

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

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, 13957.9, 13959, 13963, 13965, 13971, 13972, and 13973 of the Government Code, and to amend Sections 2085.5 and 4904 of the Penal Code, relating to the California Victim Compensation and Government Claims Board, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as amended, Bonta. California Victim Compensation and Government Claims Board.

(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, until January 1, 2017, authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient violence peer counseling-related expenses incurred by the victim or derivative victim from, among others, a service organization for victims of violent crime, as specified, and defines the term “violence peer counselor” as a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime and meets specified requirements, including, among others, that he or she possesses at least 6 months of full-time equivalent experience in providing peer support services.

This bill would specify that a service organization for victims of violent crime is a nonprofit and charitable organization instead of a nongovernmental organization. The bill would require that any peer counseling services that fall under the scope of practice of certain acts, including, among others, the Clinical Social Worker Practice Act, be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional unless in an exempt setting. The bill would change the definition of “violence peer counselor” to a provider of supportive and nonpsychotherapeutic counseling services.

~~(5)~~

(6) Existing law authorizes requires 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)

(7) Existing law requires an application to be denied if 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)

(8) 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)

(9) 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)~~

(10) 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~~ *this* reimbursement of a victim of a crime of unlawful intercourse with a ~~minor~~ *minor*, as described ~~above~~ *above*, and remove provisions prohibiting a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

~~(10)~~

(11) 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~~ *this provision* authorizing reimbursement for this type of care or treatment.

~~(11)~~

(12) 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)~~

(13) 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)~~

(14) 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. Existing law also authorizes the board to provide reimbursement to any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime inside a residence in an amount not to exceed \$1,000.

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)~~

(15) 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)~~

(16) 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)~~

(17) 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)~~

(18) 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)~~

(19) 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)

(20) 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)

(21) Existing law requires, if the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the California Victim Compensation and Government Claims Board to report the facts of the case and its conclusions to the next Legislature with recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury. Existing law further requires that the amount of the appropriation recommended be a sum equivalent to \$100 per day of incarceration served after the claimant’s conviction and that the appropriation not be treated as gross income to the recipient under the Revenue and Taxation Code.

This bill would *remove the requirement that a sustained injury be a pecuniary injury and* increase the amount of the recommended appropriation to ~~\$130~~ \$140 per day of incarceration ~~served after the person was convicted.~~ *served, including any time spent in custody in county jail that is considered to be part of the term of incarceration.*

(21)

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

(22)

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

~~(23)~~

(24) 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
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.

20 (2) For purposes of this subdivision, “relative caregiver” means
21 a relative as defined in paragraph (2) of subdivision (h) of Section
22 6550 of the Family Code, who assumed primary responsibility for
23 the child while the child was in the relative’s care and control, and
24 who is not a biological or adoptive parent.

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

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

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

17 (2) For purposes of this subdivision, "authorized representative"
 18 means any of the following:

19 (A) Any person who has written authorization by the victim or
 20 derivative victim. However, a medical or mental health provider,
 21 or agent of the medical or mental health provider, who has provided
 22 services to the victim or derivative victim shall not be allowed to
 23 be an authorized representative.

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

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

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

32 13954. (a) The board shall verify with hospitals, physicians,
 33 law enforcement officials, or other interested parties involved, the
 34 treatment of the victim or derivative victim, circumstances of the
 35 crime, amounts paid or received by or for the victim or derivative
 36 victim, and any other pertinent information deemed necessary by
 37 the board. Verification information shall be returned to the board
 38 within 10 business days after a request for verification has been
 39 made by the board. Verification information shall be provided at
 40 no cost to the applicant, the board, or victim centers. When

1 requesting verification information, the board shall certify that a
2 signed authorization by the applicant is retained in the applicant's
3 file and that this certification constitutes actual authorization for
4 the release of information, notwithstanding any other provision of
5 law. If requested by a physician or mental health provider, the
6 board shall provide a copy of the signed authorization for the
7 release of information.

8 (b) (1) The applicant shall cooperate with the staff of the board
9 or the victim center in the verification of the information contained
10 in the application. Failure to cooperate shall be reported to the
11 board, which, in its discretion, may reject the application solely
12 on this ground.

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

15 (A) The applicant has information, or there is information that
16 he or she may reasonably obtain, that is needed to process the
17 application or supplemental claim, and the applicant failed to
18 provide the information after being requested to do so by the board.
19 The board shall take the applicant's economic, psychosocial, and
20 postcrime traumatic circumstances into consideration, and shall
21 not unreasonably reject an application solely for failure to provide
22 information.

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

25 (C) The applicant refused to apply for other benefits potentially
26 available to him or her from other sources besides the board
27 including, but not limited to, worker's compensation, state
28 disability insurance, social security benefits, and unemployment
29 insurance.

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

32 (c) The board may contract with victim centers to provide
33 verification of applications processed by the centers pursuant to
34 conditions stated in subdivision (a). The board and its staff shall
35 cooperate with the Office of Criminal Justice Planning and victim
36 centers in conducting training sessions for center personnel and
37 shall cooperate in the development of standardized verification
38 procedures to be used by the victim centers in the state. The board
39 and its staff shall cooperate with victim centers in disseminating

1 standardized board policies and findings as they relate to the
2 centers.

3 (d) (1) Notwithstanding Section 827 of the Welfare and
4 Institutions Code or any other provision of law, every law
5 enforcement and social service agency in the state shall provide
6 to the board or to victim centers that have contracts with the board
7 pursuant to subdivision (c), upon request, a complete copy of the
8 law enforcement report and any supplemental reports involving
9 the crime or incident giving rise to a claim, a copy of a petition
10 filed in a juvenile court proceeding, reports of the probation officer,
11 and any other document made available to the probation officer
12 or to the judge, referee, or other hearing officer, for the specific
13 purpose of determining the eligibility of a claim filed pursuant to
14 this chapter.

15 (2) The board and victim centers receiving records pursuant to
16 this subdivision may not disclose a document that personally
17 identifies a minor to anyone other than the minor who is so
18 identified, his or her custodial parent or guardian, the attorneys
19 for those parties, and any other persons that may be designated by
20 court order. Any information received pursuant to this section shall
21 be received in confidence for the limited purpose for which it was
22 provided and may not be further disseminated. A violation of this
23 subdivision is a misdemeanor punishable by a fine not to exceed
24 five hundred dollars (\$500).

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

29 (e) Notwithstanding any other provision of law, every state
30 agency, upon receipt of a copy of a release signed in accordance
31 with the Information Practices Act of 1977 (Chapter 1
32 commencing with Section 1798) of Title 1.8 of Part 4 of Division
33 3 of the Civil Code) by the applicant or other authorized
34 representative, shall provide to the board or victim center the
35 information necessary to complete the verification of an application
36 filed pursuant to this chapter.

37 (f) The Department of Justice shall furnish, upon application of
38 the board, all information necessary to verify the eligibility of any
39 applicant for benefits pursuant to subdivision (c) of Section 13956,
40 to recover any restitution fine or order obligations that are owed

1 to the Restitution Fund or to any victim of crime, or to evaluate
2 the status of any criminal disposition.

