

Introduced by Senator WrightFebruary 23, 2012

An act to amend Sections 13952, 13952.5, 13953, 13954, 13956, 13957, 13957.2, 13957.7, 13957.9, 13958, and 13964 of, the Government Code, relating to victims of crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1299, as introduced, Wright. Victims of crime: compensation.

Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, procedures for hearings with respect to the denial of awards, and publicizing of the program by the board. Payment is made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

Existing law authorizes the board to adopt regulations pursuant to existing law governing matters within its jurisdiction and to recognize an authorized representative of the victim or derivative victim who is required to represent the victim or derivative victim pursuant to rules adopted by the board.

This bill would modify several maximum reimbursement and cash payment amounts available to eligible claimants for specified incurred expenses. The bill would include within the meaning of the term "authorized representative" a county social worker designated by a county department of social services to represent a child abuse or elder abuse victim if that victim is unable to file on his or her own behalf.

Existing law authorizes the board to grant an emergency award if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until final consideration of an application. If an application for an emergency award is denied, the board is required to notify the applicant in writing reasons for the denial.

The bill would establish criteria that limit the reasons for denial of an emergency award application.

Existing law authorizes the board to grant cash payments or reimbursements for pecuniary loss for, among other things, expenses incurred in relocating and specified medical, funeral, and burial expenses when a victim dies as a result of a crime.

The bill would modify provisions relating to the above authorized payments and reimbursements by limiting the award of relocation expenses to a per family basis.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Section 13952 of the Government Code is
 2 amended to read:
 3 13952. (a) An application for compensation shall be filed with
 4 the board in the manner determined by the board.
 5 (b) (1) The application for compensation shall be verified under
 6 penalty of perjury by the individual who is seeking compensation,
 7 who may be the victim or derivative victim, or an individual
 8 seeking reimbursement for burial, funeral, or crime scene cleanup
 9 expenses pursuant to subdivision (a) of Section 13957. If the
 10 individual seeking compensation is a minor or is incompetent, the
 11 application shall be verified under penalty of perjury or on
 12 information and belief by the parent with legal custody, guardian,
 13 conservator, or relative caregiver of the victim or derivative victim
 14 for whom the application is made. However, if a minor seeks
 15 compensation only for expenses for medical, medical-related,
 16 psychiatric, psychological, or other mental health
 17 counseling-related services and the minor is authorized by statute
 18 to consent to those services, the minor may verify the application
 19 for compensation under penalty of perjury.

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

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

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

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

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

24 (A) An attorney.

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

29 (C) A victim assistance advocate certified pursuant to Section
30 13835.10 of the Penal Code.

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

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

37 (F) *A county social worker designated by a county department*
38 *of social services to represent a child abuse victim or an elder*
39 *abuse victim if that victim is unable to file on his or her own behalf.*

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

5 SEC. 2. Section 13952.5 of the Government Code is amended
6 to read:

7 13952.5. (a) An emergency award shall be available to a person
8 eligible for compensation pursuant to this chapter if the board
9 determines that such an award is necessary to avoid or mitigate
10 substantial hardship that may result from delaying compensation
11 until complete and final consideration of an application.

12 (b) The board shall establish the method for requesting an
13 emergency award, which may include, but need not be limited to,
14 requiring submission of the regular application as provided for in
15 Section 13952.

16 (c) (1) The board may grant an emergency award based solely
17 on the application of the victim or derivative victim. The board
18 may refuse to grant an emergency award where it has reason to
19 believe that the applicant will not be eligible for compensation
20 under this chapter.

21 (2) By mutual agreement between the staff of the board and the
22 applicant or the applicant's representative, the staff of the board
23 may take additional 10-day periods to verify the emergency award
24 claim and make payment.

25 (3) The board may delegate authority to designated staff persons
26 and designated agencies, including, but not limited to, district
27 attorneys, probation departments, victim centers, and other victim
28 service providers approved by the board and under contract with
29 the board, who shall use guidelines established by the board, to
30 grant and disburse emergency awards.

31 (d) Disbursements of funds for emergency awards shall be made
32 within 30 calendar days of application.

