

ASSEMBLY BILL

No. 2160

Introduced by Assembly Member Bonta

February 17, 2016

An act to amend Sections 13955, 13957, and 13957.5 of the Government Code, relating to crime victims, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, as introduced, Bonta. Crime victims: compensation for pecuniary loss.

Existing law governs the procedure by which crime victims may obtain compensation from the Restitution Fund, a continuously appropriated fund. Existing law establishes eligibility for compensation when prescribed requirements are met and authorizes the California Victim Compensation and Government Claims Board to grant compensation from the fund for pecuniary loss when the board determines it will best aid the person seeking compensation, including expenses for psychiatric, psychological, or other mental health counseling-related services if the services were provided by specific individuals. Existing law establishes requirements and sets specific monetary caps for certain payments or reimbursements relating to relocation. Existing law governs the award of compensation by the board for loss of income and support.

This bill would expand eligibility for compensation to include a victim or derivative victim that sustained emotional injury as a direct result of specific crimes relating to obscene matter. The bill would authorize the grant of compensation for expenses for psychiatric, psychological, or other mental health counseling-related services if the services were

provided by a person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board’s approval and subject to limitations and restrictions as imposed by the board. The bill would revise eligibility for relocation reimbursement or payments and increase monetary caps. The bill would revise those loss of income and support provisions to additionally authorize the grant of compensation for specific costs incurred by victims.

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

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 13955 of the Government Code is
- 2 amended to read:
- 3 13955. Except as provided in Section 13956, a person shall be
- 4 eligible for compensation when all of the following requirements
- 5 are met:
- 6 (a) The person for whom compensation is being sought is any
- 7 of the following:
- 8 (1) A victim.
- 9 (2) A derivative victim.
- 10 (3) (A) A person who is entitled to reimbursement for funeral,
- 11 burial, or crime scene cleanup expenses pursuant to paragraph (8)
- 12 or (9) ~~or (10)~~ of subdivision (a) of Section 13957.
- 13 (B) This paragraph applies without respect to any felon status
- 14 of the victim.
- 15 (b) Either of the following conditions is met:
- 16 (1) The crime occurred in California. This paragraph shall apply
- 17 only during those time periods during which the board determines
- 18 that federal funds are available to the state for the compensation
- 19 of victims of crime.
- 20 (2) Whether or not the crime occurred in California, the victim
- 21 was any of the following:
- 22 (A) A resident of California.
- 23 (B) A member of the military stationed in California.

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

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

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

8 (2) At the time of the crime was living in the household of the
9 victim.

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

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

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

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

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

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

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

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

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

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

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

39 (F) Caused by any party where a peace officer is operating a
40 motor vehicle in an effort to apprehend a suspect, and the suspect

1 is evading, fleeing, or otherwise attempting to elude the peace
2 officer.

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

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

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

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

14 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
15 288a, 288.5, 289, 311.1, 311.2, 311.3, 311.4, or ~~653.2, or~~
16 ~~subdivision (b) or (c) of Section 311.4, 653.2~~ of the Penal Code.

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

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

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

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

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

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

35 SEC. 2. Section 13957 of the Government Code is amended
36 to read:

37 13957. (a) The board may grant for pecuniary loss, when the
38 board determines it will best aid the person seeking compensation,
39 as follows:

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

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

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

22 (i) A victim.

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

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

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

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

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

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

13 (D) Expenses for psychiatric, psychological, or other mental
14 health counseling-related services may be reimbursed only if the
15 services were provided by ~~either of the following individuals: a~~
16 *person who is licensed by the state to provide those services, or*
17 *who is properly supervised by a person who is so licensed, subject*
18 *to the board's approval and subject to limitations and restrictions*
19 *as imposed by the board.*

20 ~~(i) A person who would have been authorized to provide those~~
21 ~~services pursuant to former Article 1 (commencing with Section~~
22 ~~13959) as it read on January 1, 2002.~~

23 ~~(ii) A person who is licensed in California to provide those~~
24 ~~services, or who is properly supervised by a person who is licensed~~
25 ~~in California to provide those services, subject to the board's~~
26 ~~approval and subject to the limitations and restrictions the board~~
27 ~~may impose.~~