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

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

9 (i) Any county social worker acting as the applicant for a child
10 victim or elder abuse victim shall not be required to provide
11 personal identification, including, but not limited to, the applicant's
12 date of birth or social security number. County social workers
13 acting in this capacity shall not be required to sign a promise of
14 repayment to the board.

15 SEC. 3. Section 13955 of the Government Code is amended
16 to read:

17 13955. Except as provided in Section 13956, a person shall be
18 eligible for compensation when all of the following requirements
19 are met:

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

22 (1) A victim.

23 (2) A derivative victim.

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

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

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

30 (1) The crime occurred in California. This paragraph shall apply
31 only during those time periods during which the board determines
32 that federal funds are available to the state for the compensation
33 of victims of crime.

34 (2) Whether or not the crime occurred in California, the victim
35 was any of the following:

36 (A) A resident of California.

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

38 (C) A family member living with a member of the military
39 stationed in California.

1 (c) If compensation is being sought for a derivative victim, the
2 derivative victim is a resident of California, or any other state, who
3 is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
13 288a, 288.5, 289, or 653.2, or subdivision (b) or (c) of Section
14 311.4, of the Penal Code.

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

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

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

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

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

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

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

35 13956. Notwithstanding Section 13955, a person shall not be
36 eligible for compensation under the following conditions:

37 (a) An application may be denied, in whole or in part, if the
38 board finds that denial is appropriate because of the nature of the
39 victim's or other applicant's involvement in the events leading to

1 the crime, or the involvement of the person whose injury or death
2 gives rise to the application.

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

6 (A) The victim or derivative victim initiated the qualifying
7 crime, or provoked or aggravated the suspect into initiating the
8 qualifying crime.

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

11 (C) The victim or derivative victim was committing a crime
12 that could be charged as a felony and reasonably lead to him or
13 her being victimized. However, committing a crime shall not be
14 considered involvement if the victim's injury or death occurred as
15 a direct result of a crime committed in violation of Section 261,
16 262, or 273.5 of, or for a crime of unlawful sexual intercourse with
17 a minor violation of subdivision (d) of Section 261.5 of, the Penal
18 Code.

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

23 (A) The victim's injuries were significantly more serious than
24 reasonably could have been expected based on the victim's level
25 of involvement.

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

28 (C) The board shall consider the victim's age, physical
29 condition, and psychological state, as well as any compelling health
30 and safety concerns, in determining whether the application should
31 be denied pursuant to this section. The application of a derivative
32 victim of domestic violence under 18 years of age or derivative
33 victim of trafficking under 18 years of age shall not be denied on
34 the basis of the denial of the victim's application under this
35 subdivision.

36 (b) (1) An application shall be denied if the board finds that
37 the victim or, if compensation is sought by, or on behalf of, a
38 derivative victim, either the victim or derivative victim failed to
39 cooperate reasonably with a law enforcement agency in the
40 apprehension and conviction of a criminal committing the crime.

1 In determining whether cooperation has been reasonable, the board
2 shall consider the victim's or derivative victim's age, physical
3 condition, and psychological state, cultural or linguistic barriers,
4 any compelling health and safety concerns, including, but not
5 limited to, a reasonable fear of retaliation or harm that would
6 jeopardize the well-being of the victim or the victim's family or
7 the derivative victim or the derivative victim's family, and giving
8 due consideration to the degree of cooperation of which the victim
9 or derivative victim is capable in light of the presence of any of
10 these factors. A victim of domestic violence shall not be determined
11 to have failed to cooperate based on his or her conduct with law
12 enforcement at the scene of the crime. Lack of cooperation shall
13 also not be found solely because a victim of sexual assault,
14 domestic violence, or human trafficking delayed reporting the
15 qualifying crime.

16 (2) An application for a claim based on domestic violence shall
17 not be denied solely because a police report was not made by the
18 victim. The board shall adopt guidelines that allow the board to
19 consider and approve applications for assistance based on domestic
20 violence relying upon evidence other than a police report to
21 establish that a domestic violence crime has occurred. Factors
22 evidencing that a domestic violence crime has occurred may
23 include, but are not limited to, medical records documenting
24 injuries consistent with allegations of domestic violence, mental
25 health records, or that the victim has obtained a permanent
26 restraining order.

27 (3) An application for a claim based on a sexual assault shall
28 not be denied solely because a police report was not made by the
29 victim. The board shall adopt guidelines that allow it to consider
30 and approve applications for assistance based on a sexual assault
31 relying upon evidence other than a police report to establish that
32 a sexual assault crime has occurred. Factors evidencing that a
33 sexual assault crime has occurred may include, but are not limited
34 to, medical records documenting injuries consistent with allegations
35 of sexual assault, mental health records, or that the victim received
36 a sexual assault examination.

37 (4) An application for a claim based on human trafficking as
38 defined in Section 236.1 of the Penal Code shall not be denied
39 solely because no police report was made by the victim. The board
40 shall adopt guidelines that allow the board to consider and approve

1 applications for assistance based on human trafficking relying
2 upon evidence other than a police report to establish that a human
3 trafficking crime as defined in Section 236.1 of the Penal Code
4 has occurred. That evidence may include any reliable corroborating
5 information approved by the board, including, but not limited to,
6 the following:

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

9 (B) A human trafficking caseworker as identified in Section
10 1038.2 of the Evidence Code, has attested by affidavit that the
11 individual was a victim of human trafficking.

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

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

19 (i) Restricted or unrestricted reports to a military victim
20 advocate, sexual assault response coordinator, chaplain, attorney,
21 or other military personnel.

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

23 (iii) A written or oral report from military law enforcement or
24 a civilian law enforcement agency concluding that a sexual assault
25 crime was committed against the victim.

26 (iv) A letter or other written statement from a sexual assault
27 counselor, as defined in Section 1035.2 of the Evidence Code,
28 licensed therapist, or mental health counselor, stating that the
29 victim is seeking services related to the allegation of sexual assault.

30 (v) A credible witness to whom the victim disclosed the details
31 that a sexual assault crime occurred.

32 (vi) A restraining order from a military or civilian court against
33 the perpetrator of the sexual assault.

34 (vii) Other behavior by the victim consistent with sexual assault.

35 (C) For purposes of this subdivision, the sexual assault at issue
36 shall have occurred during military service, including deployment.

37 (D) For purposes of this subdivision, the sexual assault may
38 have been committed off base.

1 (E) For purposes of this subdivision, a “perpetrator” means an
2 individual who is any of the following at the time of the sexual
3 assault:

4 (i) An active duty military personnel from the United States
5 Army, Navy, Marine Corps, Air Force, or Coast Guard.

6 (ii) A civilian employee of any military branch specified in
7 clause (i), military base, or military deployment.

8 (iii) A contractor or agent of a private military or private security
9 company.

10 (iv) A member of the California National Guard.