33 (e) (1) If an application for an emergency award is denied, the
34 board shall notify the applicant in writing of the reasons for the
35 denial. *Reasons for the denial shall be limited to the following*
36 *causes:*

37 (A) *The applicant does not meet the requirements of Section*
38 *13955.*

39 (B) *It is likely that the application would be denied pursuant to*
40 *Section 13956.*

1 (C) An award is not within the eligible classifications described
2 in Section 13957.

3 (2) An applicant for an emergency award shall not be entitled
4 to a hearing before the board to contest a denial of an emergency
5 award. However, denial of an emergency award shall not prevent
6 further consideration of the application for a regular award and
7 shall not affect the applicant’s right to a hearing pursuant to Section
8 13959 if staff recommends denial of a regular award.

9 (f) (1) If upon final disposition of the regular application, it is
10 found that the applicant is not eligible for compensation from the
11 board, the applicant shall reimburse the board for the emergency
12 award pursuant to an agreed-upon repayment schedule.

13 (2) If upon a final disposition of the application, the board grants
14 compensation to the applicant, the amount of the emergency award
15 shall be deducted from the final award of compensation. If the
16 amount of the compensation is less than the amount of the
17 emergency award, the excess amount shall be treated as an
18 overpayment pursuant to Section 13965.

19 (3) “Final disposition,” for the purposes of this section, shall
20 mean the final decision of the board with respect to the victim’s
21 or derivative victim’s application, before any action for judicial
22 review is instituted.

23 (g) The amount of an emergency award shall be dependent upon
24 the immediate needs of the victim or derivative victim subject to
25 rates and limitations established by the board.

26 SEC. 3. Section 13953 of the Government Code is amended
27 to read:

28 13953. (a) An application for compensation shall be filed
29 within one year of the date of the crime, one year after the victim
30 attains 18 years of age, or one year of the time the victim or
31 derivative victim knew or in the exercise of ordinary diligence
32 could have discovered that an injury or death had been sustained
33 as a direct result of crime, whichever is later. An application based
34 on any crime eligible for prosecution under Section 801.1 of the
35 Penal Code may be filed any time prior to the victim’s 28th
36 birthday.

37 (b) The board ~~may~~ shall for good cause grant an extension of
38 the time period in subdivision (a). In making this determination,
39 the board ~~may~~ shall consider any relevant factors, including, but
40 not limited to, ~~all~~ any of the following:

1 (1) A recommendation from the prosecuting attorney regarding
2 the victim's or derivative victim's cooperation with law
3 enforcement and the prosecuting attorney in the apprehension and
4 prosecution of the person charged with the crime.

5 (2) Whether particular events occurring during the prosecution
6 or in the punishment of the person convicted of the crime have
7 resulted in the victim or derivative victim incurring pecuniary loss.

8 (3) Whether the nature of the crime is such that a delayed
9 reporting of the crime is reasonably excusable.

10 (4) *The victim or derivative victim incurred a pecuniary loss*
11 *within 90 days of submission of the application.*

12 (5) *The applicant for the victim or derivative victim declares*
13 *under penalty of perjury that he or she was not aware of the*
14 *program or of his or her eligibility for the program.*

15 (c) The period prescribed in this section for filing an application
16 by or on behalf of a derivative victim shall be tolled when the
17 board accepts the application filed by a victim of the same
18 qualifying crime.

19 (d) *The period prescribed in this section for filing an application*
20 *by or on behalf of a victim shall be tolled when the board accepts*
21 *the application filed by a derivative victim of the same qualifying*
22 *crime.*

23 SEC. 4. Section 13954 of the Government Code is amended
24 to read:

25 13954. (a) The board shall verify with hospitals, physicians,
26 law enforcement officials, or other interested parties involved, the
27 treatment of the victim or derivative victim, circumstances of the
28 crime, amounts paid or received by or for the victim or derivative
29 victim, and any other pertinent information deemed necessary by
30 the board. Verification information shall be returned to the board
31 within 10 business days after a request for verification has been
32 made by the board. Verification information shall be provided at
33 no cost to the applicant, the board, or victim centers. When
34 requesting verification information, the board shall certify that a
35 signed authorization by the applicant is retained in the applicant's
36 file and that this certification constitutes actual authorization for
37 the release of information, notwithstanding any other provision of
38 law. If requested by a physician or mental health provider, the
39 board shall provide a copy of the signed authorization for the
40 release of information.

