

AMENDED IN ASSEMBLY MARCH 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1754

Introduced by Assembly Member Waldron
(Coauthor: Assembly Member Chávez)
(Coauthor: Senator Bates)

February 2, 2016

An act to add and repeal Article 7 (commencing with Section 13967) to Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, relating to crime victims.

LEGISLATIVE COUNSEL'S DIGEST

AB 1754, as amended, Waldron. Crime victim compensation: elder or dependent adult financial abuse.

Existing law 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 specified limits on the amount of compensation the board may award, and requires applications for compensation to be verified under penalty of perjury.

This bill would create the San Diego County Elder or Dependent Adult Financial Abuse Crime Victim Compensation Pilot Program and would authorize the board, upon appropriation by the ~~Legislature~~, *Legislature before January 1, 2019*, to provide victims of elder or dependent adult financial abuse compensation to reimburse costs for financial counseling, mental health counseling, or supportive services, as specified, if the crime occurred in the County of San Diego. The bill

would limit compensation pursuant to this authorization to \$5,000 per person and an aggregate total of \$1,000,000. The bill would exclude a derivative victim from eligibility for compensation if the only crime the victim suffered was elder or dependent adult financial abuse. *The bill would authorize the pilot program to operate until January 1, 2020. The bill would require the board to report specified information related to the pilot program to the Legislature and Governor on or before July 1, 2020.* By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program. The bill would repeal these provisions on January 1, ~~2019~~ 2021.

This bill would make related legislative findings and declarations, including findings and declarations as to the necessity of a special statute enacting a pilot program in the County of San Diego.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has the highest number of older adults compared
- 4 to any other state in the nation, with 4.2 million individuals over
- 5 65 years of age counted in the 2010 census.
- 6 (b) Elderly and dependent adults are seen as easy targets by
- 7 financial predators who take advantage of their victims' loneliness,
- 8 isolation, and vulnerability. This population often falls victim to
- 9 scams such as foreign lotteries, the sale of costly and ineffective
- 10 annuities, identity theft, reverse mortgage scams, and fraudulent
- 11 home repairs. Financial abuse is also committed by family members
- 12 or caregivers who take advantage of an elder's isolation and
- 13 dependence.
- 14 (c) A 1998 study reported in the Journal of the American
- 15 Medical Association found that an elder victimized by financial
- 16 abuse has a decreased projected lifespan when compared to elders
- 17 who have not suffered that exploitation.

1 (d) The State Department of Social Services reports that as many
2 as 1,600 reports of elder and dependent adult financial abuse are
3 under investigation per month by Adult Protective Services offices
4 statewide.

5 (e) The California Victims of Crime Program does not serve
6 this population even though federal law allows Victims of Crime
7 Act funds to be used to do so. Federal guidelines identify elders
8 and dependent adults as being underserved in this area.

9 (f) Many states already provide assistance to victims of financial
10 crimes, including Colorado, Florida, Idaho, New Jersey, New
11 York, Oklahoma, Pennsylvania, Vermont, and Wyoming.

12 ~~(g) There is currently a lack of data on the demand for victim
13 services, including mental health and financial counseling, by
14 elderly and dependent adult victims of financial crimes. This
15 information is needed to develop policies and resources for this
16 underserved population.~~

17 *(g) Elderly and dependent adult victims who lack the means to
18 recover or replace misappropriated assets or property often suffer
19 severe consequences including failing health; severe anxiety,
20 depression, and hopelessness; and dependence on public
21 assistance. Research has shown the benefits of mental health and
22 financial counseling in helping these victims remain independent
23 and regain the confidence to take perpetrators to court.*

24 (h) A pilot program is needed to provide the Legislature with
25 data on the demand for victim services, including mental health
26 and financial counseling, by this population and the costs and
27 outcomes of these services. The collection of this data could further
28 help the state track the types and frequency of financial crimes
29 against elder and dependent adults, identify services that are most
30 needed by victims and the rates at which these services are utilized,
31 and establish best practice protocols for serving these victims.

32 ~~(i) The County of San Diego has one of the largest retiree
33 populations in the state. Population projections show that between
34 the years 2000 and 2030, the population of those who are 60 years
35 of age or older will increase by 130 percent. Furthermore, the
36 County of San Diego has a high number of reported elder and
37 dependent adult financial abuse cases, and this number will only
38 increase as our population ages.~~

39 ~~(j) The district attorney of the County of San Diego and aging
40 services providers report high numbers of financial abuse cases;~~

1 often involving many thousands of dollars and hundreds of victims.
2 Many financial crimes and scams are not prosecuted because the
3 perpetrators are operating from other countries or because law
4 enforcement fails to accept and investigate reports out of a mistaken
5 belief that these are civil matters:

6 ~~(k) Elderly and dependent adult victims who lack the means to~~
7 ~~recover or replace misappropriated assets or property often suffer~~
8 ~~severe consequences including failing health; severe anxiety,~~
9 ~~depression, and hopelessness; and dependence on public assistance.~~
10 ~~Research has shown the benefits of mental health and financial~~
11 ~~counseling in helping these victims remain independent and regain~~
12 ~~the confidence to take perpetrators to court.~~

13 ~~(t)~~

14 (i) The County of San Diego is well-situated to provide victims
15 of elder and dependent adult financial abuse with access to services,
16 including mental health and financial counseling. ~~The county's~~
17 ~~prosecution unit is among the most aggressive in the state in~~
18 ~~pursuing financial crimes and works closely with Adult Protective~~
19 ~~Services and the Long Term Care Ombudsman.~~ The county's
20 Financial Abuse Specialist Team (FAST), which provides expertise
21 to law enforcement, adult protective services, and others in
22 investigating cases of elder and dependent adult financial abuse,
23 would provide another avenue to identify victims in need of
24 immediate support services following victimization.