11 (F) For purposes of this subdivision, “sexual assault” means an
12 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of
13 the Penal Code, as of the date the act that added this paragraph
14 was enacted.

15 (c) (1) Notwithstanding Section 13955, no person who is
16 convicted of a violent felony listed in subdivision (c) of Section
17 667.5 of the Penal Code may be granted compensation until that
18 person has been discharged from probation or has been released
19 from a correctional institution and has been discharged from parole,
20 or has been discharged from postrelease community supervision
21 or mandatory supervision, if any, for that violent crime. In no case
22 shall compensation be granted to an applicant pursuant to this
23 chapter during any period of time the applicant is held in a
24 correctional institution, or while an applicant is required to register
25 as a sex offender pursuant to Section 290 of the Penal Code.

26 (2) A person who has been convicted of a violent felony listed
27 in subdivision (c) of Section 667.5 of the Penal Code may apply
28 for compensation pursuant to this chapter at any time, but the award
29 of that compensation may not be considered until the applicant
30 meets the requirements for compensation set forth in paragraph
31 (1).

32 SEC. 5. Section 13957 of the Government Code is amended
33 to read:

34 13957. (a) The board may grant for pecuniary loss, when the
35 board determines it will best aid the person seeking compensation,
36 as follows:

37 (1) Subject to the limitations set forth in Section 13957.2,
38 reimburse the amount of medical or medical-related expenses
39 incurred by the victim for services that were provided by a licensed
40 medical provider, including, but not limited to, eyeglasses, hearing

1 aids, dentures, or any prosthetic device taken, lost, or destroyed
2 during the commission of the crime, or the use of which became
3 necessary as a direct result of the crime.

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

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

18 (i) A victim.

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

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

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

31 (i) A derivative victim not eligible for reimbursement pursuant
32 to subparagraph (A), provided that mental health counseling of a
33 derivative victim described in paragraph (5) of subdivision (c) of
34 Section 13955, shall be reimbursed only if that counseling is
35 necessary for the treatment of the victim.

36 (ii) A minor who suffers emotional injury as a direct result of
37 witnessing a violent crime and who is not eligible for
38 reimbursement of the costs of outpatient mental health counseling
39 under any other provision of this chapter. To be eligible for

1 reimbursement under this clause, the minor must have been in
2 close proximity to the victim when he or she witnessed the crime.

3 (C) The board may reimburse a victim or derivative victim for
4 outpatient mental health counseling in excess of that authorized
5 by subparagraph (A) or (B) or for inpatient psychiatric,
6 psychological, or other mental health counseling if the claim is
7 based on dire or exceptional circumstances that require more
8 extensive treatment, as approved by the board.

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

12 (i) A person who would have been authorized to provide those
13 services pursuant to former Article 1 (commencing with Section
14 13959) as it read on January 1, 2002.

15 (ii) A person who is licensed in California to provide those
16 services, or who is properly supervised by a person who is licensed
17 in California to provide those services, subject to the board's
18 approval and subject to the limitations and restrictions the board
19 may impose.

20 (3) Subject to the limitations set forth in Section 13957.5,
21 authorize compensation equal to the loss of income or loss of
22 support, or both, that a victim or derivative victim incurs as a direct
23 result of the victim's or derivative victim's injury or the victim's
24 death. If the victim or derivative victim requests that the board
25 give priority to reimbursement of loss of income or support, the
26 board may not pay medical expenses, or mental health counseling
27 expenses, except upon the request of the victim or derivative victim
28 or after determining that payment of these expenses will not
29 decrease the funds available for payment of loss of income or
30 support.

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

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

37 (A) Home security device or system.

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

39 (6) Reimburse the expense of renovating or retrofitting a
40 victim's residence, or the expense of modifying or purchasing a

1 vehicle, to make the residence or the vehicle accessible or
2 operational by a victim upon verification that the expense is
3 medically necessary for a victim who is permanently disabled as
4 a direct result of the crime, whether the disability is partial or total.

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

11 (B) The cash payment or reimbursement made under this
12 paragraph shall only be awarded to one claimant per crime giving
13 rise to the relocation. The board may authorize more than one
14 relocation per crime if necessary for the personal safety or
15 emotional well-being of the claimant. However, the total cash
16 payment or reimbursement for all relocations due to the same crime
17 shall not exceed two thousand dollars (\$2,000). For purposes of
18 this paragraph a claimant is the crime victim, or, if the victim is
19 deceased, a person who resided with the deceased at the time of
20 the crime.

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

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

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

28 (D) When a relocation payment or reimbursement is provided
29 to a victim of sexual assault or domestic violence and the identity
30 of the offender is known to the victim, the victim shall agree not
31 to inform the offender of the location of the victim's new residence
32 and not to allow the offender on the premises at any time, or shall
33 agree to seek a restraining order against the offender. A victim
34 may be required to repay the relocation payment or reimbursement
35 to the board if he or she violates the terms set forth in this
36 paragraph.

37 (E) Notwithstanding subparagraphs (A) and (B), the board may
38 increase the cash payment or reimbursement for expenses incurred
39 in relocating to an amount greater than two thousand dollars

1 (\$2,000), if the board finds this amount is appropriate due to the
2 unusual, dire, or exceptional circumstances of a particular claim.

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

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

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

13 (B) The funeral and burial expenses incurred as a direct result
14 of the crime, not to exceed seven thousand five hundred dollars
15 (\$7,500).

16 (9) When the crime occurs in a residence or inside a vehicle,
17 the board may reimburse any individual who voluntarily, and
18 without anticipation of personal gain, pays or assumes the
19 obligation to pay the reasonable costs to clean the scene of the
20 crime in an amount not to exceed one thousand dollars (\$1,000).
21 Services reimbursed pursuant to this subdivision shall be performed
22 by persons registered with the State Department of Public Health
23 as trauma scene waste practitioners in accordance with Chapter
24 9.5 (commencing with Section 118321) of Part 14 of Division 104
25 of the Health and Safety Code.

26 (10) When the crime is a violation of Section 600.2 or 600.5 of
27 the Penal Code, the board may reimburse the expense of veterinary
28 services, replacement costs, or other reasonable expenses, as
29 ordered by the court pursuant to Section 600.2 or 600.5 of the
30 Penal Code, in an amount not to exceed ten thousand dollars
31 (\$10,000).

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

38 (b) The total award to or on behalf of each victim or derivative
39 victim may not exceed thirty-five thousand dollars (\$35,000),
40 except that this award may be increased to an amount not exceeding

1 seventy thousand dollars (\$70,000) if federal funds for that increase
2 are available.

3 SEC. 6. Section 13957.5 of the Government Code is amended
4 to read:

5 13957.5. (a) In authorizing compensation for loss of income
6 and support pursuant to paragraph (3) of subdivision (a) of Section
7 13957, the board may take any of the following actions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 13957.7. (a) No reimbursement may be made for any expense
10 that is submitted more than three years after it is incurred by the
11 victim or derivative victim. However, reimbursement may be made
12 for an expense submitted more than three years after the date it is
13 incurred if the victim or derivative victim has affirmed the debt
14 and is liable for the debt at the time the expense is submitted for
15 reimbursement, or has paid the expense as a direct result of a crime
16 for which a timely application has been filed or has paid the
17 expense as a direct result of a crime for which an application has
18 been filed and approved.

