

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1140

Introduced by Assembly Member Bonta

February 27, 2015

An act to amend Sections 13952, 13954, 13955, 13956, 13957, 13957.5, 13957.7, 13959, 13963, 13965, 13971, 13972, and 13973 of the Government Code, and to amend Section 2085.5 of the Penal Code, relating to crime victim compensation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as amended, Bonta. Crime victim compensation.

(1) Existing law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and limits on the amount of compensation the board may award, and requires the application for compensation to be verified under penalty of perjury. Existing law authorizes the board to recognize an authorized representative of a victim or derivative victim, including an attorney, the legal guardian, conservator, immediate family member, parent, or relative caregiver, certified victim assistance advocate, county social worker, or other persons, as specified, to represent the victim or derivative victim pursuant to rules adopted by the board.

This bill would expand the term “authorized representative” to mean any person designated by law or any person who has written authorization by the victim or derivative victim, excluding a medical or mental health provider who has provided services to the victim or derivative victim.

(2) Existing law requires the board to verify any information it deems pertinent to an application for compensation, and requires the victim and the applicant, if other than the victim, to cooperate with the staff of the board or a victim and witness assistance center in this task. Existing law authorizes the board to reject an application solely on the basis that the victim or applicant failed to cooperate as required.

This bill would instead require the applicant to cooperate in verifying the application and would specify the circumstances under which an applicant may be found to have failed to cooperate with the board.

(3) Existing law requires every law enforcement and social service agency in the state to provide to the board or to a contracted victim center reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim.

This bill would instead require law enforcement and social service agencies to provide a complete copy of the law enforcement report and other supplemental reports and documents for the purpose of determining the eligibility of a claim.

(4) Existing law requires a victim or derivative victim seeking compensation to have sustained one or more specified physical or emotional injuries, or pecuniary losses, as a direct result of the crime. Existing law includes among those injuries emotional injury that occurred due to a violation of provisions prohibiting child abduction, as specified, if the deprivation of custody endured for 30 calendar days or more.

This bill would include among those injuries emotional injury that occurred due to a violation of provisions prohibiting publishing or disseminating via an electronic communication device personal identifying information or a digital image of another person, without consent of the other person, and for the purpose of causing that other person injury or harassment, by a 3rd party. The bill would also require, in the case of emotional injury caused by a child abduction, only that criminal charges were filed.

The bill would also include among those injuries emotional injury to a minor victim that incurred as a direct result of the nonconsensual

distribution of pictures or video of sexual conduct in which the minor appears. The bill would limit compensation for this type of injury to mental health counseling for the victim, and prohibit compensation to a derivative victim in this regard.

(5) Existing law authorizes the board to deny an application if it finds that the victim or derivative victim knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought, except as specified.

This bill would instead authorize an application for compensation to be denied, in whole or in part, if the board finds that denial is appropriate based upon consideration of specified factors in determining the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application, and specified factors that may be considered to mitigate or overcome that involvement.

(6) Existing law requires an application to be denied of the victim failed to cooperate reasonably with law enforcement in apprehending and convicting the person who committed the crime.

This bill would prohibit a victim of domestic violence from being determined to have failed to cooperate based on his or her conduct with law enforcement at the scene of the crime, and would prohibit lack of cooperation from being found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. The bill would also prohibit a claim based on a sexual assault from being denied solely because a police report was not made by the victim. The bill would require the board to adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred.

(7) Existing law prohibits any person who is convicted of a felony from being granted compensation until he or she has been discharged from probation or has been released from a correctional institution, and has been discharged from parole, if any. Existing law prohibits compensation from being granted to an applicant being held in a correctional institution. Existing law prioritizes the applications of victims who are not felons over those who are felons who have been discharged from probation or have been released from a correctional institution, and have been discharged from parole.

This bill would instead prohibit any person who is convicted of a violent felony, as specified, from being granted compensation until he

or she is discharged from probation or released from a correctional institution, and discharged from parole, or until he or she is discharged from postrelease community supervision or mandatory supervision. This bill would also prohibit compensation from being granted to an applicant while he or she is required to be registered as a sex offender. This bill would remove provisions prioritizing the applications of victims who are not felons.

(8) Existing law authorizes derivative victims, including parents and siblings, of a victim of a crime that directly led to the death of the victim, to be reimbursed for the expense of their outpatient mental health counseling.

This bill would include grandparents and grandchildren among those derivative victims who are eligible to be reimbursed for their mental health counseling. Because an application for reimbursement is required to be submitted under penalty of perjury, this bill would expand the definition of a crime and thus impose a state-mandated local program.

(9) Existing law limits the reimbursement amount for outpatient mental health counseling of a victim of a crime of unlawful intercourse with a minor in which a person 21 years of age or older engaged in an act of unlawful sexual intercourse with a minor who was under 16 years of age to an amount not exceeding \$5,000. Existing law prohibits a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

This bill would remove provisions limiting the reimbursement of a victim of a crime of unlawful intercourse with a minor as described above and remove provisions prohibiting a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

(10) Existing law authorizes the board to grant reimbursement for pecuniary loss of the expense of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law if it determines it will best aid the person seeking compensation.

This bill would remove the provisions authorizing reimbursement for this type of care or treatment.

(11) Existing law authorizes the board to grant for pecuniary loss if it determines it will best aid the person seeking compensation reimbursement for the expense of installing or increasing residential security, if it receives verification by law enforcement that the security measures are necessary for the personal safety of the claimant or

verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant.

This bill would remove the provisions requiring the verification by law enforcement or a mental health treatment provider described above.

(12) Existing law also allows reimbursement for renovating or retrofitting a victim's residence or vehicle for a victim permanently disabled by the crime, as specified.

The bill would also allow reimbursement for the purchase of a vehicle for a victim permanently disabled by the crime.

(13) Existing law authorizes the board to provide a cash payment to a victim for expenses incurred in relocating, as specified and requires a victim of sexual assault or domestic violence, who receives a relocation payment to, among other things, agree not to allow the offender on the premises at any time.

This bill would authorize the board to require a victim to repay the relocation payment or reimbursement to the board if he or she violates those terms. The bill would also require the board to be named as the recipient of funds upon the expiration of a rental agreement if a security deposit was required for a relocation.

This bill would also authorize the board to reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs for a trauma scene waste practitioner to clean the scene of the crime if the crime occurred inside a vehicle.

(14) Existing law authorizes the board to pay attorney's fees for legal services rendered to an applicant, in an amount equal to 10% of the amount of the award, or \$500, whichever is less, for each victim and each derivative victim.

This bill would authorize the board to request that an attorney provide verification, and to contact an applicant to verify, that legal services were provided.

(15) Existing law requires the board to grant a hearing to an applicant who contests a staff recommendation to deny compensation. Existing law requires the board to schedule the hearing in as convenient a location as possible if the applicant's presence is required. Existing law authorizes the board to grant no more than one request for reconsideration with respect to any one decision on an application for compensation.

This bill would also authorize the hearing to be conducted by telephone. The bill would also prohibit evidence submitted after the

board has denied a request for reconsideration from being considered unless the board chooses to reconsider its decision on its own motion.

(16) Existing law provides that the board is entitled to a lien on any judgment, award, or settlement in favor of or on behalf of the recipient for losses suffered as a direct result of the crime that was the basis for receipt of compensation in the amount of the compensation granted by the board. If a claim is filed within one year of the date of recovery, the board is required to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien is recovered and the remaining 75% is deposited in the Restitution Fund, a continuously appropriated fund.

This bill would instead require the board to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery only if the recipient notified the board of the action prior to receiving any recovery with the remainder being deposited into the Restitution Fund. By increasing deposits to be made to a continuously appropriated fund, this bill would make an appropriation.

(17) Under existing law a person who has been overpaid pursuant to these provisions governing victim compensation is liable for that amount, except as specified.

This bill would require that all actions to collect overpayments be commenced within 7 years of the date of the overpayment, except as specified. The bill would also authorize any recipient of an overpayment to contest the related staff recommendation.