25 SEC. 2. Article 7 (commencing with Section 13967) is added
26 to Chapter 5 of Part 4 of Division 3 of Title 2 of the Government
27 Code, to read:

28
29 Article 7. San Diego County Elder or Dependent Adult Financial
30 Abuse Crime Victim Compensation Pilot Program

31
32 13967. (a) The San Diego County Elder or Dependent Adult
33 Financial Abuse Crime Victim Compensation Pilot Program is
34 hereby established.

35 (b) Notwithstanding Section 13955, and except as otherwise
36 provided in subdivision (c), a person who meets the requirements
37 listed in subdivision (a) of Section 13955, shall be eligible for
38 compensation under subdivision (d) if he or she was a victim of a
39 violation of subdivision (d) or (e) of Section 368 of the Penal Code,
40 and the crime occurred in the County of San Diego.

1 (c) A person shall not be eligible for compensation pursuant to
2 subdivision (b) if he or she is a derivative victim and the only crime
3 the victim suffered is elder or dependent adult abuse described in
4 subdivision (d) or (e) of Section 368 of the Penal Code.

5 (d) Notwithstanding Section 13957, the board may grant for
6 pecuniary loss, upon appropriation by the ~~Legislature~~, *Legislature*
7 *before January 1, 2019*, if the board determines it will best aid the
8 person seeking compensation to reimburse the expense of financial
9 counseling, mental health counseling, or supportive services for a
10 victim of a crime described in subdivision (d) or (e) of Section
11 368 of the Penal Code or financial abuse as defined by Section
12 15610.30 of the Welfare and Institutions Code, that occurred in
13 the County of San Diego, as follows, up to a total of not more than
14 five thousand dollars (\$5,000) per person:

15 (1) The cost of not more than 10 sessions of financial counseling
16 provided by a financial counselor, as described in the Victims of
17 Crime Act Victim Compensation Grant Program (66 F.R.
18 27158-01), or an adviser providing services such as analysis of a
19 victim’s financial situation, including income-producing capacity
20 and crime-related financial obligations, assistance with
21 restructuring budget and debt, assistance in accessing insurance,
22 public assistance, and other benefits, and assistance in completing
23 the financial aspects of victim impact statements.

24 (2) The cost of not more than 10 sessions of mental health
25 counseling.

26 (3) The cost of supportive services, including, but not limited
27 to, all of the following:

28 (A) Cognitive assessment for the purpose of determining
29 additional service needs.

30 (B) Emergency shelter or rehousing.

31 (C) Transportation to appointments.

32 (e) Compensation pursuant to subdivision (d) shall not exceed
33 an aggregate total of one million dollars (\$1,000,000) for all
34 persons compensated pursuant to the San Diego County Elder or
35 Dependent Adult Financial Abuse Crime Victim Compensation
36 Pilot Program.

37 (f) *This section shall become inoperative on January 1, 2020.*

38 *13967.1. (a) On or before July 1, 2020, the California Victim*
39 *Compensation and Government Claims Board shall report to the*
40 *Legislature and Governor all of the following:*

1 (1) *The number of victims who received payments pursuant to*
2 *this article.*

3 (2) *The number of victims who received mental health*
4 *counseling.*

5 (3) *The average payment for mental health counseling per*
6 *recipient.*

7 (4) *The number of victims who received financial counseling.*

8 (5) *The average payment for financial counseling per recipient.*

9 (6) *Any other data on the pilot program that the board wishes*
10 *to include.*

11 (b) *A report to be submitted pursuant to subdivision (a) shall*
12 *be submitted in compliance with Section 9795 of the Government*
13 *Code.*

14 13967.5. This article shall remain in effect only until January
15 1, ~~2019~~, 2021, and as of that date is repealed.

16 SEC. 3. The Legislature finds and declares that a special law
17 is necessary and that a general law cannot be made applicable
18 within the meaning of Section 16 of Article IV of the California
19 Constitution because of the unique circumstances in the County
20 of San Diego where a high number of reported elder and dependent
21 adult financial abuse crimes occur. The County of San Diego is
22 well-suited for a pilot program that would allow the Legislature
23 to gather data on the demand for victim services, including mental
24 health and financial counseling, by elderly and dependent adult
25 victims of financial crimes so as to effectively develop policies
26 and resources for this underserved population. Furthermore, the
27 County of San Diego is well-situated to provide victims of elder
28 and dependent adult financial abuse with access to the mental
29 health and financial counseling services due in part to the existence
30 of its Financial Abuse Specialist Team (FAST), which investigates
31 cases of elder and dependent adult financial abuse.

32 SEC. 4. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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