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

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

29 (2) Reimbursement on the initial claim for any psychological,
30 psychiatric, or mental health counseling services shall, if the
31 application has been approved, be paid by the board within 90
32 days of the date of receipt of the claim for payment, with
33 subsequent payments to be made to the provider within one month
34 of the receipt of a claim for payment.

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

1 (e) The board shall develop procedures to ensure that a victim
2 is using compensation for job retraining or relocation only for its
3 intended purposes. The procedures may include, but need not be
4 limited to, requiring copies of receipts, agreements, or other
5 documents as requested, or developing a method for direct
6 payment.

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

10 (g) The board shall pay attorney's fees representing the
11 reasonable value of legal services rendered to the applicant, in an
12 amount equal to 10 percent of the amount of the award, or five
13 hundred dollars (\$500), whichever is less, for each victim and each
14 derivative victim. The board may request that an attorney provide
15 verification of legal services provided to an applicant and the board
16 may contact an applicant to verify that legal services were provided.
17 An attorney receiving fees from another source may waive the
18 right to receive fees under this subdivision. Payments under this
19 subdivision shall be in addition to any amount authorized or
20 ordered under subdivision (b) of Section 13960. An attorney may
21 not charge, demand, receive, or collect any amount for services
22 rendered in connection with any proceedings under this chapter
23 except as awarded under this chapter.

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

32 *SEC. 8. Section 13957.9 of the Government Code is amended*
33 *to read:*

34 13957.9. (a) In addition to the authorization provided in
35 Section 13957 and subject to the limitations set forth in Section
36 13957.2, the board may grant for pecuniary loss, when the board
37 determines it will best aid the person seeking compensation,
38 reimbursement of the amount of outpatient psychiatric,
39 psychological, or other mental health counseling-related expenses
40 incurred by the victim or derivative victim, including peer

1 counseling services provided by violence peer counseling services
2 provided by a service organization for victims of violent crime,
3 and including family psychiatric, psychological, or mental health
4 counseling for the successful treatment of the victim provided to
5 family members of the victim in the presence of the victim, whether
6 or not the family member relationship existed at the time of the
7 crime, that became necessary as a direct result of the crime, subject
8 to the following conditions:

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

12 (A) A victim.

13 (B) A derivative victim who is the surviving parent, sibling,
14 child, spouse, fiancé, or fiancée of a victim of a crime that directly
15 resulted in the death of the victim.

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

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

25 (A) A derivative victim not eligible for reimbursement pursuant
26 to paragraph (1), provided that mental health counseling of a
27 derivative victim described in paragraph (5) of subdivision (c) of
28 Section 13955, shall be reimbursed only if that counseling is
29 necessary for the treatment of the victim.

30 (B) A victim of a crime of unlawful sexual intercourse with a
31 minor committed in violation of subdivision (d) of Section 261.5
32 of the Penal Code. A derivative victim of a crime committed in
33 violation of subdivision (d) of Section 261.5 of the Penal Code
34 shall not be eligible for reimbursement of mental health counseling
35 expenses.

36 (C) A minor who suffers emotional injury as a direct result of
37 witnessing a violent crime and who is not eligible for
38 reimbursement of the costs of outpatient mental health counseling
39 under any other provision of this chapter. To be eligible for

1 reimbursement under this clause, the minor must have been in
2 close proximity to the victim when he or she witnessed the crime.

3 (3) The board may reimburse a victim or derivative victim for
4 outpatient mental health counseling in excess of that authorized
5 by paragraph (1) or (2) or for inpatient psychiatric, psychological,
6 or other mental health counseling if the claim is based on dire or
7 exceptional circumstances that require more extensive treatment,
8 as approved by the board.

9 (4) Expenses for psychiatric, psychological, or other mental
10 health counseling-related services may be reimbursed only if the
11 services were provided by either of the following individuals:

12 (A) A person who would have been authorized to provide those
13 services pursuant to former Article 1 (commencing with Section
14 13959) as it read on January 1, 2002.

15 (B) A person who is licensed by the state to provide those
16 services, or who is properly supervised by a person who is so
17 licensed, subject to the board's approval and subject to the
18 limitations and restrictions the board may impose.

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

23 (c) For the purposes of this section, the following definitions
24 shall apply:

25 (1) "Service organization for victims of violent crime" means
26 a ~~nongovernmental~~ *nonprofit and charitable* organization that
27 meets both of the following criteria:

28 (A) Its primary mission is to provide services to victims of
29 violent crime.

30 (B) It provides programs or services to victims of violent crime
31 and their families, and other programs, whether or not a similar
32 program exists in an agency that provides additional services.

33 (2) "Violence peer counseling services" means counseling by
34 a violence peer counselor for the purpose of rendering advice or
35 assistance for victims of violent crime and their families. *Any*
36 *violence peer counseling services that fall under the scope of*
37 *practice of the Licensed Marriage and Family Therapist Act*
38 *(Chapter 13 (commencing with Section 4980) of Division 2 of the*
39 *Business and Professions Code), the Educational Psychologist*
40 *Practice Act (Chapter 13.5 (commencing with Section 4989.10))*

1 *of Division 2 of the Business and Professions Code), the Clinical*
2 *Social Worker Practice Act (Chapter 14 (commencing with Section*
3 *4991) of Division 2 of the Business and Professions Code), and*
4 *the Licensed Professional Clinical Counselor Act (Chapter 16*
5 *(commencing with Section 4999.10) of Division 2 of the Business*
6 *and Professions Code), which are not performed in an exempt*
7 *setting as defined in Sections 4980.01, 4996.14, and 4999.22 of*
8 *the Business and Professions Code, shall only be performed by a*
9 *licensee or a registrant of the Board of Behavioral Sciences or*
10 *other appropriately licensed professional, such as a licensed*
11 *psychologist or board certified psychiatrist.*

12 (3) “Violence peer counselor” means a provider of ~~formal or~~
13 ~~informal~~ *supportive and nonpsychotherapeutic* counseling services
14 who is employed by a service organization for victims of violent
15 crime, whether financially compensated or not, and who meets all
16 of the following requirements:

17 (A) Possesses at least six months of full-time equivalent
18 experience in providing peer support services acquired through
19 employment, volunteer work, or as part of an internship experience.

20 (B) Completed a training program aimed at preparing an
21 individual who was once a mental health services consumer to use
22 his or her life experience with mental health treatment, combined
23 with other strengths and skills, to promote the mental health
24 recovery of other mental health services consumers who are in
25 need of peer-based services relating to recovery as a victim of a
26 violent crime.

27 (C) Possesses 40 hours of training on all of the following:

28 (i) The profound neurological, biological, psychological, and
29 social effects of trauma and violence.

