957 of the Government Code is
2 amended to read:

3 13957. (a) The board may grant for pecuniary loss, when the
4 board determines it will best aid the person seeking compensation,
5 as follows:

6 (1) Subject to the limitations set forth in Section 13957.2,
7 reimburse the amount of medical or medical-related expenses
8 incurred by the victim, including, but not limited to, eyeglasses,
9 hearing aids, dentures, or any prosthetic device taken, lost, or
10 destroyed during the commission of the crime, or the use of which
11 became necessary as a direct result of the crime.

12 (2) Subject to the limitations set forth in Section 13957.2,
13 reimburse the amount of outpatient psychiatric, psychological, or
14 other mental health counseling-related expenses incurred by the
15 victim or derivative victim, including peer counseling services
16 provided by a rape crisis center as defined by Section 13837 of
17 the Penal Code, and including family psychiatric, psychological,
18 or mental health counseling for the successful treatment of the
19 victim provided to family members of the victim in the presence
20 of the victim, whether or not the family member relationship
21 existed at the time of the crime, that became necessary as a direct
22 result of the crime, subject to the following conditions:

23 (A) The following persons may be reimbursed for the expense
24 of their outpatient mental health counseling in an amount not to
25 exceed ten thousand dollars (\$10,000):

- 26 (i) A victim.
- 27 (ii) A derivative victim who is the surviving parent, sibling,
28 child, spouse, fiancé, or fiancée of a victim of a crime that directly
29 resulted in the death of the victim.

1 (iii) A derivative victim, as described in paragraphs (1) to (4),
2 inclusive, of subdivision (c) of Section 13955, who is the primary
3 caretaker of a minor victim whose claim is not denied or reduced
4 pursuant to Section 13956 in a total amount not to exceed ten
5 thousand dollars (\$10,000) for not more than two derivative
6 victims.

7 (B) The following persons may be reimbursed for the expense
8 of their outpatient mental health counseling in an amount not to
9 exceed five thousand dollars (\$5,000):

10 (i) A derivative victim not eligible for reimbursement pursuant
11 to subparagraph (A), provided that mental health counseling of a
12 derivative victim described in paragraph (5) of subdivision (c) of
13 Section 13955, shall be reimbursed only if that counseling is
14 necessary for the treatment of the victim.

15 (ii) A victim of a crime of unlawful sexual intercourse with a
16 minor committed in violation of subdivision (d) of Section 261.5
17 of the Penal Code. A derivative victim of a crime committed in
18 violation of subdivision (d) of Section 261.5 of the Penal Code
19 shall not be eligible for reimbursement of mental health counseling
20 expenses.

21 (C) The board may reimburse a victim or derivative victim for
22 outpatient mental health counseling in excess of that authorized
23 by subparagraphs (A) or (B) or for inpatient psychiatric,
24 psychological, or other mental health counseling if the claim is
25 based on dire or exceptional circumstances that require more
26 extensive treatment, as approved by the board.

27 (D) Expenses for psychiatric, psychological, or other mental
28 health counseling related services may be reimbursed only if the
29 services were provided by either of the following individuals:

30 (i) A person who would have been authorized to provide those
31 services pursuant to former Article 1 (commencing with Section
32 13959) as it read on January 1, 2002.

33 (ii) A person who is licensed by the state to provide those
34 services, or who is properly supervised by a person who is so
35 licensed, subject to the board's approval and subject to the
36 limitations and restrictions the board may impose.

37 (3) Reimburse the expenses of nonmedical remedial care and
38 treatment rendered in accordance with a religious method of healing
39 recognized by state law.

1 (4) Subject to the limitations set forth in Section 13957.5,
2 authorize compensation equal to the loss of income or loss of
3 support, or both, that a victim or derivative victim incurs as a direct
4 result of the victim's or derivative victim's injury or the victim's
5 death. If the victim or derivative victim requests that the board
6 give priority to reimbursement of loss of income or support, the
7 board may not pay medical expenses, or mental health counseling
8 expenses, except upon the request of the victim or derivative victim
9 or after determining that payment of these expenses will not
10 decrease the funds available for payment of loss of income or
11 support.

12 (5) Authorize a cash payment to or on behalf of the victim for
13 job retraining or similar employment-oriented services.

14 (6) Reimburse the claimant for the expense of installing or
15 increasing residential security, not to exceed one thousand dollars
16 (\$1,000). Reimbursement shall be made either upon verification
17 by law enforcement that the security measures are necessary for
18 the personal safety of the claimant or verification by a mental
19 health treatment provider that the security measures are necessary
20 for the emotional well-being of the claimant. For purposes of this
21 paragraph, a claimant is the crime victim, or, if the victim is
22 deceased, a person who resided with the deceased at the time of
23 the crime. Installing or increasing residential security may include,
24 but need not be limited to, both of the following:

25 (A) Home security device or system.

26 (B) Replacing or increasing the number of locks.