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

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

1 (5) Reimburse the expense of installing or increasing residential
2 security, not to exceed ~~one two thousand dollars~~ *(\$1,000)*; *(\$2,000)*.
3 Installing or increasing residential security may include, but need
4 not be limited to, both of the following:
5 (A) Home security device or system.
6 (B) Replacing or increasing the number of locks.
7 (6) Reimburse the expense of renovating or retrofitting a
8 victim's residence, or the expense of modifying or purchasing a
9 vehicle, to make the residence or the vehicle accessible or
10 operational by a victim upon verification that the expense is
11 medically necessary for a victim who is permanently disabled as
12 a direct result of the crime, whether the disability is partial or total.
13 (7) (A) Authorize a cash payment or reimbursement not to
14 exceed ~~two thousand~~ *four thousand five hundred* dollars ~~(\$2,000)~~
15 *(\$4,500)* to a victim for expenses incurred in relocating, if the
16 expenses are determined by law enforcement to be necessary for
17 the personal safety of the ~~victim~~ *or victim*, by a mental health
18 treatment provider to be necessary for the emotional well-being
19 of the *victim*, *or by a doctor of medicine or doctor of osteopathic*
20 *medicine to be a medical necessity for the victim*.
21 (B) The cash payment or reimbursement made under this
22 paragraph shall only be awarded to one claimant per crime giving
23 rise to the relocation. The board may authorize more than one
24 relocation per crime if necessary for the personal safety or
25 emotional well-being of the claimant. However, the total cash
26 payment or reimbursement for all relocations due to the same crime
27 shall not exceed ~~two thousand~~ *four thousand five hundred* dollars
28 ~~(\$2,000)~~; *(\$4,500)*. For purposes of this paragraph a claimant is
29 the crime victim, or, if the victim is deceased, a person who resided
30 with the deceased at the time of the crime.
31 ~~(C) The board may, under compelling circumstances, award a~~
32 ~~second cash payment or reimbursement to a victim for another~~
33 ~~crime if both of the following conditions are met:~~
34 ~~(i) The crime occurs more than three years from the date of the~~
35 ~~crime giving rise to the initial relocation cash payment or~~
36 ~~reimbursement.~~
37 ~~(ii) The crime does not involve the same offender.~~
38 ~~(D)~~
39 (C) When a relocation payment or reimbursement is provided
40 to a victim of sexual assault or domestic violence and the identity

1 of the offender is known to the victim, the victim shall agree not
2 to inform the offender of the location of the victim’s new residence
3 and not to allow the offender on the premises at any time, or shall
4 agree to seek a restraining order against the offender. A victim
5 *may be found ineligible for relocation or* may be required to repay
6 the relocation payment or reimbursement to the board if he or she
7 violates the terms set forth in this paragraph.

8 ~~(E)~~

9 (D) Notwithstanding subparagraphs (A) and (B), the board may
10 increase the cash payment or reimbursement for expenses incurred
11 in relocating to an amount greater than ~~two thousand~~ *four thousand*
12 *five hundred* dollars ~~(\$2,000)~~, (\$4,500), if the board finds this
13 amount is appropriate due to the unusual, dire, or exceptional
14 circumstances of a particular claim.

15 ~~(F)~~

16 (E) If a security deposit is required for relocation, the board
17 shall be named as the recipient and receive the funds upon
18 expiration of the victim’s rental agreement.

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

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

26 (B) The funeral and burial expenses incurred as a direct result
27 of the crime, not to exceed seven thousand five hundred dollars
28 (\$7,500). The board shall not create or comply with a regulation
29 or policy that mandates a lower maximum potential amount of an
30 award pursuant to this subparagraph for less than seven thousand
31 five hundred dollars (\$7,500).

32 (9) When the crime occurs in a residence or inside a vehicle,
33 the board may reimburse any individual who voluntarily, and
34 without anticipation of personal gain, pays or assumes the
35 obligation to pay the reasonable costs to clean the scene of the
36 crime in an amount not to exceed ~~one~~ *two* thousand dollars
37 ~~(\$1,000)~~. (\$2,000). Services reimbursed pursuant to this subdivision
38 shall be performed by persons registered with the State Department
39 of Public Health as trauma scene waste practitioners in accordance

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

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

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

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

20 SEC. 3. Section 13957.5 of the Government Code is amended
21 to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (5) *Compensate adult derivative victims of deceased victims for*
20 *a maximum of five consecutive calendar days of income loss due*
21 *to the grief suffered over a deceased victim.*

22 (6) *An adult victim of domestic violence who suffers a loss of*
23 *financial support from the offender may receive up to five hundred*
24 *dollars (\$500) per week for a maximum of five weeks immediately*
25 *following the crime. The victim and offender shall have resided*
26 *together at the time of the qualifying crime and no longer reside*
27 *together, and the victim shall not have received compensation for*
28 *income loss during this five week period.*

29 (7) *Compensate adult direct victims for income loss when it is*
30 *necessary for them to miss work due to:*

31 (A) *Medical or mental health appointments for injuries directly*
32 *related to the qualifying crime.*

33 (B) *Attending meetings with the District Attorney's Office or*
34 *other prosecutorial agency, or attending criminal court*
35 *proceedings, directly related to the qualifying crime. The*
36 *claimant's attendance must be verified in writing by a court*
37 *employee or an employee at the prosecutorial office.*

38 (C) *Incidental appointments directly related to the qualifying*
39 *crime. Income loss for incidental crime related appointments shall*
40 *not exceed one thousand dollars (\$1,000).*

1 (8) *Compensate adult derivative victims for income loss when*
2 *it is necessary for them to miss work due to taking a minor direct*
3 *victim to an appointment described by subparagraphs (A), (B),*
4 *and (C) of paragraph (7).*

5 (9) *Notwithstanding the limitations set forth by paragraph (1),*
6 *income loss resulting from appointments described by*
7 *subparagraphs (A), (B), and (C) of paragraph (7) may be paid for*
8 *any date following the qualifying crime.*

9 (10) *Compensate child care costs for adult direct victims or*
10 *adult derivative victims when they are necessary due to*
11 *appointments as described by subparagraphs (A), (B), and (C) of*
12 *paragraph (7).*

13 (11) *Compensate transportation costs for adult direct victims*
14 *or adult derivative victims associated with appointments as*
15 *described by subparagraphs (A), (B), and (C) of paragraph (7).*
16 *Mileage reimbursement shall be paid at the rate set forth by the*
17 *Department of Human Resources for state employees.*

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