30 (ii) Peace-building and violence prevention strategies, including,
31 but not limited to, conflict mediation and retaliation prevention
32 related to gangs and gang-related violence.

33 (iii) Post-traumatic stress disorder and vicarious trauma,
34 especially as related to gangs and gang-related violence.

35 (iv) Case management practices, including, but not limited to,
36 ethics and victim compensation advocacy.

37 (D) When providing violence peer counseling services, is
38 supervised by a marriage and family therapist licensed pursuant
39 to Chapter 13 (commencing with Section 4980) of Division 2 of
40 the Business and Professions Code, a licensed educational

1 psychologist licensed pursuant to Chapter 13.5 (commencing with
 2 Section 4989.10) of Division 2 of the Business and Professions
 3 Code, a clinical social worker licensed pursuant to Chapter 14
 4 (commencing with Section 4991) of Division 2 of the Business
 5 and Professions Code, or a licensed professional clinical counselor
 6 licensed pursuant to Chapter 16 (commencing with Section
 7 4999.10) of Division 2 of the Business and Professions Code. For
 8 the purposes of this subparagraph, a licensed marriage and family
 9 therapist, licensed educational psychologist, licensed clinical social
 10 worker, or licensed professional clinical counselor shall be
 11 employed by the same service organization as the violence peer
 12 counselor.

13 (d) This section shall remain in effect only until January 1, 2017,
 14 and as of that date is repealed, unless a later enacted statute, that
 15 is enacted before January 1, 2017, deletes or extends that date.

16 ~~SEC. 8.~~

17 *SEC. 9.* Section 13959 of the Government Code is amended
 18 to read:

19 13959. (a) The board shall grant a hearing to an applicant who
 20 contests a staff recommendation to deny compensation in whole
 21 or in part.

22 (b) The board shall notify the applicant not less than 10 days
 23 prior to the date of the hearing. Notwithstanding Section 11123,
 24 if the application that the board is considering involves either a
 25 crime against a minor, a crime of sexual assault, or a crime of
 26 domestic violence, the board may exclude from the hearing all
 27 persons other than board members and members of its staff, the
 28 applicant for benefits, a minor applicant’s parents or guardians,
 29 the applicant’s representative, witnesses, and other persons of the
 30 applicant’s choice to provide assistance to the applicant during the
 31 hearing. However, the board shall not exclude persons from the
 32 hearing if the applicant or applicant’s representative requests that
 33 the hearing be open to the public.

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

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

1 (e) The hearing shall be informal and need not be conducted
2 according to the technical rules relating to evidence and witnesses.
3 The board may rely on any relevant evidence if it is the sort of
4 evidence on which responsible persons are accustomed to rely in
5 the conduct of serious affairs, regardless of the existence of a
6 common law or statutory rule that might make improper the
7 admission of the evidence over objection in a civil action. The
8 board may rely on written reports prepared for the board, or other
9 information received, from public agencies responsible for
10 investigating the crime. If the applicant or the applicant's
11 representative chooses not to appear at the hearing, the board may
12 act solely upon the application for compensation, the staff's report,
13 and other evidence that appears in the record.

14 (f) Hearings shall be held in various locations with the frequency
15 necessary to provide for the speedy adjudication of the applications.
16 If the applicant's presence is required at the hearing, the board
17 shall schedule the applicant's hearing in as convenient a location
18 as possible or conduct the hearing by telephone.

19 (g) The board may delegate the hearing of applications to
20 hearing officers.

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

24 (i) The board may order a reconsideration of all or part of a
25 decision on written request of the applicant. The board shall not
26 grant more than one request for reconsideration with respect to
27 any one decision on an application for compensation. The board
28 shall not consider any request for reconsideration filed with the
29 board more than 30 calendar days after the personal delivery or
30 60 calendar days after the mailing of the original decision.

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

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

36 ~~SEC. 9.~~

37 *SEC. 10.* Section 13963 of the Government Code is amended
38 to read:

39 13963. (a) The board shall be subrogated to the rights of the
40 recipient to the extent of any compensation granted by the board.

1 The subrogation rights shall be against the perpetrator of the crime
2 or any person liable for the losses suffered as a direct result of the
3 crime which was the basis for receipt of compensation, including
4 an insurer held liable in accordance with the provision of a policy
5 of insurance issued pursuant to Section 11580.2 of the Insurance
6 Code.

7 (b) The board shall also be entitled to a lien on any judgment,
8 award, or settlement in favor of or on behalf of the recipient for
9 losses suffered as a direct result of the crime that was the basis for
10 receipt of compensation in the amount of the compensation granted
11 by the board. The board may recover this amount in a separate
12 action, or may intervene in an action brought by or on behalf of
13 the recipient. If a claim is filed within one year of the date of
14 recovery, the board shall pay 25 percent of the amount of the
15 recovery that is subject to a lien on the judgment, award, or
16 settlement, to the recipient responsible for recovery if the recipient
17 notified the board of the action prior to receiving any recovery.
18 The remaining amount, and any amount not claimed within one
19 year pursuant to this section, shall be deposited in the Restitution
20 Fund.

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

26 (d) No judgment, award, or settlement in any action or claim
27 by a recipient, where the board has an interest, shall be satisfied
28 without first giving the board notice and a reasonable opportunity
29 to perfect and satisfy the lien. The notice shall be given to the
30 board in Sacramento except in cases where the board specifies that
31 the notice shall be given otherwise. The notice shall include the
32 complete terms of the award, settlement, or judgment, and the
33 name and address of any insurer directly or indirectly providing
34 for the satisfaction.

35 (e) (1) If the recipient brings an action or asserts a claim for
36 damages against the person or persons liable for the injury or death
37 giving rise to an award by the board under this chapter, notice of
38 the institution of legal proceedings, notice of all hearings,
39 conferences, and proceedings, and notice of settlement shall be
40 given to the board in Sacramento except in cases where the board

1 specifies that notice shall be given to the Attorney General. Notice
2 of the institution of legal proceedings shall be given to the board
3 within 30 days of filing the action. All notices shall be given by
4 the attorney employed to bring the action for damages or by the
5 recipient if no attorney is employed.

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

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

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

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

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

15 (3) When the recipient or his or her attorney has reason to
16 believe that a person from whom damages are sought is receiving
17 a defense provided in whole or in part by an insurer, or is insured
18 for the injury caused to the recipient, notice shall include a
19 statement of that fact and the name and address of the insurer.
20 Upon request of the board, a person obligated to provide notice
21 shall provide the board with a copy of the current written claim or
22 complaint.