27 (7) Reimburse the expense of renovating or retrofitting a
28 victim's residence or a vehicle, or both, to make the residence, the
29 vehicle, or both, accessible or the vehicle operational by a victim
30 upon verification that the expense is medically necessary for a
31 victim who is permanently disabled as a direct result of the crime,
32 whether the disability is partial or total.

33 (8) (A) Authorize a cash payment or reimbursement not to
34 exceed two thousand dollars (\$2,000) to a victim for expenses
35 incurred in relocating, if the expenses are determined by law
36 enforcement to be necessary for the personal safety of the victim
37 or by a mental health treatment provider to be necessary for the
38 emotional well-being of the victim.

39 (B) The cash payment or reimbursement made under this
40 paragraph shall only be awarded to one victim per crime giving

1 rise to the relocation. The board may authorize more than one
2 relocation per crime if necessary for the personal safety or
3 emotional well-being of the victim. However, the total cash
4 payment or reimbursement for all relocations due to the same crime
5 shall not exceed two thousand dollars (\$2,000).

6 (C) The board may, under compelling circumstances, award a
7 second cash payment or reimbursement to a victim for another
8 crime if both of the following conditions are met:

9 (i) The crime occurs more than three years from the date of the
10 crime giving rise to the initial relocation cash payment or
11 reimbursement.

12 (ii) The crime does not involve the same offender.

13 (D) When a relocation payment or reimbursement is provided
14 to a victim of sexual assault or domestic violence and the identity
15 of the offender is known to the victim, the victim shall agree not
16 to inform the offender of the location of the victim's new residence
17 and not to allow the offender on the premises at any time, or shall
18 agree to seek a restraining order against the offender.

19 (9) When a victim dies as a result of a crime, the board may
20 reimburse any individual who voluntarily, and without anticipation
21 of personal gain, pays or assumes the obligation to pay any of the
22 following expenses:

23 (A) The medical expenses incurred as a direct result of the crime
24 in an amount not to exceed the rates or limitations established by
25 the board.

26 (B) The funeral and burial expenses incurred as a direct result
27 of the crime, not to exceed seven thousand five hundred dollars
28 (\$7,500).

29 (10) When the crime occurs in a residence, the board may
30 reimburse any individual who voluntarily, and without anticipation
31 of personal gain, pays or assumes the obligation to pay the
32 reasonable costs to clean the scene of the crime in an amount not
33 to exceed one thousand dollars (\$1,000). Services reimbursed
34 pursuant to this subdivision shall be performed by persons
35 registered with the State Department of Public Health as trauma
36 scene waste practitioners in accordance with Chapter 9.5
37 (commencing with Section 118321) of Part 14 of Division 104 of
38 the Health and Safety Code.

39 (11) Reimburse the licensed child care expenses necessarily
40 incurred by a victim or derivative victim as a direct result of a

1 crime that resulted in physical injury or death, if the following
2 conditions are met:

3 (A) The injured or deceased victim was a primary caregiver for
4 the victim’s dependent children.

5 (B) The total reimbursement for all child care expenses does
6 not exceed five thousand dollars (\$5,000). The board shall have
7 the ability to set a lower reimbursement amount if necessary to
8 protect the solvency of the Restitution Fund.

9 (C) The periods of time for which child care expenses may be
10 reimbursed do not exceed a total of 180 days. The time periods
11 need not be continuous.

12 (D) The child care expenses are consistent with the usual and
13 customary rates charged by the child care provider for other
14 children in the provider’s care. If the provider only cares for the
15 victim’s children, the reimbursement rate shall not exceed two
16 hundred dollars (\$200) per week for one child or four hundred
17 dollars (\$400) per week for two or more children subject to the
18 limit in subparagraph (E).

19 (E) No victim or derivative victim may receive reimbursement
20 for child care expenses in addition to reimbursement subject to
21 paragraph (4).

22 (F) This paragraph is a pilot program and shall be operative
23 only until January 1, 2010.

24 *(12) Subject to the limitations set forth in Section 13957.2,*
25 *reimburse the cost of outpatient mental health counseling in an*
26 *amount not to exceed three thousand dollars (\$3,000) for any*
27 *minor who suffers emotional injury as a direct result of witnessing*
28 *a violent crime and is not eligible for reimbursement of those costs*
29 *under any other provision of this chapter. A minor is eligible for*
30 *reimbursement under this paragraph if at least one of the following*
31 *apply:*

32 *(A) The minor was in close physical proximity to the victim*
33 *when witnessing the crime.*

34 *(B) The minor, at the time of the crime, was a cousin, sibling,*
35 *spouse, child, or parent of the victim.*

36 (b) The total award to or on behalf of each victim or derivative
37 victim may not exceed thirty-five thousand dollars (\$35,000),
38 except that this amount may be increased to seventy thousand
39 dollars (\$70,000) if federal funds for that increase are available.

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation that would make a minor who suffers emotional injury~~
3 ~~as a result of witnessing a violent crime eligible for compensation~~
4 ~~from the California Victim Compensation and Government Claims~~
5 ~~Board for mental health counseling if the minor is not otherwise~~
6 ~~eligible for compensation as a victim or derivative victim of that~~
7 ~~crime.~~

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