(18) Existing law authorizes a private citizen, his or her surviving spouse, his or her surviving children, or a person dependent upon the citizen for his or her principal support to file a claim for indemnification, as specified, if the private citizen incurred personal injury, death, or damage to his or her property in preventing the commission of a crime, in apprehending a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe. Existing law defines “private citizen” for this and related provisions as a natural person except as specified.

This bill would also authorize any person who is legally liable for the citizen’s pecuniary losses to file a claim for indemnification. This bill would revise the definition of “private citizen” to mean a person, except as specified.

(19) Existing law provides that if a parolee or a prisoner owes a specified order of restitution, any moneys owing are collected from the parolee or prisoner, as specified, and transferred to the California Victim Compensation and Government Claims Board for direct payment to the victim. Existing law requires that the victim be paid within 60 days from the date the restitution revenues are received, however, the restitution payment need not be forwarded to that victim unless it is \$50 or more, or until 180 days from the date the first payment is received, whichever occurs sooner.

This bill would provide instead that the payment need not be forwarded to the victim until it is \$25 or more, or the victim requests payment of the lesser amount.

(20) The bill would make other conforming and nonsubstantive changes.

(21) By expanding the authorization for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

(22) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 for whom the application is made. However, if a minor seeks
2 compensation only for expenses for medical, medical-related,
3 psychiatric, psychological, or other mental health
4 counseling-related services and the minor is authorized by statute
5 to consent to those services, the minor may verify the application
6 for compensation under penalty of perjury.

7 (2) For purposes of this subdivision, “relative caregiver” means
8 a relative as defined in paragraph (2) of subdivision (h) of Section
9 6550 of the Family Code, who assumed primary responsibility for
10 the child while the child was in the relative’s care and control, and
11 who is not a biological or adoptive parent.

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

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

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

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

30 (A) Any person who has written authorization by the victim or
31 derivative victim. However, a medical or mental health provider,
32 or agent of the medical or mental health provider, who has provided
33 services to the victim or derivative victim shall not be allowed to
34 be an authorized representative.

35 (B) Any person designated by law including, but not limited to,
36 a legal guardian, conservator, or social worker.

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

1 SEC. 2. Section 13954 of the Government Code is amended
2 to read:

3 13954. (a) The board shall verify with hospitals, physicians,
4 law enforcement officials, or other interested parties involved, the
5 treatment of the victim or derivative victim, circumstances of the
6 crime, amounts paid or received by or for the victim or derivative
7 victim, and any other pertinent information deemed necessary by
8 the board. Verification information shall be returned to the board
9 within 10 business days after a request for verification has been
10 made by the board. Verification information shall be provided at
11 no cost to the applicant, the board, or victim centers. When
12 requesting verification information, the board shall certify that a
13 signed authorization by the applicant is retained in the applicant's
14 file and that this certification constitutes actual authorization for
15 the release of information, notwithstanding any other provision of
16 law. If requested by a physician or mental health provider, the
17 board shall provide a copy of the signed authorization for the
18 release of information.

19 (b) (1) The applicant shall cooperate with the staff of the board
20 or the victim center in the verification of the information contained
21 in the application. Failure to cooperate shall be reported to the
22 board, which, in its discretion, may reject the application solely
23 on this ground.

24 (2) An applicant may be found to have failed to cooperate with
25 the board if any of the following occur:

26 (A) The applicant has information, or there is information that
27 he or she may reasonably obtain, that is needed to process the
28 application or supplemental claim, and the applicant failed to
29 provide the information after being requested to do so by the board.
30 *The Board shall take the applicant's economic, psychosocial, and*
31 *postcrime traumatic circumstances into consideration, and shall*
32 *not unreasonably reject an application solely for failure to provide*
33 *information.*

34 (B) The applicant provided, or caused another to provide, false
35 information regarding the application or supplemental claim.

36 (C) The applicant refused to apply for other benefits potentially
37 available to him or her from other sources besides the board
38 including, but not limited to, worker's compensation, state
39 disability insurance, social security benefits, and unemployment
40 insurance.

1 (D) The applicant threatened violence or bodily harm to a
2 member of the board or staff.

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

13 (d) (1) Notwithstanding Section 827 of the Welfare and
14 Institutions Code or any other provision of law, every law
15 enforcement and social service agency in the state shall provide
16 to the board or to victim centers that have contracts with the board
17 pursuant to subdivision (c), upon request, a complete copy of the
18 law enforcement report and any supplemental reports involving
19 the crime or incident giving rise to a claim, a copy of a petition
20 filed in a juvenile court proceeding, reports of the probation officer,
21 and any other document made available to the probation officer
22 or to the judge, referee, or other hearing officer, for the specific
23 purpose of determining the eligibility of a claim filed pursuant to
24 this chapter.

25 (2) The board and victim centers receiving records pursuant to
26 this subdivision may not disclose a document that personally
27 identifies a minor to anyone other than the minor who is so
28 identified, his or her custodial parent or guardian, the attorneys
29 for those parties, and any other persons that may be designated by
30 court order. Any information received pursuant to this section shall
31 be received in confidence for the limited purpose for which it was
32 provided and may not be further disseminated. A violation of this
33 subdivision is a misdemeanor punishable by a fine not to exceed
34 five hundred dollars (\$500).

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

39 (e) Notwithstanding any other provision of law, every state
40 agency, upon receipt of a copy of a release signed in accordance

1 with the Information Practices Act of 1977 (Chapter 1
2 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
3 3 of the Civil Code) by the applicant or other authorized
4 representative, shall provide to the board or victim center the
5 information necessary to complete the verification of an application
6 filed pursuant to this chapter.

7 (f) The Department of Justice shall furnish, upon application of
8 the board, all information necessary to verify the eligibility of any
9 applicant for benefits pursuant to subdivision (c) of Section 13956,
10 to recover any restitution fine or order obligations that are owed
11 to the Restitution Fund or to any victim of crime, or to evaluate
12 the status of any criminal disposition.

13 (g) A privilege is not waived under Section 912 of the Evidence
14 Code by an applicant consenting to disclosure of an otherwise
15 privileged communication if that disclosure is deemed necessary
16 by the board for verification of the application.

17 (h) Any verification conducted pursuant to this section shall be
18 subject to the time limits specified in Section 13958.

19 (i) Any county social worker acting as the applicant for a child
20 victim or elder abuse victim shall not be required to provide
21 personal identification, including, but not limited to, the applicant's
22 date of birth or social security number. County social workers
23 acting in this capacity shall not be required to sign a promise of
24 repayment to the board.

25 SEC. 3. Section 13955 of the Government Code is amended
26 to read:

27 13955. Except as provided in Section 13956, a person shall be
28 eligible for compensation when all of the following requirements
29 are met:

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

32 (1) A victim.

33 (2) A derivative victim.

34 (3) (A) A person who is entitled to reimbursement for funeral,
35 burial, or crime scene cleanup expenses pursuant to paragraph (9)
36 or (10) of subdivision (a) of Section 13957.

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

39 (b) Either of the following conditions is met:

- 1 (1) The crime occurred in California. This paragraph shall apply
2 only during those time periods during which the board determines
3 that federal funds are available to the state for the compensation
4 of victims of crime.
- 5 (2) Whether or not the crime occurred in California, the victim
6 was any of the following:
- 7 (A) A resident of California.
 - 8 (B) A member of the military stationed in California.
 - 9 (C) A family member living with a member of the military
10 stationed in California.
- 11 (c) If compensation is being sought for a derivative victim, the
12 derivative victim is a resident of California, or any other state, who
13 is any of the following:
- 14 (1) At the time of the crime was the parent, grandparent, sibling,
15 spouse, child, or grandchild of the victim.
 - 16 (2) At the time of the crime was living in the household of the
17 victim.
 - 18 (3) At the time of the crime was a person who had previously
19 lived in the household of the victim for a period of not less than
20 two years in a relationship substantially similar to a relationship
21 listed in paragraph (1).
 - 22 (4) Is another family member of the victim, including, but not
23 limited to, the victim's fiancé or fiancée, and who witnessed the
24 crime.
 - 25 (5) Is the primary caretaker of a minor victim, but was not the
26 primary caretaker at the time of the crime.
- 27 (d) The application is timely pursuant to Section 13953.
- 28 (e) (1) Except as provided in paragraph (2), the injury or death
29 was a direct result of a crime.
- 30 (2) Notwithstanding paragraph (1), no act involving the
31 operation of a motor vehicle, aircraft, or water vehicle that results
32 in injury or death constitutes a crime for the purposes of this
33 chapter, except when the injury or death from such an act was any
34 of the following:
- 35 (A) Intentionally inflicted through the use of a motor vehicle,
36 aircraft, or water vehicle.
 - 37 (B) Caused by a driver who fails to stop at the scene of an
38 accident in violation of Section 20001 of the Vehicle Code.
 - 39 (C) Caused by a person who is under the influence of any
40 alcoholic beverage or drug.

