

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 519**

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**Introduced by Senator Hancock  
(Coauthor: Senator Leno)**

February 26, 2015

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~~An act to amend Sections 13952, 13956, 13957, 13958, and 13959 of the Government Code, and to amend Section 1202.4 of the Penal Code, relating to victims of crime, and making an appropriation therefor; add Section 3051.1 to the Penal Code, relating to parole.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as amended, Hancock. ~~Victims of crime. Youth offender parole hearings.~~

*Existing law generally requires the Board of Parole Hearings to conduct youth offender parole hearings to consider the release of offenders who committed specified crimes when they were under 18 years of age and who were sentenced to state prison.*

*This bill would change the dates by which the board is required to complete certain youth offender parole hearings. The bill would become operative only if SB 261 is enacted and takes effect on or before January 1, 2016.*

~~(1) Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of~~

~~applications, eligibility for emergency awards and compensation for specified services, and procedures for hearings with respect to the denial of awards. Existing law requires the board to publicize programs related to these provisions, including, among others, the procedures to obtain compensation from the board. Payment of claims and certain programs administered by the board are made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.~~

~~This bill would require all correspondence by the board to an applicant to be written in English, Spanish, Chinese (Mandarin and Cantonese), Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Hmong, and Khmer. The bill would prohibit the board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation.~~

~~(2) Existing law authorizes the board to compensate an individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay a crime victim's funeral and burial expenses, up to \$7,500, incurred as a direct result of the crime.~~

~~This bill would prohibit any regulation or policy by the board creating a maximum amount of an award pursuant to this provision for less than \$7,500.~~

~~(3) Existing law requires an application for compensation to be denied if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing a crime. Existing law also requires an application for compensation to be denied if a person has been convicted of a felony and is not discharged from probation.~~

~~This bill would prohibit a claim from being denied pursuant to these provisions in any case in which the victim is eligible for compensation as a minor. This bill would also remove the prohibition against granting compensation to a person convicted of a felony, but not discharged from parole, if the compensation is solely used to fund mental health counseling. By expanding the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.~~

~~(4) Existing law requires the board to approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the~~

board or victim center, and to report to the Legislature if the board fails to do so, as specified.

~~This bill would require the board to approve or deny applications within 90 days total and modifies the reporting requirements accordingly.~~

~~(5) Existing law requires board hearings to be informal and authorizes these hearings to not be conducted according to the technical rules relating to evidences.~~

~~This bill would require the board to allow a service animal to accompany and support a witness while testifying at a board hearing.~~

~~(6) Existing law requires the court to order a person who is convicted of a crime to pay restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law provides the defendant the right to a hearing before a judge to dispute the determination of the amount of restitution and authorizes the court to modify the amount of restitution.~~

~~This bill would authorize a victim at a restitution or modification hearing to testify by live, 2-way audio and video transmission, if that type of transmission is available at the court.~~

~~(7) By expanding the authorizations for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.~~

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: no.

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

- 1     SECTION 1. Section 3051.1 is added to the Penal Code, to
- 2     read:
- 3     3051.1. (a) Notwithstanding subdivision (i) of Section 3051,
- 4     the board shall complete all youth offender parole hearings for
- 5     individuals who were sentenced to indeterminate life terms and
- 6     who become entitled to have their parole suitability considered at
- 7     a youth offender parole hearing on the effective date of the act
- 8     that added subparagraph (A) of paragraph (2) of subdivision (i)
- 9     of Section 3051 by January 1, 2018.
- 10    (b) Notwithstanding subdivision (i) of Section 3051, the board
- 11    shall complete all youth offender parole hearings for individuals
- 12    who were sentenced to determinate terms and who become entitled

1 to have their parole suitability considered at a youth offender  
 2 parole hearing on the effective date of the act that added  
 3 subparagraph (B) of paragraph (2) of subdivision (i) of Section  
 4 3051 by December 31, 2021. The board shall, for all individuals  
 5 described in this subdivision, conduct the consultation described  
 6 in subdivision (a) of Section 3041 before January 1, 2018.