1 (b) The victim and the applicant, if other than the victim, shall
2 cooperate with the staff of the board or the victim center in the
3 verification of the information contained in the application. Failure
4 to cooperate shall be reported to the board, which, in its discretion,
5 may reject the application solely on this ground. *Failure to respond*
6 *to letters or telephone calls from the board shall not be deemed*
7 *to constitute a lack of cooperation for purposes of the payment of*
8 *pecuniary losses described in Section 13957.*

9 (c) The board may contract with victim centers to provide
10 verification of applications processed by the centers pursuant to
11 conditions stated in subdivision (a). The board and its staff shall
12 cooperate with the Office of Criminal Justice Planning and victim
13 centers in conducting training sessions for center personnel and
14 shall cooperate in the development of standardized verification
15 procedures to be used by the victim centers in the state. The board
16 and its staff shall cooperate with victim centers in disseminating
17 standardized board policies and findings as they relate to the
18 centers.

19 (d) Notwithstanding Section 827 of the Welfare and Institutions
20 Code or any other provision of law, every law enforcement and
21 social service agency in the state shall provide to the board or to
22 victim centers that have contracts with the board pursuant to
23 subdivision (c), upon request, a copy of a petition filed in a juvenile
24 court proceeding, reports of the probation officer, any other
25 document made available to the probation officer or to the judge,
26 referee, or other hearing officer, a complete copy of the report
27 regarding the incident, and any supplemental reports involving the
28 crime, public offense, or incident giving rise to a claim, for the
29 specific purpose of the submission of a claim or the determination
30 of eligibility to submit a claim filed pursuant to this chapter. The
31 board and victim centers receiving records pursuant to this
32 subdivision may not disclose a document that personally identifies
33 a minor to anyone other than the minor who is so identified, his
34 or her custodial parent or guardian, the attorneys for those parties,
35 and any other persons that may be designated by court order. Any
36 information received pursuant to this section shall be received in
37 confidence for the limited purpose for which it was provided and
38 may not be further disseminated. A violation of this subdivision
39 is a misdemeanor punishable by a fine not to exceed five hundred
40 dollars (\$500).

1 (e) The law enforcement agency supplying information pursuant
2 to this section may withhold the names of witnesses or informants
3 from the board, if the release of those names would be detrimental
4 to the parties or to an investigation in progress.

5 (f) Notwithstanding any other provision of law, every state
6 agency, upon receipt of a copy of a release signed in accordance
7 with the Information Practices Act of 1977 (Chapter 1
8 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
9 3 of the Civil Code) by the applicant or other authorized
10 representative, shall provide to the board or victim center the
11 information necessary to complete the verification of an application
12 filed pursuant to this chapter.

13 (g) The Department of Justice shall furnish, upon application
14 of the board, all information necessary to verify the eligibility of
15 any applicant for benefits pursuant to subdivision (d) of Section
16 13956, to recover any restitution fine or order obligations that are
17 owed to the Restitution Fund or to any victim of crime, or to
18 evaluate the status of any criminal disposition.

19 (h) A privilege is not waived under Section 912 of the Evidence
20 Code by an applicant consenting to disclosure of an otherwise
21 privileged communication if that disclosure is deemed necessary
22 by the board for verification of the application.

23 (i) Any verification conducted pursuant to this section shall be
24 subject to the time limits specified in Section 13958.

25 (j) *Any county social worker acting as the applicant for a child
26 victim or elder abuse victim shall not be required to provide
27 personal identification, including, but not limited to, the applicant's
28 date of birth or social security number. County social workers
29 acting in this capacity shall not be required to sign a promise of
30 repayment to the board.*

31 SEC. 5. Section 13956 of the Government Code is amended
32 to read:

33 13956. Notwithstanding Section 13955, a person shall not be
34 eligible for compensation under the following conditions:

35 (a) An application shall be denied if the board finds that the
36 victim or, where compensation is sought by or on behalf of a
37 derivative victim, either the victim or derivative victim, knowingly
38 and willingly participated in the commission of the crime that
39 resulted in the pecuniary loss for which compensation is being
40 sought pursuant to this chapter. However, this subdivision shall

1 not apply if the injury or death occurred as a direct result of a crime
2 committed in violation of Section 261, 262, or 273.5 of, or a crime
3 of unlawful sexual intercourse with a minor committed in violation
4 of subdivision (d) of Section 261.5 of, the Penal Code.