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

4 (E) Caused by a person who commits vehicular manslaughter
5 in violation of subdivision (b) of Section 191.5, subdivision (c) of
6 Section 192, or Section 192.5 of the Penal Code.

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

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

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

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

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

22 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
23 288a, 288.5, 289, or 653.2, or subdivision (b) or (c) of Section
24 311.4, of the Penal Code.

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

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

30 (D) Section 278 or 278.5 of the Penal Code, and criminal
31 charges were filed. For purposes of this paragraph, the child, and
32 not the nonoffending parent or other caretaker, shall be deemed
33 the victim.

34 (4) Injury to, or the death of, a guide, signal, or service dog, as
35 defined in Section 54.1 of the Civil Code, as a result of a violation
36 of Section 600.2 or 600.5 of the Penal Code.

37 (5) Emotional injury to a victim who is a minor incurred as a
38 direct result of the nonconsensual distribution of pictures or video
39 of sexual conduct in which the minor appears.

1 (g) The injury or death has resulted or may result in pecuniary
2 loss within the scope of compensation pursuant to Sections 13957
3 to 13957.7, inclusive.

4 SEC. 4. Section 13956 of the Government Code is amended
5 to read:

6 13956. Notwithstanding Section 13955, a person shall not be
7 eligible for compensation under the following conditions:

8 (a) An application may be denied, in whole or in part, if the
9 board finds that denial is appropriate because of the nature of the
10 victim’s or other applicant’s involvement in the events leading to
11 the crime, or the involvement of the person whose injury or death
12 gives rise to the application.

13 (1) Factors that may be considered in determining whether the
14 victim or derivative victim was involved in the events leading to
15 the qualifying crime include, but are not limited to:

16 (A) The victim or derivative victim initiated the qualifying
17 crime, or provoked or aggravated the suspect into initiating the
18 qualifying crime.

19 ~~(B) The victim or derivative victim intentionally created,
20 entered, or stayed in a situation in which it was reasonably
21 foreseeable that he or she would be victimized.~~

22 ~~(C)~~

23 (B) The qualifying crime was a reasonably foreseeable
24 consequence of the conduct of the victim or derivative victim.

25 ~~(D)~~

26 (C) The victim or derivative victim was committing a crime
27 that could be charged as a felony and reasonably lead to him or
28 her being victimized. However, committing a crime shall not be
29 considered involvement if the victim’s injury or death occurred as
30 a direct result of a crime committed in violation of Section 261,
31 262, or 273.5 of, or for a crime of unlawful sexual intercourse with
32 a minor violation of subdivision (d) of Section 261.5 of, the Penal
33 Code.

34 (2) If the victim is determined to have been involved in the
35 events leading to the qualifying crime, factors that may be
36 considered to mitigate or overcome involvement include, but are
37 not limited to:

38 (A) The victim’s injuries were significantly more serious than
39 reasonably could have been expected based on the victim’s level
40 of involvement.

1 (B) A third party interfered in a manner not reasonably
2 foreseeable by the victim or derivative victim.

3 (C) ~~In the case of a minor, the~~*The* board shall consider the
4 ~~minor's~~*victim's* age, physical condition, and psychological state,
5 as well as any compelling health and safety concerns, in
6 determining whether the ~~minor's~~ application should be denied
7 pursuant to this section. The application of a derivative victim of
8 domestic violence under 18 years of age or derivative victim of
9 trafficking under 18 years of age shall not be denied on the basis
10 of the denial of the victim's application under this subdivision.

11 (b) (1) An application shall be denied if the board finds that
12 the victim or, if compensation is sought by, or on behalf of, a
13 derivative victim, either the victim or derivative victim failed to
14 cooperate reasonably with a law enforcement agency in the
15 apprehension and conviction of a criminal committing the crime.
16 In determining whether cooperation has been reasonable, the board
17 shall consider the victim's or derivative victim's age, physical
18 condition, and psychological state, cultural or linguistic barriers,
19 any compelling health and safety concerns, including, but not
20 limited to, a reasonable fear of retaliation or harm that would
21 jeopardize the well-being of the victim or the victim's family or
22 the derivative victim or the derivative victim's family, and giving
23 due consideration to the degree of cooperation of which the victim
24 or derivative victim is capable in light of the presence of any of
25 these factors. A victim of domestic violence shall not be determined
26 to have failed to cooperate based on his or her conduct with law
27 enforcement at the scene of the crime. Lack of cooperation shall
28 also not be found solely because a victim of sexual assault,
29 domestic violence, or human trafficking delayed reporting the
30 qualifying crime.

31 (2) An application for a claim based on domestic violence shall
32 not be denied solely because a police report was not made by the
33 victim. The board shall adopt guidelines that allow the board to
34 consider and approve applications for assistance based on domestic
35 violence relying upon evidence other than a police report to
36 establish that a domestic violence crime has occurred. Factors
37 evidencing that a domestic violence crime has occurred may
38 include, but are not limited to, medical records documenting
39 injuries consistent with allegations of domestic violence, mental

1 health records, or that the victim has obtained a permanent
2 restraining order.

3 (3) An application for a claim based on a sexual assault shall
4 not be denied solely because a police report was not made by the
5 victim. The board shall adopt guidelines that allow it to consider
6 and approve applications for assistance based on a sexual assault
7 relying upon evidence other than a police report to establish that
8 a sexual assault crime has occurred. Factors evidencing that a
9 sexual assault crime has occurred may include, but are not limited
10 to, medical records documenting injuries consistent with allegations
11 of sexual assault, mental health records, or that the victim received
12 a sexual assault examination.

13 (4) An application for a claim based on human trafficking as
14 defined in Section 236.1 of the Penal Code shall not be denied
15 solely because no police report was made by the victim. The board
16 shall adopt guidelines that allow the board to consider and approve
17 applications for assistance based on human trafficking relying
18 upon evidence other than a police report to establish that a human
19 trafficking crime as defined in Section 236.1 of the Penal Code
20 has occurred. That evidence may include any reliable corroborating
21 information approved by the board, including, but not limited to,
22 the following:

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

25 (B) A human trafficking caseworker as identified in Section
26 1038.2 of the Evidence Code, has attested by affidavit that the
27 individual was a victim of human trafficking.

28 (5) (A) An application for a claim by a military personnel victim
29 based on a sexual assault by another military personnel shall not
30 be denied solely because it was not reported to a superior officer
31 or law enforcement at the time of the crime.

32 (B) Factors that the board shall consider for purposes of
33 determining if a claim qualifies for compensation include, but are
34 not limited to, the evidence of the following:

35 (i) Restricted or unrestricted reports to a military victim
36 advocate, sexual assault response coordinator, chaplain, attorney,
37 or other military personnel.

38 (ii) Medical or physical evidence consistent with sexual assault.