23 (f) The board shall pay the county probation department or other
24 county agency responsible for collection of funds owed to the
25 Restitution Fund under Section 13967, as operative on or before
26 September 28, 1994, Section 1202.4 of the Penal Code, Section
27 1203.04 of the Penal Code, as operative on or before August 2,
28 1995, or Section 730.6 of the Welfare and Institutions Code, 10
29 percent of the funds so owed and collected by the county agency
30 and deposited in the Restitution Fund. This payment shall be made
31 only when the funds are deposited in the Restitution Fund within
32 45 days of the end of the month in which the funds are collected.
33 Receiving 10 percent of the moneys collected as being owed to
34 the Restitution Fund shall be considered an incentive for collection
35 efforts and shall be used for furthering these collection efforts.
36 The 10-percent rebates shall be used to augment the budgets for
37 the county agencies responsible for collection of funds owed to
38 the Restitution Fund, as provided in Section 13967, as operative
39 on or before September 28, 1994, Section 1202.4 of the Penal
40 Code, Section 1203.04 of the Penal Code, operative on or before

1 August 2, 1995, or Section 730.6 of the Welfare and Institutions
 2 Code. The 10-percent rebates shall not be used to supplant county
 3 funding.

4 (g) In the event of judgment or award in a suit or claim against
 5 a third party or insurer, if the action or claim is prosecuted by the
 6 recipient alone, the court or agency shall first order paid from any
 7 judgment or award the reasonable litigation expenses incurred in
 8 preparation and prosecution of the action or claim, together with
 9 reasonable attorney’s fees when an attorney has been retained.
 10 After payment of the expenses and attorney’s fees, the court or
 11 agency shall, on the application of the board, allow as a lien against
 12 the amount of the judgment or award, the amount of the
 13 compensation granted by the board to the recipient for losses
 14 sustained as a result of the same incident upon which the
 15 settlement, award, or judgment is based.

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

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

25 ~~SEC. 10.~~

26 *SEC. 11.* Section 13965 of the Government Code is amended
 27 to read:

28 13965. (a) Any recipient of an overpayment pursuant to this
 29 chapter is liable to repay the board that amount unless both of the
 30 following facts exist:

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

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

36 (b) All actions to collect overpayments shall commence within
 37 seven years from the date of the overpayment. However, an action
 38 to collect an overpayment due to fraud, misrepresentation, or
 39 willful nondisclosure by the recipient may be commenced at any
 40 time.

1 (c) Any recipient of an overpayment is authorized to contest
2 the staff recommendation of an overpayment pursuant to the
3 hearing procedures in Section 13959. If a final determination is
4 made by the board that an overpayment exists, the board may
5 collect the overpayment in any manner prescribed by law.

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

10 ~~SEC. 11.~~

11 *SEC. 12.* Section 13971 of the Government Code is amended
12 to read:

13 13971. As used in this article, “private citizen” means any
14 person other than a peace officer, fireman, lifeguard, or person
15 whose employment includes the duty to protect the public safety
16 acting within the course and scope of such employment.

17 ~~SEC. 12.~~

18 *SEC. 13.* Section 13972 of the Government Code is amended
19 to read:

20 13972. (a) If a private citizen incurs personal injury or death
21 or damage to his or her property in preventing the commission of
22 a crime against the person or property of another, in apprehending
23 a criminal, or in materially assisting a peace officer in prevention
24 of a crime or apprehension of a criminal, or rescuing a person in
25 immediate danger of injury or death as a result of fire, drowning,
26 or other catastrophe, the private citizen, his or her surviving spouse,
27 his or her surviving children, a person dependent upon the citizen
28 for his or her principal support, any person legally liable for the
29 citizen’s pecuniary losses, or a public safety or law enforcement
30 agency acting on behalf of any of the above may file a claim with
31 the California Victim Compensation and Government Claims
32 Board for indemnification to the extent that the claimant is not
33 compensated from any other source for the injury, death, or
34 damage. The claim shall generally show all of the following:

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

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

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

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

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

10 ~~SEC. 13.~~

11 *SEC. 14.* Section 13973 of the Government Code is amended
12 to read:

13 13973. (a) Upon presentation of a claim pursuant to this
14 chapter, the California Victim Compensation and Government
15 Claims Board shall fix a time and place for the hearing of the claim,
16 and shall mail notices of the hearing to interested persons or
17 agencies. The board shall receive recommendations from public
18 safety or law enforcement agencies, and evidence showing all of
19 the following:

20 (1) The nature of the crime committed by the apprehended
21 criminal or prevented by the action of the private citizen, or the
22 nature of the action of the private citizen in rescuing a person in
23 immediate danger of injury or death as a result of fire, drowning,
24 or other catastrophe, and the circumstances involved.

25 (2) That the actions of the private citizen substantially and
26 materially contributed to the apprehension of a criminal, the
27 prevention of a crime, or the rescuing of a person in immediate
28 danger of injury or death as a result of fire, drowning, or other
29 catastrophe.

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

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

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

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

1 (c) In addition to any award made under this chapter, the board
2 may award, as attorney's fees, an amount representing the
3 reasonable value of legal services rendered a claimant, but in no
4 event to exceed 10 percent of the amount of the award. No attorney
5 shall charge, demand, receive, or collect for services rendered in
6 connection with any proceedings under this chapter any amount
7 other than that awarded as attorney's fees under this section. Claims
8 approved under this chapter shall be paid from a separate
9 appropriation made to the California Victim Compensation and
10 Government Claims Board in the Budget Act and as the claims
11 are approved by the board.

12 ~~SEC. 14.~~

13 *SEC. 15.* Section 2085.5 of the Penal Code is amended to read:

14 2085.5. (a) In any case in which a prisoner owes a restitution
15 fine imposed pursuant to subdivision (a) of Section 13967 of the
16 Government Code, as operative prior to September 29, 1994,
17 subdivision (b) of Section 730.6 of the Welfare and Institutions
18 Code, or subdivision (b) of Section 1202.4, the Secretary of the
19 Department of Corrections and Rehabilitation shall deduct a
20 minimum of 20 percent or the balance owing on the fine amount,
21 whichever is less, up to a maximum of 50 percent from the wages
22 and trust account deposits of a prisoner, unless prohibited by
23 federal law, and shall transfer that amount to the California Victim
24 Compensation and Government Claims Board for deposit in the
25 Restitution Fund in the State Treasury. The amount deducted shall
26 be credited against the amount owing on the fine. The sentencing
27 court shall be provided a record of the payments.

28 (b) (1) When a prisoner is punished by imprisonment in a
29 county jail pursuant to subdivision (h) of Section 1170, in any case
30 in which a prisoner owes a restitution fine imposed pursuant to
31 subdivision (a) of Section 13967 of the Government Code, as
32 operative prior to September 29, 1994, subdivision (b) of Section
33 730.6 of the Welfare and Institutions Code, or subdivision (b) of
34 Section 1202.4, the agency designated by the board of supervisors
35 in the county where the prisoner is incarcerated is authorized to
36 deduct a minimum of 20 percent or the balance owing on the fine
37 amount, whichever is less, up to a maximum of 50 percent from
38 the county jail equivalent of wages and trust account deposits of
39 a prisoner, unless prohibited by federal law, and shall transfer that
40 amount to the California Victim Compensation and Government

1 Claims Board for deposit in the Restitution Fund in the State
2 Treasury. The amount deducted shall be credited against the
3 amount owing on the fine. The sentencing court shall be provided
4 a record of the payments.