5 (b) (1) An application shall be denied if the board finds that
6 the victim or, where compensation is sought by, or on behalf of,
7 a derivative victim, either the victim or derivative victim failed to
8 cooperate reasonably with a law enforcement agency in the
9 apprehension and conviction of a criminal committing the crime.
10 However, in determining whether cooperation has been reasonable,
11 the board shall consider the victim's or derivative victim's age,
12 physical condition, and psychological state, cultural or linguistic
13 barriers, any compelling health and safety concerns, including, but
14 not limited to, a reasonable fear of retaliation or harm that would
15 jeopardize the well-being of the victim or the victim's family or
16 the derivative victim or the derivative victim's family, and giving
17 due consideration to the degree of cooperation of which the victim
18 or derivative victim is capable in light of the presence of any of
19 these factors.

20 (2) An application for a claim based on domestic violence may
21 not be denied solely because no police report was made by the
22 victim. The board shall adopt guidelines that allow the board to
23 consider and approve applications for assistance based on domestic
24 violence relying upon evidence other than a police report to
25 establish that a domestic violence crime has occurred. ~~Factors~~
26 ~~evidencing~~ *Evidence* that a domestic violence crime has occurred
27 may include, but ~~are~~ *is* not limited to, *any of the following*: medical
28 records documenting injuries consistent with allegations of
29 domestic violence, mental health records, or the fact that the victim
30 has obtained a temporary or permanent restraining order, ~~or all of~~
31 ~~these~~ *a statement from any law enforcement official stating that*
32 *the crime occurred.*

33 (3) An application for a claim based on human trafficking as
34 defined in Section 236.1 of the Penal Code may not be denied
35 solely because no police report was made by the victim. The board
36 shall adopt guidelines that allow the board to consider and approve
37 applications for assistance based on human trafficking relying
38 upon evidence other than a police report to establish that a human
39 trafficking crime as defined in Section 236.1 has occurred. That

1 evidence may include any reliable corroborating information
2 approved by the board, including, but not limited to, the following:

3 (A) A Law Enforcement Agency Endorsement issued pursuant
4 to Section 236.2 of the Penal Code.

5 (B) A human trafficking caseworker as identified in Section
6 1038.2 of the Evidence Code, has attested by affidavit that the
7 individual was a victim of human trafficking.

8 (c) An application for compensation may be denied, in whole
9 or in part, if the board finds that denial is appropriate because of
10 the nature of the victim’s or other applicant’s involvement in the
11 events leading to the crime or the involvement of the persons whose
12 injury or death gives rise to the application. In the case of a minor,
13 the board shall consider the minor’s age, physical condition, and
14 psychological state, as well as any compelling health and safety
15 concerns, in determining whether the minor’s application should
16 be denied pursuant to this section. The application of a derivative
17 victim of domestic violence under the age of 18 years of age or a
18 derivative victim of trafficking under 18 years of age may not be
19 denied on the basis of the denial of the victim’s application under
20 this subdivision.

21 (d) (1) Notwithstanding Section 13955, no person who is
22 convicted of a felony may be granted compensation until that
23 person has been discharged from probation or has been released
24 from a correctional institution and has been discharged from parole,
25 if any. In no case shall compensation be granted to an applicant
26 pursuant to this chapter during any period of time the applicant is
27 held in a correctional institution.

28 (2) A person who has been convicted of a felony may apply for
29 compensation pursuant to this chapter at any time, but the award
30 of that compensation may not be considered until the applicant
31 meets the requirements for compensation set forth in paragraph
32 (1).

33 (3) Applications of victims who are not felons shall receive
34 priority in the award of compensation over an application submitted
35 by a felon who has met the requirements for compensation set
36 forth in paragraph (1).

37 SEC. 6. Section 13957 of the Government Code is amended
38 to read:

1 13957. (a) The board may grant for pecuniary loss, when the
2 board determines it will best aid the person seeking compensation,
3 as follows:

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

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

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

24 (i) A victim.