- 1 (iii) A written or oral report from military law enforcement or
2 a civilian law enforcement agency concluding that a sexual assault
3 crime was committed against the victim.
- 4 (iv) A letter or other written statement from a sexual assault
5 counselor, as defined in Section 1035.2 of the Evidence Code,
6 licensed therapist, or mental health counselor, stating that the
7 victim is seeking services related to the allegation of sexual assault.
- 8 (v) A credible witness to whom the victim disclosed the details
9 that a sexual assault crime occurred.
- 10 (vi) A restraining order from a military or civilian court against
11 the perpetrator of the sexual assault.
- 12 (vii) Other behavior by the victim consistent with sexual assault.
- 13 (C) For purposes of this subdivision, the sexual assault at issue
14 shall have occurred during military service, including deployment.
- 15 (D) For purposes of this subdivision, the sexual assault may
16 have been committed off base.
- 17 (E) For purposes of this subdivision, a “perpetrator” means an
18 individual who is any of the following at the time of the sexual
19 assault:
- 20 (i) An active duty military personnel from the United States
21 Army, Navy, Marine Corps, Air Force, or Coast Guard.
- 22 (ii) A civilian employee of any military branch specified in
23 clause (i), military base, or military deployment.
- 24 (iii) A contractor or agent of a private military or private security
25 company.
- 26 (iv) A member of the California National Guard.
- 27 (F) For purposes of this subdivision, “sexual assault” means an
28 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of
29 the Penal Code, as of the date the act that added this paragraph
30 was enacted.
- 31 (c) (1) Notwithstanding Section 13955, no person who is
32 convicted of a violent felony listed in subdivision (c) of Section
33 667.5 of the Penal Code may be granted compensation until that
34 person has been discharged from probation or has been released
35 from a correctional institution and has been discharged from parole,
36 or has been discharged from postrelease community supervision
37 or mandatory supervision, if any, for that violent crime. In no case
38 shall compensation be granted to an applicant pursuant to this
39 chapter during any period of time the applicant is held in a

1 correctional institution, or while an applicant is required to register
2 as a sex offender pursuant to Section 290 of the Penal Code.

3 (2) A person who has been convicted of a violent felony listed
4 in subdivision (c) of Section 667.5 of the Penal Code may apply
5 for compensation pursuant to this chapter at any time, but the award
6 of that compensation may not be considered until the applicant
7 meets the requirements for compensation set forth in paragraph
8 (1).

9 SEC. 5. Section 13957 of the Government Code is amended
10 to read:

11 13957. (a) The board may grant for pecuniary loss, when the
12 board determines it will best aid the person seeking compensation,
13 as follows:

14 (1) Subject to the limitations set forth in Section 13957.2,
15 reimburse the amount of medical or medical-related expenses
16 incurred by the victim for services that were provided by a licensed
17 medical provider, including, but not limited to, eyeglasses, hearing
18 aids, dentures, or any prosthetic device taken, lost, or destroyed
19 during the commission of the crime, or the use of which became
20 necessary as a direct result of the crime.

21 (2) Subject to the limitations set forth in Section 13957.2,
22 reimburse the amount of outpatient psychiatric, psychological, or
23 other mental health counseling-related expenses incurred by the
24 victim or derivative victim, including peer counseling services
25 provided by a rape crisis center as defined by Section 13837 of
26 the Penal Code, and including family psychiatric, psychological,
27 or mental health counseling for the successful treatment of the
28 victim provided to family members of the victim in the presence
29 of the victim, whether or not the family member relationship
30 existed at the time of the crime, that became necessary as a direct
31 result of the crime, subject to the following conditions:

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

35 (i) A victim.

36 (ii) A derivative victim who is the surviving parent, grandparent,
37 sibling, child, grandchild, spouse, fiancé, or fiancée of a victim of
38 a crime that directly resulted in the death of the victim.

39 (iii) A derivative victim, as described in paragraphs (1) to (4),
40 inclusive, of subdivision (c) of Section 13955, who is the primary

1 caretaker of a minor victim whose claim is not denied or reduced
2 pursuant to Section 13956 in a total amount not to exceed ten
3 thousand dollars (\$10,000) for not more than two derivative
4 victims.

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

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

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

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

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

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

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

36 (3) Subject to the limitations set forth in Section 13957.5,
37 authorize compensation equal to the loss of income or loss of
38 support, or both, that a victim or derivative victim incurs as a direct
39 result of the victim's or derivative victim's injury or the victim's
40 death. If the victim or derivative victim requests that the board

1 give priority to reimbursement of loss of income or support, the
2 board may not pay medical expenses, or mental health counseling
3 expenses, except upon the request of the victim or derivative victim
4 or after determining that payment of these expenses will not
5 decrease the funds available for payment of loss of income or
6 support.

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

9 (5) Reimburse the expense of installing or increasing residential
10 security, not to exceed one thousand dollars (\$1,000). Installing
11 or increasing residential security may include, but need not be
12 limited to, both of the following:

13 (A) Home security device or system.

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

15 (6) Reimburse the expense of renovating or retrofitting a
16 victim's residence, or the expense of modifying or purchasing a
17 vehicle, to make the residence or the vehicle accessible or
18 operational by a victim upon verification that the expense is
19 medically necessary for a victim who is permanently disabled as
20 a direct result of the crime, whether the disability is partial or total.

21 (7) (A) Authorize a cash payment or reimbursement not to
22 exceed two thousand dollars (\$2,000) to a victim for expenses
23 incurred in relocating, if the expenses are determined by law
24 enforcement to be necessary for the personal safety of the victim
25 or by a mental health treatment provider to be necessary for the
26 emotional well-being of the victim.

27 (B) The cash payment or reimbursement made under this
28 paragraph shall only be awarded to one claimant per crime giving
29 rise to the relocation. The board may authorize more than one
30 relocation per crime if necessary for the personal safety or
31 emotional well-being of the claimant. However, the total cash
32 payment or reimbursement for all relocations due to the same crime
33 shall not exceed two thousand dollars (\$2,000). For purposes of
34 this paragraph a claimant is the crime victim, or, if the victim is
35 deceased, a person who resided with the deceased at the time of
36 the crime.

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

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

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

5 (D) When a relocation payment or reimbursement is provided
6 to a victim of sexual assault or domestic violence and the identity
7 of the offender is known to the victim, the victim shall agree not
8 to inform the offender of the location of the victim's new residence
9 and not to allow the offender on the premises at any time, or shall
10 agree to seek a restraining order against the offender. A victim
11 may be required to repay the relocation payment or reimbursement
12 to the board if he or she violates the terms set forth in this
13 paragraph.

14 (E) Notwithstanding subparagraphs (A) and (B), the board may
15 increase the cash payment or reimbursement for expenses incurred
16 in relocating to an amount greater than two thousand dollars
17 (\$2,000), if the board finds this amount is appropriate due to the
18 unusual, dire, or exceptional circumstances of a particular claim.

19 (F) If a security deposit is required for relocation, the board
20 shall be named as the recipient and receive the funds upon
21 expiration of the victim's rental agreement.

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

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

29 (B) The funeral and burial expenses incurred as a direct result
30 of the crime, not to exceed seven thousand five hundred dollars
31 (\$7,500).

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

1 9.5 (commencing with Section 118321) of Part 14 of Division 104
 2 of the Health and Safety Code.

3 (10) When the crime is a violation of Section 600.2 or 600.5 of
 4 the Penal Code, the board may reimburse the expense of veterinary
 5 services, replacement costs, or other reasonable expenses, as
 6 ordered by the court pursuant to Section 600.2 or 600.5 of the
 7 Penal Code, in an amount not to exceed ten thousand dollars
 8 (\$10,000).

9 (11) An award of compensation pursuant to paragraph (5) of
 10 subdivision (f) of Section 13955 shall be limited to compensation
 11 to provide mental health counseling and shall not limit the
 12 eligibility of a victim for an award that he or she may be otherwise
 13 entitled to receive under this part. A derivative victim shall not be
 14 eligible for compensation under this provision.

15 (b) The total award to or on behalf of each victim or derivative
 16 victim may not exceed thirty-five thousand dollars (\$35,000),
 17 except that this award may be increased to an amount not exceeding
 18 seventy thousand dollars (\$70,000) if federal funds for that increase
 19 are available.

20 SEC. 6. Section 13957.5 of the Government Code is amended
 21 to read:

22 13957.5. (a) In authorizing compensation for loss of income
 23 and support pursuant to paragraph (3) of subdivision (a) of Section
 24 13957, the board may take any of the following actions:

25 (1) Compensate the victim for loss of income directly resulting
 26 from the injury, except that loss of income may not be paid by the
 27 board for more than five years following the crime, unless the
 28 victim is disabled as defined in Section 416(i) of Title 42 of the
 29 United States Code, as a direct result of the injury.