5 (2) If the board of supervisors designates the county sheriff as
6 the collecting agency, the board of supervisors shall first obtain
7 the concurrence of the county sheriff.

8 (c) In any case in which a prisoner owes a restitution order
9 imposed pursuant to subdivision (c) of Section 13967 of the
10 Government Code, as operative prior to September 29, 1994,
11 subdivision (h) of Section 730.6 of the Welfare and Institutions
12 Code, or subdivision (f) of Section 1202.4, the Secretary of the
13 Department of Corrections and Rehabilitation shall deduct a
14 minimum of 20 percent or the balance owing on the order amount,
15 whichever is less, up to a maximum of 50 percent from the wages
16 and trust account deposits of a prisoner, unless prohibited by
17 federal law. The secretary shall transfer that amount to the
18 California Victim Compensation and Government Claims Board
19 for direct payment to the victim, or payment shall be made to the
20 Restitution Fund to the extent that the victim has received
21 assistance pursuant to that program. The sentencing court shall be
22 provided a record of the payments made to victims and of the
23 payments deposited to the Restitution Fund pursuant to this
24 subdivision.

25 (d) When a prisoner is punished by imprisonment in a county
26 jail pursuant to subdivision (h) of Section 1170, in any case in
27 which a prisoner owes a restitution order imposed pursuant to
28 subdivision (c) of Section 13967 of the Government Code, as
29 operative prior to September 29, 1994, subdivision (h) of Section
30 730.6 of the Welfare and Institutions Code, or subdivision (b) of
31 Section 1202.4, the agency designated by the board of supervisors
32 in the county where the prisoner is incarcerated is authorized to
33 deduct a minimum of 20 percent or the balance owing on the order
34 amount, whichever is less, up to a maximum of 50 percent from
35 the county jail equivalent of wages and trust account deposits of
36 a prisoner, unless prohibited by federal law. The agency shall
37 transfer that amount to the California Victim Compensation and
38 Government Claims Board for direct payment to the victim, or
39 payment shall be made to the Restitution Fund to the extent that
40 the victim has received assistance pursuant to that program, or

1 may pay the victim directly. The sentencing court shall be provided
2 a record of the payments made to the victims and of the payments
3 deposited to the Restitution Fund pursuant to this subdivision.

4 (e) The secretary shall deduct and retain from the wages and
5 trust account deposits of a prisoner, unless prohibited by federal
6 law, an administrative fee that totals 10 percent of any amount
7 transferred to the California Victim Compensation and Government
8 Claims Board pursuant to subdivision (a) or (c). The secretary
9 shall deduct and retain from any prisoner settlement or trial award,
10 an administrative fee that totals 5 percent of any amount paid from
11 the settlement or award to satisfy an outstanding restitution order
12 or fine pursuant to subdivision (n), unless prohibited by federal
13 law. The secretary shall deposit the administrative fee moneys in
14 a special deposit account for reimbursing administrative and
15 support costs of the restitution program of the Department of
16 Corrections and Rehabilitation. The secretary, at his or her
17 discretion, may retain any excess funds in the special deposit
18 account for future reimbursement of the department's
19 administrative and support costs for the restitution program or may
20 transfer all or part of the excess funds for deposit in the Restitution
21 Fund.

22 (f) When a prisoner is punished by imprisonment in a county
23 jail pursuant to subdivision (h) of Section 1170, the agency
24 designated by the board of supervisors in the county where the
25 prisoner is incarcerated is authorized to deduct and retain from the
26 county jail equivalent of wages and trust account deposits of a
27 prisoner, unless prohibited by federal law, an administrative fee
28 that totals 10 percent of any amount transferred to the California
29 Victim Compensation and Government Claims Board pursuant to
30 subdivision (b) or (d). The agency is authorized to deduct and
31 retain from a prisoner settlement or trial award an administrative
32 fee that totals 5 percent of any amount paid from the settlement
33 or award to satisfy an outstanding restitution order or fine pursuant
34 to subdivision (n), unless prohibited by federal law. Upon release
35 from custody pursuant to subdivision (h) of Section 1170, the
36 agency is authorized to charge a fee to cover the actual
37 administrative cost of collection, not to exceed 10 percent of the
38 total amount collected. The agency shall deposit the administrative
39 fee moneys in a special deposit account for reimbursing
40 administrative and support costs of the restitution program of the

1 agency. The agency is authorized to retain any excess funds in the
2 special deposit account for future reimbursement of the agency’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 (g) In any case in which a parolee owes a restitution fine
7 imposed pursuant to subdivision (a) of Section 13967 of the
8 Government Code, as operative prior to September 29, 1994,
9 subdivision (b) of Section 730.6 of the Welfare and Institutions
10 Code, or subdivision (b) of Section 1202.4, the secretary, or, when
11 a prisoner is punished by imprisonment in a county jail pursuant
12 to subdivision (h) of Section 1170, the agency designated by the
13 board of supervisors in the county where the prisoner is
14 incarcerated, may collect from the parolee or, pursuant to Section
15 2085.6, from a person previously imprisoned in county jail any
16 moneys owing on the restitution fine amount, unless prohibited
17 by federal law. The secretary or the agency shall transfer that
18 amount to the California Victim Compensation and Government
19 Claims Board for deposit in the Restitution Fund in the State
20 Treasury. The amount deducted shall be credited against the
21 amount owing on the fine. The sentencing court shall be provided
22 a record of the payments.

23 (h) In any case in which a parolee owes a direct order of
24 restitution, imposed pursuant to subdivision (c) of Section 13967
25 of the Government Code, as operative prior to September 29, 1994,
26 subdivision (h) of Section 730.6 of the Welfare and Institutions
27 Code, or paragraph (3) of subdivision (a) of Section 1202.4, the
28 secretary, or, when a prisoner is punished by imprisonment in a
29 county jail pursuant to subdivision (h) of Section 1170, the agency
30 designated by the board of supervisors in the county where the
31 prisoner is incarcerated or a local collection program, may collect
32 from the parolee or, pursuant to Section 2085.6, from a person
33 previously imprisoned in county jail any moneys owing, unless
34 prohibited by federal law. The secretary or the agency shall transfer
35 that amount to the California Victim Compensation and
36 Government Claims Board for direct payment to the victim, or
37 payment shall be made to the Restitution Fund to the extent that
38 the victim has received assistance pursuant to that program, or the
39 agency may pay the victim directly. The sentencing court shall be

1 provided a record of the payments made by the offender pursuant
2 to this subdivision.