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

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

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

37 (i) A derivative victim not eligible for reimbursement pursuant
38 to subparagraph (A), provided that mental health counseling of a
39 derivative victim described in paragraph (5) of subdivision (c) of

1 Section 13955, shall be reimbursed only if that counseling is
2 necessary for the treatment of the victim.

3 (ii) A victim of a crime of unlawful sexual intercourse with a
4 minor committed in violation of subdivision (d) of Section 261.5
5 of the Penal Code. A derivative victim of a crime committed in
6 violation of subdivision (d) of Section 261.5 of the Penal Code
7 shall not be eligible for reimbursement of mental health counseling
8 expenses.

9 (iii) A minor who suffers emotional injury as a direct result of
10 witnessing a violent crime and who is not eligible for
11 reimbursement of the costs of outpatient mental health counseling
12 under any other provision of this chapter. To be eligible for
13 reimbursement under this clause, the minor must have been in
14 close proximity to the victim when he or she witnessed the crime.

15 (C) The board may reimburse a victim or derivative victim for
16 outpatient mental health counseling in excess of that authorized
17 by subparagraph (A) or (B) or for inpatient psychiatric,
18 psychological, or other mental health counseling if the claim is
19 based on dire or exceptional circumstances that require more
20 extensive treatment, as approved by the board.

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

24 (i) A person who would have been authorized to provide those
25 services pursuant to former Article 1 (commencing with Section
26 13959) as it read on January 1, 2002.

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

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

34 (4) Subject to the limitations set forth in Section 13957.5,
35 authorize compensation equal to the loss of income or loss of
36 support, or both, that a victim or derivative victim incurs as a direct
37 result of the victim's or derivative victim's injury or the victim's
38 death. If the victim or derivative victim requests that the board
39 give priority to reimbursement of loss of income or support, the
40 board may not pay medical expenses, or mental health counseling

1 expenses, except upon the request of the victim or derivative victim
2 or after determining that payment of these expenses will not
3 decrease the funds available for payment of loss of income or
4 support.

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

7 (6) Reimburse the claimant for the expense of installing or
8 increasing residential security, not to exceed one thousand *five*
9 *hundred* dollars-~~(\$1,000)~~ (*\$1,500*). Reimbursement shall be made
10 either upon verification by law enforcement that the security
11 measures are necessary for the personal safety of the claimant or
12 verification by a mental health treatment provider that the security
13 measures are necessary for the emotional well-being of the
14 claimant. For purposes of this paragraph, a claimant is the crime
15 victim, or, if the victim is deceased, a person who resided with the
16 deceased at the time of the crime. Installing or increasing
17 residential security may include, but need not be limited to, both
18 of the following:

19 (A) Home security device or system.

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

21 (7) Reimburse the expense of renovating or retrofitting a
22 victim's residence or a vehicle, or both, to make the residence, the
23 vehicle, or both, accessible or the vehicle operational by a victim
24 upon verification that the expense is medically necessary for a
25 victim who is permanently disabled as a direct result of the crime,
26 whether the disability is partial or total.

27 (8) (A) Authorize a cash payment or reimbursement not to
28 exceed ~~two~~ *three* thousand dollars-~~(\$2,000)~~ (*\$3,000*) to a victim
29 for expenses incurred in relocating, if the expenses are determined
30 by law enforcement to be necessary for the personal safety of the
31 victim or by a mental health treatment provider to be necessary
32 for the emotional well-being of the victim.

33 ~~(B) The cash payment or reimbursement made under this~~
34 ~~paragraph shall only be awarded to one claimant per crime giving~~
35 ~~rise to the relocation. The board may authorize more than one~~
36 ~~relocation per crime if necessary for the personal safety or~~
37 ~~emotional well-being of the claimant. However, the total cash~~
38 ~~payment or reimbursement for all relocations due to the same crime~~
39 ~~shall not exceed two thousand dollars (\$2,000). For purposes of~~
40 ~~this paragraph a claimant is the crime victim, or, if the victim is~~

1 ~~deceased, a person who resided with the deceased at the time of~~
2 ~~the crime.~~

3 (B) *The cash payment or reimbursement made under this*
4 *paragraph shall be awarded on a per victim basis. In the case of*
5 *a family consisting of several victims, a parent with minor children*
6 *shall only receive one payment; however, if more than one adult*
7 *is categorized as a victim, each adult moving to a different location*
8 *shall qualify for a separate cash payment or reimbursement.*