30 (2) Compensate an adult derivative victim for loss of income,
 31 subject to all of the following:

32 (A) The derivative victim is the parent or legal guardian of a
 33 victim, who at the time of the crime was under the age of 18 years
 34 and is hospitalized as a direct result of the crime.

35 (B) The minor victim's treating physician certifies in writing
 36 that the presence of the victim's parent or legal guardian at the
 37 hospital is necessary for the treatment of the victim.

38 (C) Reimbursement for loss of income under this paragraph
 39 may not exceed the total value of the income that would have been
 40 earned by the adult derivative victim during a 30-day period.

1 (3) Compensate an adult derivative victim for loss of income,
2 subject to all of the following:

3 (A) The derivative victim is the parent or legal guardian of a
4 victim who at the time of the crime was under the age of 18 years.

5 (B) The victim died as a direct result of the crime.

6 (C) The board shall pay for loss of income under this paragraph
7 for not more than 30 calendar days from the date of the victim's
8 death.

9 (4) Compensate a derivative victim who was legally dependent
10 on the victim at the time of the crime for the loss of support
11 incurred by that person as a direct result of the crime, subject to
12 both of the following:

13 (A) Loss of support shall be paid by the board for income lost
14 by an adult for a period up to, but not more than, five years
15 following the date of the crime.

16 (B) Loss of support shall not be paid by the board on behalf of
17 a minor for a period beyond the child's attaining the age of 18
18 years.

19 (b) The total amount payable to all derivative victims pursuant
20 to this section as the result of one crime may not exceed seventy
21 thousand dollars (\$70,000).

22 SEC. 7. Section 13957.7 of the Government Code is amended
23 to read:

24 13957.7. (a) No reimbursement may be made for any expense
25 that is submitted more than three years after it is incurred by the
26 victim or derivative victim. However, reimbursement may be made
27 for an expense submitted more than three years after the date it is
28 incurred if the victim or derivative victim has affirmed the debt
29 and is liable for the debt at the time the expense is submitted for
30 reimbursement, or has paid the expense as a direct result of a crime
31 for which a timely application has been filed or has paid the
32 expense as a direct result of a crime for which an application has
33 been filed and approved.

34 (b) Compensation made pursuant to this chapter may be on a
35 one-time or periodic basis. If periodic, the board may increase,
36 reduce, or terminate the amount of compensation according to the
37 applicant's need, subject to the maximum limits provided in this
38 chapter.

39 (c) (1) The board may authorize direct payment to a provider
40 of services that are reimbursable pursuant to this chapter and may

1 make those payments prior to verification. However, the board
2 may not, without good cause, authorize a direct payment to a
3 provider over the objection of the victim or derivative victim.

4 (2) Reimbursement on the initial claim for any psychological,
5 psychiatric, or mental health counseling services shall, if the
6 application has been approved, be paid by the board within 90
7 days of the date of receipt of the claim for payment, with
8 subsequent payments to be made to the provider within one month
9 of the receipt of a claim for payment.

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

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

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

24 (g) The board shall pay attorney's fees representing the
25 reasonable value of legal services rendered to the applicant, in an
26 amount equal to 10 percent of the amount of the award, or five
27 hundred dollars (\$500), whichever is less, for each victim and each
28 derivative victim. The board may request that an attorney provide
29 verification of legal services provided to an applicant and the board
30 may contact an applicant to verify that legal services were provided.
31 An attorney receiving fees from another source may waive the
32 right to receive fees under this subdivision. Payments under this
33 subdivision shall be in addition to any amount authorized or
34 ordered under subdivision (b) of Section 13960. An attorney may
35 not charge, demand, receive, or collect any amount for services
36 rendered in connection with any proceedings under this chapter
37 except as awarded under this chapter.

38 (h) A private nonprofit agency shall be reimbursed for its
39 services at the level of the normal and customary fee charged by
40 the private nonprofit agency to clients with adequate means of

1 payment for its services, except that this reimbursement may not
2 exceed the maximum reimbursement rates set by the board and
3 may be made only to the extent that the victim otherwise qualifies
4 for compensation under this chapter and that other reimbursement
5 or direct subsidies are not available to serve the victim.

6 SEC. 8. Section 13959 of the Government Code is amended
7 to read:

8 13959. (a) The board shall grant a hearing to an applicant who
9 contests a staff recommendation to deny compensation in whole
10 or in part.

11 (b) The board shall notify the applicant not less than 10 days
12 prior to the date of the hearing. Notwithstanding Section 11123,
13 if the application that the board is considering involves either a
14 crime against a minor, a crime of sexual assault, or a crime of
15 domestic violence, the board may exclude from the hearing all
16 persons other than board members and members of its staff, the
17 applicant for benefits, a minor applicant's parents or guardians,
18 the applicant's representative, witnesses, and other persons of the
19 applicant's choice to provide assistance to the applicant during the
20 hearing. However, the board shall not exclude persons from the
21 hearing if the applicant or applicant's representative requests that
22 the hearing be open to the public.

23 (c) At the hearing, the person seeking compensation shall have
24 the burden of establishing, by a preponderance of the evidence,
25 the elements for eligibility under Section 13955.

26 (d) Except as otherwise provided by law, in making
27 determinations of eligibility for compensation and in deciding
28 upon the amount of compensation, the board shall apply the law
29 in effect as of the date an application was submitted.

30 (e) The hearing shall be informal and need not be conducted
31 according to the technical rules relating to evidence and witnesses.
32 The board may rely on any relevant evidence if it is the sort of
33 evidence on which responsible persons are accustomed to rely in
34 the conduct of serious affairs, regardless of the existence of a
35 common law or statutory rule that might make improper the
36 admission of the evidence over objection in a civil action. The
37 board may rely on written reports prepared for the board, or other
38 information received, from public agencies responsible for
39 investigating the crime. If the applicant or the applicant's
40 representative chooses not to appear at the hearing, the board may

1 act solely upon the application for compensation, the staff’s report,
2 and other evidence that appears in the record.

3 (f) Hearings shall be held in various locations with the frequency
4 necessary to provide for the speedy adjudication of the applications.
5 If the applicant’s presence is required at the hearing, the board
6 shall schedule the applicant’s hearing in as convenient a location
7 as possible or conduct the hearing by telephone.

8 (g) The board may delegate the hearing of applications to
9 hearing officers.

10 (h) The decisions of the board shall be in writing. Copies of the
11 decisions shall be delivered to the applicant or to his or her
12 representative personally or sent to him or her by mail.

13 (i) The board may order a reconsideration of all or part of a
14 decision on written request of the applicant. The board shall not
15 grant more than one request for reconsideration with respect to
16 any one decision on an application for compensation. The board
17 shall not consider any request for reconsideration filed with the
18 board more than 30 calendar days after the personal delivery or
19 60 calendar days after the mailing of the original decision.

20 (j) The board may order a reconsideration of all or part of a
21 decision on its own motion, at its discretion, at any time.

22 (k) Evidence submitted after the board has denied a request for
23 reconsideration shall not be considered unless the board chooses
24 to reconsider its decision on its own motion.

25 SEC. 9. Section 13963 of the Government Code is amended
26 to read:

27 13963. (a) The board shall be subrogated to the rights of the
28 recipient to the extent of any compensation granted by the board.
29 The subrogation rights shall be against the perpetrator of the crime
30 or any person liable for the losses suffered as a direct result of the
31 crime which was the basis for receipt of compensation, including
32 an insurer held liable in accordance with the provision of a policy
33 of insurance issued pursuant to Section 11580.2 of the Insurance
34 Code.

35 (b) The board shall also be entitled to a lien on any judgment,
36 award, or settlement in favor of or on behalf of the recipient for
37 losses suffered as a direct result of the crime that was the basis for
38 receipt of compensation in the amount of the compensation granted
39 by the board. The board may recover this amount in a separate
40 action, or may intervene in an action brought by or on behalf of

1 the recipient. If a claim is filed within one year of the date of
2 recovery, the board shall pay 25 percent of the amount of the
3 recovery that is subject to a lien on the judgment, award, or
4 settlement, to the recipient responsible for recovery if the recipient
5 notified the board of the action prior to receiving any recovery.
6 The remaining amount, and any amount not claimed within one
7 year pursuant to this section, shall be deposited in the Restitution
8 Fund.