3 (i) The secretary, or, when a prisoner is punished by
4 imprisonment in a county jail pursuant to subdivision (h) of Section
5 1170, the agency designated by the board of supervisors in the
6 county where the prisoner is incarcerated, may deduct and retain
7 from moneys collected from parolees or persons previously
8 imprisoned in county jail an administrative fee that totals 10 percent
9 of any amount transferred to the California Victim Compensation
10 and Government Claims Board pursuant to subdivision (g) or (h),
11 unless prohibited by federal law. The secretary shall deduct and
12 retain from any settlement or trial award of a parolee an
13 administrative fee that totals 5 percent of an amount paid from the
14 settlement or award to satisfy an outstanding restitution order or
15 fine pursuant to subdivision (n), unless prohibited by federal law.
16 The agency is authorized to deduct and retain from any settlement
17 or trial award of a person previously imprisoned in county jail an
18 administrative fee that totals 5 percent of any amount paid from
19 the settlement or award to satisfy an outstanding restitution order
20 or fine pursuant to subdivision (n). The secretary or the agency
21 shall deposit the administrative fee moneys in a special deposit
22 account for reimbursing administrative and support costs of the
23 restitution program of the Department of Corrections and
24 Rehabilitation or the agency, as applicable. The secretary, at his
25 or her discretion, or the agency may retain any excess funds in the
26 special deposit account for future reimbursement of the
27 department's or agency's administrative and support costs for the
28 restitution program or may transfer all or part of the excess funds
29 for deposit in the Restitution Fund.

30 (j) When a prisoner has both a restitution fine and a restitution
31 order from the sentencing court, the Department of Corrections
32 and Rehabilitation shall collect the restitution order first pursuant
33 to subdivision (c).

34 (k) When a prisoner is punished by imprisonment in a county
35 jail pursuant to subdivision (h) of Section 1170 and that prisoner
36 has both a restitution fine and a restitution order from the
37 sentencing court, if the agency designated by the board of
38 supervisors in the county where the prisoner is incarcerated collects
39 the fine and order, the agency shall collect the restitution order
40 first pursuant to subdivision (d).

1 (l) When a parolee has both a restitution fine and a restitution
2 order from the sentencing court, the Department of Corrections
3 and Rehabilitation, or, when the prisoner is punished by
4 imprisonment in a county jail pursuant to subdivision (h) of Section
5 1170, the agency designated by the board of supervisors in the
6 county where the prisoner is incarcerated, may collect the
7 restitution order first, pursuant to subdivision (h).

8 (m) If an inmate is housed at an institution that requires food
9 to be purchased from the institution canteen for unsupervised
10 overnight visits, and if the money for the purchase of this food is
11 received from funds other than the inmate's wages, that money
12 shall be exempt from restitution deductions. This exemption shall
13 apply to the actual amount spent on food for the visit up to a
14 maximum of fifty dollars (\$50) for visits that include the inmate
15 and one visitor, seventy dollars (\$70) for visits that include the
16 inmate and two or three visitors, and eighty dollars (\$80) for visits
17 that include the inmate and four or more visitors.

18 (n) Compensatory or punitive damages awarded by trial or
19 settlement to any inmate, parolee, person placed on postrelease
20 community supervision pursuant to Section 3451, or defendant on
21 mandatory supervision imposed pursuant to subparagraph (B) of
22 paragraph (5) of subdivision (h) of Section 1170, in connection
23 with a civil action brought against a federal, state, or local jail,
24 prison, or correctional facility, or any official or agent thereof,
25 shall be paid directly, after payment of reasonable attorney's fees
26 and litigation costs approved by the court, to satisfy any
27 outstanding restitution orders or restitution fines against that
28 person. The balance of the award shall be forwarded to the payee
29 after full payment of all outstanding restitution orders and
30 restitution fines, subject to subdivisions (e) and (i). The Department
31 of Corrections and Rehabilitation shall make all reasonable efforts
32 to notify the victims of the crime for which that person was
33 convicted concerning the pending payment of any compensatory
34 or punitive damages. For any prisoner punished by imprisonment
35 in a county jail pursuant to subdivision (h) of Section 1170, the
36 agency is authorized to make all reasonable efforts to notify the
37 victims of the crime for which that person was convicted
38 concerning the pending payment of any compensatory or punitive
39 damages.

1 (o) (1) Amounts transferred to the California Victim
2 Compensation and Government Claims Board for payment of
3 direct orders of restitution shall be paid to the victim within 60
4 days from the date the restitution revenues are received by the
5 California Victim Compensation and Government Claims Board.
6 If the restitution payment to a victim is less than twenty-five dollars
7 (\$25), then payment need not be forwarded to that victim until the
8 payment reaches twenty-five dollars (\$25) or when the victim
9 requests payment of the lesser amount.

10 (2) If a victim cannot be located, the restitution revenues
11 received by the California Victim Compensation and Government
12 Claims Board on behalf of the victim shall be held in trust in the
13 Restitution Fund until the end of the state fiscal year subsequent
14 to the state fiscal year in which the funds were deposited or until
15 the time that the victim has provided current address information,
16 whichever occurs sooner. Amounts remaining in trust at the end
17 of the specified period of time shall revert to the Restitution Fund.

18 (3) (A) A victim failing to provide a current address within the
19 period of time specified in paragraph (2) may provide
20 documentation to the Department of Corrections and Rehabilitation,
21 which shall verify that moneys were collected on behalf of the
22 victim. Upon receipt of that verified information from the
23 Department of Corrections and Rehabilitation, the California
24 Victim Compensation and Government Claims Board shall transmit
25 the restitution revenues to the victim in accordance with the
26 provisions of subdivision (c) or (h).

27 (B) A victim failing to provide a current address within the
28 period of time specified in paragraph (2) may provide
29 documentation to the agency designated by the board of supervisors
30 in the county where the prisoner punished by imprisonment in a
31 county jail pursuant to subdivision (h) of Section 1170 is
32 incarcerated, which may verify that moneys were collected on
33 behalf of the victim. Upon receipt of that verified information from
34 the agency, the California Victim Compensation and Government
35 Claims Board shall transmit the restitution revenues to the victim
36 in accordance with the provisions of subdivision (d) or (h).

37 ~~SEC. 15.~~

38 *SEC. 16.* Section 4904 of the Penal Code is amended to read:

39 4904. If the evidence shows that the crime with which the
40 claimant was charged was either not committed at all, or, if

1 committed, was not committed by the claimant, and that the
2 claimant has sustained ~~pecuniary~~ injury through his or her
3 erroneous conviction and imprisonment, the California Victim
4 Compensation and Government Claims Board shall report the facts
5 of the case and its conclusions to the next Legislature, with a
6 recommendation that an appropriation be made by the Legislature
7 for the purpose of indemnifying the claimant for the ~~pecuniary~~
8 injury. The amount of the appropriation recommended shall be a
9 sum equivalent to one hundred ~~thirty~~ *forty* dollars ~~(\$130)~~ *(\$140)*
10 per day of incarceration ~~served subsequent to the claimant's~~
11 ~~conviction and that served, and shall include any time spent in~~
12 ~~custody, including in county jail, that is considered to be part of~~
13 ~~the term of incarceration. That~~ appropriation shall not be treated
14 as gross income to the recipient under the Revenue and Taxation
15 Code.

16 ~~SEC. 16.~~

17 *SEC. 17.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.