7 SEC. 2. This act shall become operative only if Senate Bill 261  
 8 is enacted and takes effect on or before January 1, 2016.

9 SECTION 1. Section 13952 of the Government Code is  
 10 amended to read:

11 13952. (a) An application for compensation shall be filed with  
 12 the board in the manner determined by the board.

13 (b) (1) The application for compensation shall be verified under  
 14 penalty of perjury by the individual who is seeking compensation,  
 15 who may be the victim or derivative victim, or an individual  
 16 seeking reimbursement for burial, funeral, or crime scene cleanup  
 17 expenses pursuant to subdivision (a) of Section 13957. If the  
 18 individual seeking compensation is a minor or is incompetent, the  
 19 application shall be verified under penalty of perjury or on  
 20 information and belief by the parent with legal custody, guardian,  
 21 conservator, or relative caregiver of the victim or derivative victim  
 22 for whom the application is made. However, if a minor seeks  
 23 compensation only for expenses for medical, medical-related,  
 24 psychiatric, psychological, or other mental health  
 25 counseling-related services and the minor is authorized by statute  
 26 to consent to those services, the minor may verify the application  
 27 for compensation under penalty of perjury.

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

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

36 (2) The staff of the board shall determine whether an application  
 37 for compensation contains all of the information required by the  
 38 board. If the staff determines that an application does not contain  
 39 all of the required information, the staff shall communicate that  
 40 determination to the applicant with a brief statement of the

1 additional information required. The applicant, within 30 calendar  
2 days of being notified that the application is incomplete, may either  
3 supply the additional information or appeal the staff's  
4 determination to the board, which shall review the application to  
5 determine whether it is complete.

6 ~~(3) The board shall not require an applicant to submit~~  
7 ~~documentation from the Internal Revenue Service, the Franchise~~  
8 ~~Tax Board, the State Board of Equalization, the Social Security~~  
9 ~~Administration, or the Employment Development Department in~~  
10 ~~order to determine eligibility for compensation.~~

11 ~~(d) (1) The board may recognize an authorized representative~~  
12 ~~of the victim or derivative victim, who shall represent the victim~~  
13 ~~or derivative victim pursuant to rules adopted by the board.~~

14 ~~(2) For purposes of this subdivision, "authorized representative"~~  
15 ~~means any of the following:~~

16 ~~(A) An attorney.~~

17 ~~(B) If the victim or derivative victim is a minor or an~~  
18 ~~incompetent adult, the legal guardian or conservator, or an~~  
19 ~~immediate family member, parent, or relative caregiver who is not~~  
20 ~~the perpetrator of the crime that gave rise to the claim.~~

21 ~~(C) A victim assistance advocate certified pursuant to Section~~  
22 ~~13835.10 of the Penal Code.~~

23 ~~(D) An immediate family member of the victim or derivative~~  
24 ~~victim, who has written authorization by the victim or derivative~~  
25 ~~victim, and who is not the perpetrator of the crime that gave rise~~  
26 ~~to the claim.~~

27 ~~(E) Other persons who shall represent the victim or derivative~~  
28 ~~victim pursuant to rules adopted by the board.~~

29 ~~(F) A county social worker designated by a county department~~  
30 ~~of social services to represent a child abuse victim or an elder~~  
31 ~~abuse victim if that victim is unable to file on his or her own behalf.~~

32 ~~(3) Except for attorney's fees awarded under this chapter, no~~  
33 ~~authorized representative described in paragraph (2) shall charge,~~  
34 ~~demand, receive, or collect any amount for services rendered under~~  
35 ~~this subdivision.~~

36 ~~(e) All correspondence by the board to an applicant shall be~~  
37 ~~written in English, Spanish, Chinese (Mandarin and Cantonese),~~  
38 ~~Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic,~~  
39 ~~Farsi, Hmong, and Khmer.~~

1     ~~SEC. 2. Section 13956 of the Government Code is amended~~  
2     ~~to read:~~

3     ~~13956. Notwithstanding Section 13955, a person shall not be~~  
4     ~~eligible for compensation under the following conditions:~~