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

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

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

16 (D) When a relocation payment or reimbursement is provided
17 to a victim of sexual assault or domestic violence and the identity
18 of the offender is known to the victim, the victim shall agree not
19 to inform the offender of the location of the victim's new residence
20 and not to allow the offender on the premises at any time, or shall
21 agree to seek a restraining order against the offender, *unless there*
22 *is a court order that expressly permits any of these conditions,*
23 *including, but not limited to, a child custody or visitation*
24 *agreement.*

25 (E) Notwithstanding subparagraphs (A) and (B), the board may
26 increase the cash payment or reimbursement for expenses incurred
27 in relocating to an amount greater than two thousand dollars
28 (\$2,000), if the board finds this amount is appropriate due to the
29 unusual, dire, or exceptional circumstances of a particular claim.

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

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

37 (B) The funeral and burial expenses incurred as a direct result
38 of the crime, not to exceed seven thousand five hundred dollars
39 (\$7,500).

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

11 (11) Reimburse the licensed child care expenses necessarily
12 incurred by a victim or derivative victim as a direct result of a
13 crime that resulted in physical injury or death, if the following
14 conditions are met:

15 (A) The injured or deceased victim was a primary caregiver for
16 the victim's dependent children.

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

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

24 (D) The child care expenses are consistent with the usual and
25 customary rates charged by the child care provider for other
26 children in the provider's care. If the provider only cares for the
27 victim's children, the reimbursement rate shall not exceed two
28 hundred dollars (\$200) per week for one child or four hundred
29 dollars (\$400) per week for two or more children subject to the
30 limit in subparagraph (E).

31 (E) No victim or derivative victim may receive reimbursement
32 for child care expenses in addition to reimbursement subject to
33 paragraph (4).

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

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 SEC. 7. Section 13957.2 of the Government Code is amended
2 to read:

3 13957.2. (a) The board may establish maximum rates and
4 service limitations for reimbursement of medical and
5 medical-related services and for mental health and counseling
6 services. The adoption, amendment, and repeal of these service
7 limitations and maximum rates shall not be subject to the
8 rulemaking provision of the Administrative Procedure Act (Chapter
9 3.5 (commencing with Section 11340) of Part 1). ~~An informational~~
10 ~~copy of the service limitations and maximum rates shall be filed~~
11 ~~with the Secretary of State upon adoption by the board. Any change~~
12 ~~in maximum rates or service limitations shall not affect payment~~
13 ~~or reimbursement of losses incurred prior to six months after the~~
14 ~~adoption of any changes by regulations. A provider who accepts~~
15 ~~payment from the program for a service shall accept the program's~~
16 ~~rates as payment in full and shall not accept any payment on~~
17 ~~account of the service from any other source if the total of~~
18 ~~payments accepted would exceed the maximum rate set by the~~
19 ~~board for that service. To ensure service limitations that are~~
20 ~~uniform and appropriate to the levels of treatment required by the~~
21 ~~victim or derivative victim, the board may review all claims for~~
22 ~~these services as necessary to ensure their medical necessity charge~~
23 ~~the client for any out-of-pocket difference. Nothing shall prohibit~~
24 ~~the provider from accepting payment from insurance or other~~
25 ~~reimbursement source to pay the difference between the board~~
26 ~~reimbursement rate and the full service charges. It shall be~~
27 ~~presumed that such treatment is appropriate and necessary as the~~
28 ~~result of the crime unless there exists specific evidence to the~~
29 ~~contrary.~~

30 (b) The board may request an independent examination and
31 report from any provider of medical or medical-related services
32 or psychological or psychiatric treatment or mental health
33 counseling services, if it believes there is a reasonable basis for
34 requesting an additional evaluation. The victim or derivative victim
35 shall be notified of the name of the provider who is to perform the
36 evaluation within 30 calendar days of that determination. In cases
37 where the crime involves sexual assault, the provider shall have
38 expertise in the needs of sexual assault victims. In cases where the
39 crime involves child abuse or molestation, the provider shall have
40 expertise in the needs of victims of child abuse or molestation, as

1 appropriate. When a reevaluation is requested, payments shall not
2 be discontinued prior to completion of the reevaluation.