9 (c) The board may compromise or settle and release any lien
10 pursuant to this chapter if it is found that the action is in the best
11 interest of the state or the collection would cause undue hardship
12 upon the recipient. Repayment obligations to the Restitution Fund
13 shall be enforceable as a summary judgment.

14 (d) No judgment, award, or settlement in any action or claim
15 by a recipient, where the board has an interest, shall be satisfied
16 without first giving the board notice and a reasonable opportunity
17 to perfect and satisfy the lien. The notice shall be given to the
18 board in Sacramento except in cases where the board specifies that
19 the notice shall be given otherwise. The notice shall include the
20 complete terms of the award, settlement, or judgment, and the
21 name and address of any insurer directly or indirectly providing
22 for the satisfaction.

23 (e) (1) If the recipient brings an action or asserts a claim for
24 damages against the person or persons liable for the injury or death
25 giving rise to an award by the board under this chapter, notice of
26 the institution of legal proceedings, notice of all hearings,
27 conferences, and proceedings, and notice of settlement shall be
28 given to the board in Sacramento except in cases where the board
29 specifies that notice shall be given to the Attorney General. Notice
30 of the institution of legal proceedings shall be given to the board
31 within 30 days of filing the action. All notices shall be given by
32 the attorney employed to bring the action for damages or by the
33 recipient if no attorney is employed.

34 (2) Notice shall include all of the following:

35 (A) Names of all parties to the claim or action.

36 (B) The address of all parties to the claim or action except for
37 those persons represented by attorneys and in that case the name
38 of the party and the name and address of the attorney.

39 (C) The nature of the claim asserted or action brought.

1 (D) In the case of actions before courts or administrative
2 agencies, the full title of the case including the identity of the court
3 or agency, the names of the parties, and the case or docket number.

4 (3) When the recipient or his or her attorney has reason to
5 believe that a person from whom damages are sought is receiving
6 a defense provided in whole or in part by an insurer, or is insured
7 for the injury caused to the recipient, notice shall include a
8 statement of that fact and the name and address of the insurer.
9 Upon request of the board, a person obligated to provide notice
10 shall provide the board with a copy of the current written claim or
11 complaint.

12 (f) The board shall pay the county probation department or other
13 county agency responsible for collection of funds owed to the
14 Restitution Fund under Section 13967, as operative on or before
15 September 28, 1994, Section 1202.4 of the Penal Code, Section
16 1203.04 of the Penal Code, as operative on or before August 2,
17 1995, or Section 730.6 of the Welfare and Institutions Code, 10
18 percent of the funds so owed and collected by the county agency
19 and deposited in the Restitution Fund. This payment shall be made
20 only when the funds are deposited in the Restitution Fund within
21 45 days of the end of the month in which the funds are collected.
22 Receiving 10 percent of the moneys collected as being owed to
23 the Restitution Fund shall be considered an incentive for collection
24 efforts and shall be used for furthering these collection efforts.
25 The 10-percent rebates shall be used to augment the budgets for
26 the county agencies responsible for collection of funds owed to
27 the Restitution Fund, as provided in Section 13967, as operative
28 on or before September 28, 1994, Section 1202.4 of the Penal
29 Code, Section 1203.04 of the Penal Code, operative on or before
30 August 2, 1995, or Section 730.6 of the Welfare and Institutions
31 Code. The 10-percent rebates shall not be used to supplant county
32 funding.

33 (g) In the event of judgment or award in a suit or claim against
34 a third party or insurer, if the action or claim is prosecuted by the
35 recipient alone, the court or agency shall first order paid from any
36 judgment or award the reasonable litigation expenses incurred in
37 preparation and prosecution of the action or claim, together with
38 reasonable attorney's fees when an attorney has been retained.
39 After payment of the expenses and attorney's fees, the court or
40 agency shall, on the application of the board, allow as a lien against

1 the amount of the judgment or award, the amount of the
2 compensation granted by the board to the recipient for losses
3 sustained as a result of the same incident upon which the
4 settlement, award, or judgment is based.

5 (h) For purposes of this section, “recipient” means any person
6 who has received compensation or will be provided compensation
7 pursuant to this chapter, including the victim’s guardian,
8 conservator or other personal representative, estate, and survivors.

9 (i) In accordance with subparagraph (B) of paragraph (4) of
10 subdivision (f) of Section 1202.4 of the Penal Code, a
11 representative of the board may provide the probation department,
12 district attorney, and court with information relevant to the board’s
13 losses prior to the imposition of a sentence.

14 SEC. 10. Section 13965 of the Government Code is amended
15 to read:

16 13965. (a) Any recipient of an overpayment pursuant to this
17 chapter is liable to repay the board that amount unless both of the
18 following facts exist:

19 (1) The overpayment was not due to fraud, misrepresentation,
20 or willful nondisclosure on the part of the recipient.

21 (2) The overpayment was received without fault on the part of
22 the recipient, and its recovery would be against equity and good
23 conscience.

24 (b) All actions to collect overpayments shall commence within
25 seven years from the date of the overpayment. However, an action
26 to collect an overpayment due to fraud, misrepresentation, or
27 willful nondisclosure by the recipient may be commenced at any
28 time.

29 (c) Any recipient of an overpayment is authorized to contest
30 the staff recommendation of an overpayment pursuant to the
31 hearing procedures in Section 13959. If a final determination is
32 made by the board that an overpayment exists, the board may
33 collect the overpayment in any manner prescribed by law.

34 (d) All overpayments exceeding two thousand dollars (\$2,000)
35 shall be reported to the Legislature pursuant to Section 13928 and
36 the relief from liability described in subdivision (a) shall be subject
37 to legislative approval.

38 SEC. 11. Section 13971 of the Government Code is amended
39 to read:

1 13971. As used in this article, “private citizen” means any
2 person other than a peace officer, fireman, lifeguard, or person
3 whose employment includes the duty to protect the public safety
4 acting within the course and scope of such employment.

5 SEC. 12. Section 13972 of the Government Code is amended
6 to read:

7 13972. (a) If a private citizen incurs personal injury or death
8 or damage to his or her property in preventing the commission of
9 a crime against the person or property of another, in apprehending
10 a criminal, or in materially assisting a peace officer in prevention
11 of a crime or apprehension of a criminal, or rescuing a person in
12 immediate danger of injury or death as a result of fire, drowning,
13 or other catastrophe, the private citizen, his or her surviving spouse,
14 his or her surviving children, a person dependent upon the citizen
15 for his or her principal support, any person legally liable for the
16 citizen’s pecuniary losses, or a public safety or law enforcement
17 agency acting on behalf of any of the above may file a claim with
18 the California Victim Compensation and Government Claims
19 Board for indemnification to the extent that the claimant is not
20 compensated from any other source for the injury, death, or
21 damage. The claim shall generally show all of the following:

22 (1) The date, place, and other circumstances of the occurrence
23 or events that gave rise to the claim.

24 (2) A general description of the activities of the private citizen
25 in prevention of a crime, apprehension of a criminal, or rescuing
26 a person in immediate danger of injury or death as a result of fire,
27 drowning, or other catastrophe.

28 (3) The amount or estimated amount of the injury, death, or
29 damage sustained for which the claimant is not compensated from
30 any other source, insofar as it may be known at the time of the
31 presentation of the claim.

32 (4) Any other information that the California Victim
33 Compensation and Government Claims Board may require.

34 (b) A claim filed under subdivision (a) shall be accompanied
35 by a corroborating statement and recommendation from the
36 appropriate state or local public safety or law enforcement agency.

37 SEC. 13. Section 13973 of the Government Code is amended
38 to read:

39 13973. (a) Upon presentation of a claim pursuant to this
40 chapter, the California Victim Compensation and Government

1 Claims Board shall fix a time and place for the hearing of the claim,
2 and shall mail notices of the hearing to interested persons or
3 agencies. The board shall receive recommendations from public
4 safety or law enforcement agencies, and evidence showing all of
5 the following:

6 (1) The nature of the crime committed by the apprehended
7 criminal or prevented by the action of the private citizen, or the
8 nature of the action of the private citizen in rescuing a person in
9 immediate danger of injury or death as a result of fire, drowning,
10 or other catastrophe, and the circumstances involved.