5     ~~(a) An application shall be denied if the board finds that the~~  
6     ~~victim or, if compensation is sought by or on behalf of a derivative~~  
7     ~~victim, either the victim or derivative victim, knowingly and~~  
8     ~~willingly participated in the commission of the crime that resulted~~  
9     ~~in the pecuniary loss for which compensation is being sought~~  
10    ~~pursuant to this chapter. However, this subdivision shall not apply~~  
11    ~~if the injury or death occurred as a direct result of a crime~~  
12    ~~committed in violation of Section 261, 262, or 273.5 of, or a crime~~  
13    ~~of unlawful sexual intercourse with a minor committed in violation~~  
14    ~~of subdivision (d) of Section 261.5 of, the Penal Code.~~

15    ~~(b) (1) An application shall be denied if the board finds that~~  
16    ~~the victim or, if compensation is sought by, or on behalf of, a~~  
17    ~~derivative victim, either the victim or derivative victim failed to~~  
18    ~~cooperate reasonably with a law enforcement agency in the~~  
19    ~~apprehension and conviction of a criminal committing the crime.~~  
20    ~~However, in determining whether cooperation has been reasonable,~~  
21    ~~the board shall consider the victim's or derivative victim's age,~~  
22    ~~physical condition, and psychological state, cultural or linguistic~~  
23    ~~barriers, any compelling health and safety concerns, including, but~~  
24    ~~not limited to, a reasonable fear of retaliation or harm that would~~  
25    ~~jeopardize the well-being of the victim or the victim's family or~~  
26    ~~the derivative victim or the derivative victim's family, and giving~~  
27    ~~due consideration to the degree of cooperation of which the victim~~  
28    ~~or derivative victim is capable in light of the presence of any of~~  
29    ~~these factors. An application for a claim shall not be denied~~  
30    ~~pursuant to this paragraph in any case in which the victim is eligible~~  
31    ~~for compensation as a minor.~~

32    ~~(2) An application for a claim based on domestic violence shall~~  
33    ~~not be denied solely because no police report was made by the~~  
34    ~~victim. The board shall adopt guidelines that allow the board to~~  
35    ~~consider and approve applications for assistance based on domestic~~  
36    ~~violence relying upon evidence other than a police report to~~  
37    ~~establish that a domestic violence crime has occurred. Factors~~  
38    ~~evidencing that a domestic violence crime has occurred may~~  
39    ~~include, but are not limited to, medical records documenting~~  
40    ~~injuries consistent with allegations of domestic violence, mental~~

1 health records, or the fact that the victim has obtained a temporary  
2 or permanent restraining order, or all of these.

3 ~~(3) An application for a claim based on human trafficking as~~  
4 ~~defined in Section 236.1 of the Penal Code shall not be denied~~  
5 ~~solely because no police report was made by the victim. The board~~  
6 ~~shall adopt guidelines that allow the board to consider and approve~~  
7 ~~applications for assistance based on human trafficking relying~~  
8 ~~upon evidence other than a police report to establish that a human~~  
9 ~~trafficking crime as defined in Section 236.1 of the Penal Code~~  
10 ~~has occurred. That evidence may include any reliable corroborating~~  
11 ~~information approved by the board, including, but not limited to,~~  
12 ~~the following:~~

13 ~~(A) A Law Enforcement Agency Endorsement issued pursuant~~  
14 ~~to Section 236.2 of the Penal Code.~~

15 ~~(B) A human trafficking caseworker, as identified in Section~~  
16 ~~1038.2 of the Evidence Code, has attested by affidavit that the~~  
17 ~~individual was a victim of human trafficking.~~

18 ~~(4) (A) An application for a claim by a military personnel victim~~  
19 ~~based on a sexual assault by another military personnel shall not~~  
20 ~~be denied solely because it was not reported to a superior officer~~  
21 ~~or law enforcement at the time of the crime.~~

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

25 ~~(i) Restricted or unrestricted reports to a military victim~~  
26 ~~advocate, sexual assault response coordinator, chaplain, attorney,~~  
27 ~~or other military personnel.~~

