

AMENDED IN ASSEMBLY MARCH 16, 2016

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 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~~ \$3,000 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, 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

1 abuse has a decreased projected lifespan when compared to elders
2 who have not suffered that exploitation.

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

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

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

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

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

29 (i) The County of San Diego is well-situated to provide victims
30 of elder and dependent adult financial abuse with access to services,
31 including mental health and financial counseling. ~~The county's~~
32 ~~Financial Abuse Specialist Team (FAST), which provides expertise~~
33 ~~to law enforcement, adult protective services, and others in~~
34 ~~investigating cases of elder and dependent adult financial abuse,~~
35 ~~would provide another avenue to identify victims in need of~~
36 ~~immediate support services following victimization.~~

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

1 Article 7. San Diego County Elder or Dependent Adult Financial
2 Abuse Crime Victim Compensation Pilot Program

3
4 13967. (a) The San Diego County Elder or Dependent Adult
5 Financial Abuse Crime Victim Compensation Pilot Program is
6 hereby established.

7 (b) Notwithstanding Section 13955, and except as otherwise
8 provided in subdivision (c), a person who meets the requirements
9 listed in subdivision (a) of Section 13955, shall be eligible for
10 compensation under subdivision (d) if he or she was a victim of a
11 violation of subdivision (d) or (e) of Section 368 of the Penal Code,
12 and the crime occurred in the County of San Diego.

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

17 (d) Notwithstanding Section 13957, the board may grant for
18 pecuniary loss, upon appropriation by the Legislature before
19 January 1, 2019, if the board determines it will best aid the person
20 seeking compensation to reimburse the expense of financial
21 counseling, mental health counseling, or supportive services for a
22 victim of a crime described in subdivision (d) or (e) of Section
23 368 of the Penal Code or financial abuse as defined by Section
24 15610.30 of the Welfare and Institutions Code, that occurred in
25 the County of San Diego, as follows, up to a total of not more than
26 ~~five~~ *three* thousand dollars ~~(\$5,000)~~ *(\$3,000)* per person:

27 (1) The cost of not more than 10 sessions of financial counseling
28 provided by a financial counselor, as described in the Victims of
29 Crime Act Victim Compensation Grant Program (66 F.R.
30 27158-01), or an adviser providing services such as analysis of a
31 victim’s financial situation, including income-producing capacity
32 and crime-related financial obligations, assistance with
33 restructuring budget and debt, assistance in accessing insurance,
34 public assistance, and other benefits, and assistance in completing
35 the financial aspects of victim impact statements.

36 (2) The cost of not more than 10 sessions of mental health
37 counseling.

38 ~~(3) The cost of supportive services, including, but not limited~~
39 ~~to, all of the following:~~

1 ~~(A) Cognitive assessment for the purpose of determining~~
2 ~~additional service needs.~~

3 ~~(B) Emergency shelter or rehousing.~~

4 ~~(C) Transportation to appointments.~~

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

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

11 13967.1. (a) On or before July 1, 2020, the California Victim
12 Compensation and Government Claims Board shall report to the
13 Legislature and Governor all of the following:

14 (1) The number of victims who received payments pursuant to
15 this article.

16 (2) The number of victims who received mental health
17 counseling.

18 (3) The average payment for mental health counseling per
19 recipient.

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

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

22 (6) Any other data on the pilot program that the board wishes
23 to include.

24 (b) A report to be submitted pursuant to subdivision (a) shall
25 be submitted in compliance with Section 9795 of the Government
26 Code.

27 13967.5. This article shall remain in effect only until January
28 1, 2021, and as of that date is repealed.

29 SEC. 3. The Legislature finds and declares that a special law
30 is necessary and that a general law cannot be made applicable
31 within the meaning of Section 16 of Article IV of the California
32 Constitution because of the unique circumstances in the County
33 of San Diego where a high number of reported elder and dependent
34 adult financial abuse crimes occur. The County of San Diego is
35 well-suited for a pilot program that would allow the Legislature
36 to gather data on the demand for victim services, including mental
37 health and financial counseling, by elderly and dependent adult
38 victims of financial crimes so as to effectively develop policies
39 and resources for this underserved population. ~~Furthermore, the~~
40 ~~County of San Diego is well-situated to provide victims of elder~~

1 ~~and dependent adult financial abuse with access to the mental~~
2 ~~health and financial counseling services due in part to the existence~~
3 ~~of its Financial Abuse Specialist Team (FAST), which investigates~~
4 ~~cases of elder and dependent adult financial abuse.~~

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.