11 (2) That the actions of the private citizen substantially and
12 materially contributed to the apprehension of a criminal, the
13 prevention of a crime, or the rescuing of a person in immediate
14 danger of injury or death as a result of fire, drowning, or other
15 catastrophe.

16 (3) That, as a direct consequence, the private citizen incurred
17 personal injury or damage to property or died.

18 (4) The extent of the injury or damage for which the claimant
19 is not compensated from any other source.

20 (5) Any other evidence that the board may require.

21 (b) If the board determines, on the basis of a preponderance of
22 the evidence, that the state should indemnify the claimant for the
23 injury, death, or damage sustained, it shall approve the claim for
24 payment. In no event shall a claim be approved by the board under
25 this article in excess of ten thousand dollars (\$10,000).

26 (c) In addition to any award made under this chapter, the board
27 may award, as attorney's fees, an amount representing the
28 reasonable value of legal services rendered a claimant, but in no
29 event to exceed 10 percent of the amount of the award. No attorney
30 shall charge, demand, receive, or collect for services rendered in
31 connection with any proceedings under this chapter any amount
32 other than that awarded as attorney's fees under this section. Claims
33 approved under this chapter shall be paid from a separate
34 appropriation made to the California Victim Compensation and
35 Government Claims Board in the Budget Act and as the claims
36 are approved by the board.

37 SEC. 14. Section 2085.5 of the Penal Code is amended to read:

38 2085.5. (a) In any case in which a prisoner owes a restitution
39 fine imposed pursuant to subdivision (a) of Section 13967 of the
40 Government Code, as operative prior to September 29, 1994,

1 subdivision (b) of Section 730.6 of the Welfare and Institutions
2 Code, or subdivision (b) of Section 1202.4, the Secretary of the
3 Department of Corrections and Rehabilitation shall deduct a
4 minimum of 20 percent or the balance owing on the fine amount,
5 whichever is less, up to a maximum of 50 percent from the wages
6 and trust account deposits of a prisoner, unless prohibited by
7 federal law, and shall transfer that amount to the California Victim
8 Compensation and Government Claims Board for deposit in the
9 Restitution Fund in the State Treasury. The amount deducted shall
10 be credited against the amount owing on the fine. The sentencing
11 court shall be provided a record of the payments.

12 (b) (1) When a prisoner is punished by imprisonment in a
13 county jail pursuant to subdivision (h) of Section 1170, in any case
14 in which a prisoner owes a restitution fine imposed pursuant to
15 subdivision (a) of Section 13967 of the Government Code, as
16 operative prior to September 29, 1994, subdivision (b) of Section
17 730.6 of the Welfare and Institutions Code, or subdivision (b) of
18 Section 1202.4, the agency designated by the board of supervisors
19 in the county where the prisoner is incarcerated is authorized to
20 deduct a minimum of 20 percent or the balance owing on the fine
21 amount, whichever is less, up to a maximum of 50 percent from
22 the county jail equivalent of wages and trust account deposits of
23 a prisoner, unless prohibited by federal law, and shall transfer that
24 amount to the California Victim Compensation and Government
25 Claims Board for deposit in the Restitution Fund in the State
26 Treasury. The amount deducted shall be credited against the
27 amount owing on the fine. The sentencing court shall be provided
28 a record of the payments.

29 (2) If the board of supervisors designates the county sheriff as
30 the collecting agency, the board of supervisors shall first obtain
31 the concurrence of the county sheriff.

32 (c) In any case in which a prisoner owes a restitution order
33 imposed pursuant to subdivision (c) of Section 13967 of the
34 Government Code, as operative prior to September 29, 1994,
35 subdivision (h) of Section 730.6 of the Welfare and Institutions
36 Code, or subdivision (f) of Section 1202.4, the Secretary of the
37 Department of Corrections and Rehabilitation shall deduct a
38 minimum of 20 percent or the balance owing on the order amount,
39 whichever is less, up to a maximum of 50 percent from the wages
40 and trust account deposits of a prisoner, unless prohibited by

1 federal law. The secretary shall transfer that amount to the
2 California Victim Compensation and Government Claims Board
3 for direct payment to the victim, or payment shall be made to the
4 Restitution Fund to the extent that the victim has received
5 assistance pursuant to that program. The sentencing court shall be
6 provided a record of the payments made to victims and of the
7 payments deposited to the Restitution Fund pursuant to this
8 subdivision.

9 (d) When a prisoner is punished by imprisonment in a county
10 jail pursuant to subdivision (h) of Section 1170, in any case in
11 which a prisoner owes a restitution order imposed pursuant to
12 subdivision (c) of Section 13967 of the Government Code, as
13 operative prior to September 29, 1994, subdivision (h) of Section
14 730.6 of the Welfare and Institutions Code, or subdivision (b) of
15 Section 1202.4, the agency designated by the board of supervisors
16 in the county where the prisoner is incarcerated is authorized to
17 deduct a minimum of 20 percent or the balance owing on the order
18 amount, whichever is less, up to a maximum of 50 percent from
19 the county jail equivalent of wages and trust account deposits of
20 a prisoner, unless prohibited by federal law. The agency shall
21 transfer that amount to the California Victim Compensation and
22 Government Claims Board for direct payment to the victim, or
23 payment shall be made to the Restitution Fund to the extent that
24 the victim has received assistance pursuant to that program, or
25 may pay the victim directly. The sentencing court shall be provided
26 a record of the payments made to the victims and of the payments
27 deposited to the Restitution Fund pursuant to this subdivision.

28 (e) The secretary shall deduct and retain from the wages and
29 trust account deposits of a prisoner, unless prohibited by federal
30 law, an administrative fee that totals 10 percent of any amount
31 transferred to the California Victim Compensation and Government
32 Claims Board pursuant to subdivision (a) or (c). The secretary
33 shall deduct and retain from any prisoner settlement or trial award,
34 an administrative fee that totals 5 percent of any amount paid from
35 the settlement or award to satisfy an outstanding restitution order
36 or fine pursuant to subdivision (n), unless prohibited by federal
37 law. The secretary shall deposit the administrative fee moneys in
38 a special deposit account for reimbursing administrative and
39 support costs of the restitution program of the Department of
40 Corrections and Rehabilitation. The secretary, at his or her

1 discretion, may retain any excess funds in the special deposit
2 account for future reimbursement of the department's
3 administrative and support costs for the restitution program or may
4 transfer all or part of the excess funds for deposit in the Restitution
5 Fund.

6 (f) When a prisoner is punished by imprisonment in a county
7 jail pursuant to subdivision (h) of Section 1170, the agency
8 designated by the board of supervisors in the county where the
9 prisoner is incarcerated is authorized to deduct and retain from the
10 county jail equivalent of wages and trust account deposits of a
11 prisoner, unless prohibited by federal law, an administrative fee
12 that totals 10 percent of any amount transferred to the California
13 Victim Compensation and Government Claims Board pursuant to
14 subdivision (b) or (d). The agency is authorized to deduct and
15 retain from a prisoner settlement or trial award an administrative
16 fee that totals 5 percent of any amount paid from the settlement
17 or award to satisfy an outstanding restitution order or fine pursuant
18 to subdivision (n), unless prohibited by federal law. Upon release
19 from custody pursuant to subdivision (h) of Section 1170, the
20 agency is authorized to charge a fee to cover the actual
21 administrative cost of collection, not to exceed 10 percent of the
22 total amount collected. The agency shall deposit the administrative
23 fee moneys in a special deposit account for reimbursing
24 administrative and support costs of the restitution program of the
25 agency. The agency is authorized to retain any excess funds in the
26 special deposit account for future reimbursement of the agency's
27 administrative and support costs for the restitution program or may
28 transfer all or part of the excess funds for deposit in the Restitution
29 Fund.