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

29 ~~(iii) A written or oral report from military law enforcement or~~  
30 ~~a civilian law enforcement agency concluding that a sexual assault~~  
31 ~~crime was committed against the victim.~~

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

36 ~~(v) A credible witness to whom the victim disclosed the details~~  
37 ~~that a sexual assault crime occurred.~~

38 ~~(vi) A restraining order from a military or civilian court against~~  
39 ~~the perpetrator of the sexual assault.~~

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

1     ~~(C) For purposes of this subdivision, the sexual assault at issue~~  
2 ~~shall have occurred during military service, including deployment.~~  
3     ~~(D) For purposes of this subdivision, the sexual assault may~~  
4 ~~have been committed off base.~~  
5     ~~(E) For purposes of this subdivision, a “perpetrator” means an~~  
6 ~~individual who is any of the following at the time of the sexual~~  
7 ~~assault:~~  
8     ~~(i) An active duty military personnel from the United States~~  
9 ~~Army, Navy, Marine Corps, Air Force, or Coast Guard.~~  
10    ~~(ii) A civilian employee of any military branch specified in~~  
11 ~~clause (i), military base, or military deployment.~~  
12    ~~(iii) A contractor or agent of a private military or private security~~  
13 ~~company.~~  
14    ~~(iv) A member of the California National Guard.~~  
15     ~~(F) For purposes of this subdivision, “sexual assault” means an~~  
16 ~~offense included in Section 261, 262, 264.1, 286, 288a, or 289 of~~  
17 ~~the Penal Code, as of the date the act that added this paragraph~~  
18 ~~was enacted.~~  
19     ~~(e) An application for compensation may be denied, in whole~~  
20 ~~or in part, if the board finds that denial is appropriate because of~~  
21 ~~the nature of the victim’s or other applicant’s involvement in the~~  
22 ~~events leading to the crime or the involvement of the persons whose~~  
23 ~~injury or death gives rise to the application. In the case of a minor,~~  
24 ~~the board shall consider the minor’s age, physical condition, and~~  
25 ~~psychological state, as well as any compelling health and safety~~  
26 ~~concerns, in determining whether the minor’s application should~~  
27 ~~be denied pursuant to this section. The application of a derivative~~  
28 ~~victim of domestic violence under 18 years of age or a derivative~~  
29 ~~victim of trafficking under 18 years of age may not be denied on~~  
30 ~~the basis of the denial of the victim’s application under this~~  
31 ~~subdivision.~~  
32     ~~(d) (1) Notwithstanding Section 13955, a person who is~~  
33 ~~convicted of a felony shall not be granted compensation until that~~  
34 ~~person has been discharged from probation or has been released~~  
35 ~~from a correctional institution and has been discharged from parole,~~  
36 ~~if any, unless the compensation is solely used to fund mental health~~  
37 ~~counseling. In no case shall compensation be granted to an~~  
38 ~~applicant pursuant to this chapter during any period of time the~~  
39 ~~applicant is held in a correctional institution.~~

1     ~~(2) A person who has been convicted of a felony may apply for~~  
2     ~~compensation pursuant to this chapter at any time, but the award~~  
3     ~~of that compensation may not be considered until the applicant~~  
4     ~~meets the requirements for compensation set forth in paragraph~~  
5     ~~(1).~~

6     ~~(3) Applications of victims who are not felons shall receive~~  
7     ~~priority in the award of compensation over an application submitted~~  
8     ~~by a felon who has met the requirements for compensation set~~  
9     ~~forth in paragraph (1).~~

10    ~~SEC. 3. Section 13957 of the Government Code is amended~~  
11    ~~to read:~~

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

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

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

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

35    ~~(i) A victim.~~

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

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

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

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

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

13 (ii) A victim of a crime of unlawful sexual intercourse with a  
14 minor committed in violation of subdivision (d) of Section 261.5  
15 of the Penal Code. A derivative victim of a crime committed in  
16 violation of subdivision (d) of Section 261.5 of the Penal Code  
17 shall not be eligible for reimbursement of mental health counseling  
18 expenses.