3 (c) Reimbursement for any ~~medical or~~ *medical*, medical-related
4 ~~services, or mental health services~~ shall, if the application has been
5 approved, be paid by the board within ~~an average of 90~~ 30 days
6 from receipt of the claim for payment. Payments to a medical or
7 mental health provider may not be discontinued prior to completion
8 of any reevaluation. Whether or not a reevaluation is obtained, if
9 the board determines that payments to a provider will be
10 discontinued, the board shall notify the provider of their
11 discontinuance within 30 calendar days of its determination *and*
12 *shall continue payments until 30 calendar days after the notice*
13 *has been mailed to the provider.*

14 SEC. 8. Section 13957.7 of the Government Code is amended
15 to read:

16 13957.7. (a) No reimbursement may be made for any expense
17 that is submitted more than three years after it is incurred by the
18 victim or derivative victim. However, reimbursement may be made
19 for an expense submitted more than three years after the date it is
20 incurred if the victim or derivative victim has affirmed the debt
21 and is liable for the debt at the time the expense is submitted for
22 reimbursement, or has paid the expense as a direct result of a crime
23 for which ~~a timely~~ *an* application has been filed *or has paid the*
24 *expense as a direct result of a crime for which an application has*
25 *been filed and approved.*

26 (b) Compensation made pursuant to this chapter may be on a
27 one-time or periodic basis. ~~If periodic, the board may increase,~~
28 ~~reduce, or terminate the amount of compensation according to the~~
29 ~~applicant's need,~~ subject to the maximum limits provided in this
30 chapter. *If compensation is made on a periodic basis, the board*
31 *may increase, reduce, or terminate the amount of compensation*
32 *according to the applicant's need, subject to the maximum limits*
33 *provided in this chapter.*

34 (c) (1) The board may authorize direct payment to a provider
35 of services that are reimbursable pursuant to this chapter and may
36 make those payments prior to verification. However, the board
37 may not, without good cause, authorize a direct payment to a
38 provider over the objection of the victim or derivative victim.

39 (2) Reimbursement on the initial claim for any psychological,
40 psychiatric, or mental health counseling services shall, if the

1 application has been approved, be paid by the board within 90
2 days of the date of receipt of the claim for payment, with
3 subsequent payments to be made to the provider within one month
4 of the receipt of a claim for payment.

5 (d) Payments for peer counseling services provided by a rape
6 crisis center may not exceed fifteen dollars (\$15) for each hour of
7 services provided. Those services shall be limited to in-person
8 counseling for a period not to exceed 10 weeks plus one series of
9 facilitated support group counseling sessions.

10 (e) The board shall develop procedures to ensure that a victim
11 is using compensation for job retraining or relocation only for its
12 intended purposes. The procedures may include, but need not be
13 limited to, requiring copies of receipts, agreements, or other
14 documents as requested, or developing a method for direct
15 payment.

16 (f) Compensation granted pursuant to this chapter shall not
17 disqualify an otherwise eligible applicant from participation in any
18 other public assistance program.

19 (g) The board shall pay attorney's fees representing the
20 reasonable value of legal services rendered to the applicant, in an
21 amount equal to 10 percent of the amount of the award, or five
22 hundred dollars (\$500), whichever is less, for each victim and each
23 derivative victim. An attorney receiving fees from another source
24 may waive the right to receive fees under this subdivision.
25 Payments under this subdivision shall be in addition to any amount
26 authorized or ordered under subdivision (b) of Section 13960. An
27 attorney may not charge, demand, receive, or collect any amount
28 for services rendered in connection with any proceedings under
29 this chapter except as awarded under this chapter.

30 (h) A private nonprofit agency shall be reimbursed for its
31 services at the level of the normal and customary fee charged by
32 the private nonprofit agency to clients with adequate means of
33 payment for its services, except that this reimbursement may not
34 exceed the maximum reimbursement rates set by the board and
35 may be made only to the extent that the victim otherwise qualifies
36 for compensation under this chapter and that other reimbursement
37 or direct subsidies are not available to serve the victim.

38 SEC. 9. Section 13957.9 of the Government Code is amended
39 to read:

1 13957.9. (a) Notwithstanding Section 13954, the board shall
2 develop a simplified and expedited procedure for paying claims
3 of a qualified provider of mental health services.

4 (b) A simplified and expedited procedure for paying claims
5 specified in subdivision (a) shall include all of the following:

6 (1) An agreement by the provider to subject its claims to audit
7 procedures established by the board and to request payment only
8 for qualified services.