30 (g) In any case in which a parolee owes a restitution fine
31 imposed pursuant to subdivision (a) of Section 13967 of the
32 Government Code, as operative prior to September 29, 1994,
33 subdivision (b) of Section 730.6 of the Welfare and Institutions
34 Code, or subdivision (b) of Section 1202.4, the secretary, or, when
35 a prisoner is punished by imprisonment in a county jail pursuant
36 to subdivision (h) of Section 1170, the agency designated by the
37 board of supervisors in the county where the prisoner is
38 incarcerated, may collect from the parolee or, pursuant to Section
39 2085.6, from a person previously imprisoned in county jail any
40 moneys owing on the restitution fine amount, unless prohibited

1 by federal law. The secretary or the agency shall transfer that
2 amount to the California Victim Compensation and Government
3 Claims Board for deposit in the Restitution Fund in the State
4 Treasury. The amount deducted shall be credited against the
5 amount owing on the fine. The sentencing court shall be provided
6 a record of the payments.

7 (h) In any case in which a parolee owes a direct order of
8 restitution, imposed pursuant to subdivision (c) of Section 13967
9 of the Government Code, as operative prior to September 29, 1994,
10 subdivision (h) of Section 730.6 of the Welfare and Institutions
11 Code, or paragraph (3) of subdivision (a) of Section 1202.4, the
12 secretary, or, when a prisoner is punished by imprisonment in a
13 county jail pursuant to subdivision (h) of Section 1170, the agency
14 designated by the board of supervisors in the county where the
15 prisoner is incarcerated or a local collection program, may collect
16 from the parolee or, pursuant to Section 2085.6, from a person
17 previously imprisoned in county jail any moneys owing, unless
18 prohibited by federal law. The secretary or the agency shall transfer
19 that amount to the California Victim Compensation and
20 Government Claims Board for direct payment to the victim, or
21 payment shall be made to the Restitution Fund to the extent that
22 the victim has received assistance pursuant to that program, or the
23 agency may pay the victim directly. The sentencing court shall be
24 provided a record of the payments made by the offender pursuant
25 to this subdivision.

26 (i) The secretary, or, when a prisoner is punished by
27 imprisonment in a county jail pursuant to subdivision (h) of Section
28 1170, the agency designated by the board of supervisors in the
29 county where the prisoner is incarcerated, may deduct and retain
30 from moneys collected from parolees or persons previously
31 imprisoned in county jail an administrative fee that totals 10 percent
32 of any amount transferred to the California Victim Compensation
33 and Government Claims Board pursuant to subdivision (g) or (h),
34 unless prohibited by federal law. The secretary shall deduct and
35 retain from any settlement or trial award of a parolee an
36 administrative fee that totals 5 percent of an amount paid from the
37 settlement or award to satisfy an outstanding restitution order or
38 fine pursuant to subdivision (n), unless prohibited by federal law.
39 The agency is authorized to deduct and retain from any settlement
40 or trial award of a person previously imprisoned in county jail an

1 administrative fee that totals 5 percent of any amount paid from
2 the settlement or award to satisfy an outstanding restitution order
3 or fine pursuant to subdivision (n). The secretary or the agency
4 shall deposit the administrative fee moneys in a special deposit
5 account for reimbursing administrative and support costs of the
6 restitution program of the Department of Corrections and
7 Rehabilitation or the agency, as applicable. The secretary, at his
8 or her discretion, or the agency may retain any excess funds in the
9 special deposit account for future reimbursement of the
10 department's or agency's administrative and support costs for the
11 restitution program or may transfer all or part of the excess funds
12 for deposit in the Restitution Fund.

13 (j) When a prisoner has both a restitution fine and a restitution
14 order from the sentencing court, the Department of Corrections
15 and Rehabilitation shall collect the restitution order first pursuant
16 to subdivision (c).

17 (k) When a prisoner is punished by imprisonment in a county
18 jail pursuant to subdivision (h) of Section 1170 and that prisoner
19 has both a restitution fine and a restitution order from the
20 sentencing court, if the agency designated by the board of
21 supervisors in the county where the prisoner is incarcerated collects
22 the fine and order, the agency shall collect the restitution order
23 first pursuant to subdivision (d).

24 (l) When a parolee has both a restitution fine and a restitution
25 order from the sentencing court, the Department of Corrections
26 and Rehabilitation, or, when the prisoner is punished by
27 imprisonment in a county jail pursuant to subdivision (h) of Section
28 1170, the agency designated by the board of supervisors in the
29 county where the prisoner is incarcerated, may collect the
30 restitution order first, pursuant to subdivision (h).

31 (m) If an inmate is housed at an institution that requires food
32 to be purchased from the institution canteen for unsupervised
33 overnight visits, and if the money for the purchase of this food is
34 received from funds other than the inmate's wages, that money
35 shall be exempt from restitution deductions. This exemption shall
36 apply to the actual amount spent on food for the visit up to a
37 maximum of fifty dollars (\$50) for visits that include the inmate
38 and one visitor, seventy dollars (\$70) for visits that include the
39 inmate and two or three visitors, and eighty dollars (\$80) for visits
40 that include the inmate and four or more visitors.

1 (n) Compensatory or punitive damages awarded by trial or
2 settlement to any inmate, parolee, person placed on postrelease
3 community supervision pursuant to Section 3451, or defendant on
4 mandatory supervision imposed pursuant to subparagraph (B) of
5 paragraph (5) of subdivision (h) of Section 1170, in connection
6 with a civil action brought against a federal, state, or local jail,
7 prison, or correctional facility, or any official or agent thereof,
8 shall be paid directly, after payment of reasonable attorney's fees
9 and litigation costs approved by the court, to satisfy any
10 outstanding restitution orders or restitution fines against that
11 person. The balance of the award shall be forwarded to the payee
12 after full payment of all outstanding restitution orders and
13 restitution fines, subject to subdivisions (e) and (i). The Department
14 of Corrections and Rehabilitation shall make all reasonable efforts
15 to notify the victims of the crime for which that person was
16 convicted concerning the pending payment of any compensatory
17 or punitive damages. For any prisoner punished by imprisonment
18 in a county jail pursuant to subdivision (h) of Section 1170, the
19 agency is authorized to make all reasonable efforts to notify the
20 victims of the crime for which that person was convicted
21 concerning the pending payment of any compensatory or punitive
22 damages.

23 (o) (1) Amounts transferred to the California Victim
24 Compensation and Government Claims Board for payment of
25 direct orders of restitution shall be paid to the victim within 60
26 days from the date the restitution revenues are received by the
27 California Victim Compensation and Government Claims Board.
28 If the restitution payment to a victim is less than twenty-five dollars
29 (\$25), then payment need not be forwarded to that victim until the
30 payment reaches twenty-five dollars (\$25) or when the victim
31 requests payment of the lesser amount.

32 (2) If a victim cannot be located, the restitution revenues
33 received by the California Victim Compensation and Government
34 Claims Board on behalf of the victim shall be held in trust in the
35 Restitution Fund until the end of the state fiscal year subsequent
36 to the state fiscal year in which the funds were deposited or until
37 the time that the victim has provided current address information,
38 whichever occurs sooner. Amounts remaining in trust at the end
39 of the specified period of time shall revert to the Restitution Fund.

1 (3) (A) A victim failing to provide a current address within the
2 period of time specified in paragraph (2) may provide
3 documentation to the Department of Corrections and Rehabilitation,
4 which shall verify that moneys were collected on behalf of the
5 victim. Upon receipt of that verified information from the
6 Department of Corrections and Rehabilitation, the California
7 Victim Compensation and Government Claims Board shall transmit
8 the restitution revenues to the victim in accordance with the
9 provisions of subdivision (c) or (h).

10 (B) A victim failing to provide a current address within the
11 period of time specified in paragraph (2) may provide
12 documentation to the agency designated by the board of supervisors
13 in the county where the prisoner punished by imprisonment in a
14 county jail pursuant to subdivision (h) of Section 1170 is
15 incarcerated, which may verify that moneys were collected on
16 behalf of the victim. Upon receipt of that verified information from
17 the agency, the California Victim Compensation and Government
18 Claims Board shall transmit the restitution revenues to the victim
19 in accordance with the provisions of subdivision (d) or (h).

20 SEC. 15. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.