19 (iii) A minor who suffers emotional injury as a direct result of  
20 witnessing a violent crime and who is not eligible for  
21 reimbursement of the costs of outpatient mental health counseling  
22 under any other provision of this chapter. To be eligible for  
23 reimbursement under this clause, the minor must have been in  
24 close proximity to the victim when he or she witnessed the crime.

25 (C) The board may reimburse a victim or derivative victim for  
26 outpatient mental health counseling in excess of that authorized  
27 by subparagraph (A) or (B) or for inpatient psychiatric,  
28 psychological, or other mental health counseling if the claim is  
29 based on dire or exceptional circumstances that require more  
30 extensive treatment, as approved by the board.

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

34 (i) A person who would have been authorized to provide those  
35 services pursuant to former Article 1 (commencing with Section  
36 13959) as it read on January 1, 2002.

37 (ii) A person who is licensed by the state to provide those  
38 services, or who is properly supervised by a person who is so  
39 licensed, subject to the board's approval and subject to the  
40 limitations and restrictions the board may impose.

1 ~~(3) Reimburse the expenses of nonmedical remedial care and~~  
2 ~~treatment rendered in accordance with a religious method of healing~~  
3 ~~recognized by state law.~~

4 ~~(4) Subject to the limitations set forth in Section 13957.5,~~  
5 ~~authorize compensation equal to the loss of income or loss of~~  
6 ~~support, or both, that a victim or derivative victim incurs as a direct~~  
7 ~~result of the victim's or derivative victim's injury or the victim's~~  
8 ~~death. If the victim or derivative victim requests that the board~~  
9 ~~give priority to reimbursement of loss of income or support, the~~  
10 ~~board may not pay medical expenses, or mental health counseling~~  
11 ~~expenses, except upon the request of the victim or derivative victim~~  
12 ~~or after determining that payment of these expenses will not~~  
13 ~~decrease the funds available for payment of loss of income or~~  
14 ~~support.~~

15 ~~(5) Authorize a cash payment to or on behalf of the victim for~~  
16 ~~job retraining or similar employment-oriented services.~~

17 ~~(6) Reimburse the claimant for the expense of installing or~~  
18 ~~increasing residential security, not to exceed one thousand dollars~~  
19 ~~(\$1,000). Reimbursement shall be made either upon verification~~  
20 ~~by law enforcement that the security measures are necessary for~~  
21 ~~the personal safety of the claimant or verification by a mental~~  
22 ~~health treatment provider that the security measures are necessary~~  
23 ~~for the emotional well-being of the claimant. For purposes of this~~  
24 ~~paragraph, a claimant is the crime victim, or, if the victim is~~  
25 ~~deceased, a person who resided with the deceased at the time of~~  
26 ~~the crime. Installing or increasing residential security may include,~~  
27 ~~but need not be limited to, both of the following:~~

28 ~~(A) Home security device or system.~~

29 ~~(B) Replacing or increasing the number of locks.~~

30 ~~(7) Reimburse the expense of renovating or retrofitting a~~  
31 ~~victim's residence or a vehicle, or both, to make the residence, the~~  
32 ~~vehicle, or both, accessible or the vehicle operational by a victim~~  
33 ~~upon verification that the expense is medically necessary for a~~  
34 ~~victim who is permanently disabled as a direct result of the crime,~~  
35 ~~whether the disability is partial or total.~~

36 ~~(8) (A) Authorize a cash payment or reimbursement not to~~  
37 ~~exceed two thousand dollars (\$2,000) to a victim for expenses~~  
38 ~~incurred in relocating, if the expenses are determined by law~~  
39 ~~enforcement to be necessary for the personal safety of the victim~~

1 or by a mental health treatment provider to be necessary for the  
2 emotional well-being of the victim.