9 (2) An agreement by the board to pay claims on a regular and
10 timely basis to a qualified provider for services without requiring
11 further documentation beyond that required to initially qualify the
12 claim.

13 (3) Additional methods of simplifying the claims process as
14 agreed upon between the board and the qualified provider.

15 (c) Simplified and expedited procedures for mental health
16 services may be instituted when both of the following conditions
17 are met:

18 (1) The board has determined that the crime has occurred and
19 that the victim qualifies for compensation pursuant to this chapter.

20 (2) Services to the victim or derivative victim, or both, are being
21 provided by a qualified provider.

22 (d) ~~A nonprofit~~ An agency may apply to the board for a
23 determination that the ~~nonprofit~~ agency is a qualified provider for
24 purposes of this section. The board shall approve or reject an
25 application from a qualified provider for participation in an
26 agreement pursuant to this section within 90 days of receipt of a
27 complete application as required by the board.

28 (e) An agreement made pursuant to this section shall not be
29 deemed to be a contract subject to the requirements of Part 2
30 (commencing with Section 10100) of Division 2 of the Public
31 Contract Code.

32 (f) For purposes of this section, “qualified provider” means a
33 ~~nonprofit~~ an agency with extensive experience in providing mental
34 health services and that has utilized reimbursement from the
35 Restitution Fund at a significant level on a regular and constant
36 basis. Upon request of a ~~nonprofit~~ an agency, the board shall
37 determine if the ~~nonprofit~~ agency is a qualified provider for
38 purposes of this section.

39 SEC. 10. Section 13958 of the Government Code is amended
40 to read:

1 13958. (a) The board shall approve or deny applications, based
 2 on recommendations of the board staff, within ~~an average of 90~~
 3 ~~calendar days and no later than 180 calendar days of acceptance~~
 4 ~~by the board or victim center of submission of the claim to the~~
 5 ~~board or the verifying contractor.~~

6 ~~(a) If the board does not meet the 90-day average standard~~
 7 ~~prescribed in this subdivision, the board shall, thereafter, report to~~
 8 ~~the Legislature, on a quarterly basis, its progress and its current~~
 9 ~~average time of processing applications. These quarterly reports~~
 10 ~~shall continue until the board meets the 90-day average standard~~
 11 ~~for two consecutive quarters.~~

12 ~~(b) If the board fails to approve or deny an individual application~~
 13 ~~within 180 days of the date it is accepted, pursuant to this~~
 14 ~~subdivision, the board shall advise the applicant and his or her~~
 15 ~~representative, in writing, of the reason for the failure to approve~~
 16 ~~or deny the application.~~

17 ~~(b) If the board fails to approve or deny an individual~~
 18 ~~application within 90 days of the date it is submitted, pursuant to~~
 19 ~~this subdivision, the board shall advise the applicant and his or~~
 20 ~~her representative, in writing, of the reason for the failure to~~
 21 ~~approve or deny the application. Notice shall be given to the~~
 22 ~~applicant and his or her representative within 30 days after the~~
 23 ~~90-day period prescribed by this subdivision.~~

24 ~~(c) If the board fails to comply with subdivision (a) or the notice~~
 25 ~~period prescribed by subdivision (b), the board shall report to the~~
 26 ~~Legislature on a quarterly basis the number of applications for~~
 27 ~~which the board failed to meet its obligation under this section.~~

28 SEC. 11. Section 13964 of the Government Code is amended
 29 to read:

30 13964. (a) Claims under this chapter shall be paid from the
 31 Restitution Fund.

32 (b) Notwithstanding Section 13340, the proceeds in the
 33 Restitution Fund are hereby continuously appropriated to the board,
 34 without regard to fiscal years, for the purposes of this chapter.
 35 However, the funds appropriated pursuant to this section for
 36 ~~administrative costs~~ *any costs, excluding the direct payment of*
 37 *victim benefits*, of the board shall be subject to annual review
 38 through the State Budget process.

39 (c) A sum not to exceed 15 percent of the amount appropriated
 40 annually to pay claims pursuant to this chapter may be withdrawn

1 from the Restitution Fund, to be used as a revolving fund by the
2 board for the payment of emergency awards pursuant to Section
3 13961.

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