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

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

16 ~~(i) The crime occurs more than three years from the date of the~~  
17 ~~crime giving rise to the initial relocation cash payment or~~  
18 ~~reimbursement.~~

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

20 ~~(D) When a relocation payment or reimbursement is provided~~  
21 ~~to a victim of sexual assault or domestic violence and the identity~~  
22 ~~of the offender is known to the victim, the victim shall agree not~~  
23 ~~to inform the offender of the location of the victim's new residence~~  
24 ~~and not to allow the offender on the premises at any time, or shall~~  
25 ~~agree to seek a restraining order against the offender.~~

26 ~~(E) Notwithstanding subparagraphs (A) and (B), the board may~~  
27 ~~increase the cash payment or reimbursement for expenses incurred~~  
28 ~~in relocating to an amount greater than two thousand dollars~~  
29 ~~(\$2,000), if the board finds this amount is appropriate due to the~~  
30 ~~unusual, dire, or exceptional circumstances of a particular claim.~~

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

35 ~~(A) The medical expenses incurred as a direct result of the crime~~  
36 ~~in an amount not to exceed the rates or limitations established by~~  
37 ~~the board.~~

38 ~~(B) The funeral and burial expenses incurred as a direct result~~  
39 ~~of the crime, not to exceed seven thousand five hundred dollars~~  
40 ~~(\$7,500). Any regulation or policy by the board creating a maximum~~

1 amount of an award pursuant to this provision for less than seven  
2 thousand five hundred dollars (\$7,500) is prohibited.

3 ~~(10) When the crime occurs in a residence, the board may~~  
4 ~~reimburse any individual who voluntarily, and without anticipation~~  
5 ~~of personal gain, pays or assumes the obligation to pay the~~  
6 ~~reasonable costs to clean the scene of the crime in an amount not~~  
7 ~~to exceed one thousand dollars (\$1,000). Services reimbursed~~  
8 ~~pursuant to this subdivision shall be performed by persons~~  
9 ~~registered with the State Department of Public Health as trauma~~  
10 ~~scene waste practitioners in accordance with Chapter 9.5~~  
11 ~~(commencing with Section 118321) of Part 14 of Division 104 of~~  
12 ~~the Health and Safety Code.~~

13 ~~(11) When the crime is a violation of Section 600.2 or 600.5 of~~  
14 ~~the Penal Code, the board may reimburse the expense of veterinary~~  
15 ~~services, replacement costs, or other reasonable expenses, as~~  
16 ~~ordered by the court pursuant to Section 600.2 or 600.5 of the~~  
17 ~~Penal Code, in an amount not to exceed ten thousand dollars~~  
18 ~~(\$10,000).~~

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 ~~SEC. 4. Section 13958 of the Government Code is amended~~  
24 ~~to read:~~

25 ~~13958. The board shall approve or deny applications, based~~  
26 ~~on recommendations of the board staff, within 90 calendar days~~  
27 ~~of acceptance by the board or victim center.~~

28 ~~(a) If the board does not meet the 90-day requirement prescribed~~  
29 ~~in this subdivision, the board shall, thereafter, report to the~~  
30 ~~Legislature, on a quarterly basis, its progress and its current average~~  
31 ~~time of processing applications. These quarterly reports shall~~  
32 ~~continue until the board meets the 90-day requirement for two~~  
33 ~~consecutive quarters.~~

34 ~~(b) If the board fails to approve or deny an individual application~~  
35 ~~within 90 days of the date it is accepted, pursuant to this~~  
36 ~~subdivision, the board shall advise the applicant and his or her~~  
37 ~~representative, in writing, of the reason for the failure to approve~~  
38 ~~or deny the application.~~

39 ~~SEC. 5. Section 13959 of the Government Code is amended~~  
40 ~~to read:~~

1     ~~13959. (a) The board shall grant a hearing to an applicant who~~  
2 ~~believes he or she is entitled to compensation pursuant to this~~  
3 ~~chapter to contest a staff recommendation to deny compensation~~  
4 ~~in whole or in part.~~

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

17     ~~(c) At the hearing, the person seeking compensation shall have~~  
18 ~~the burden of establishing, by a preponderance of the evidence,~~  
19 ~~the elements for eligibility under Section 13955.~~

20     ~~(d) Except as otherwise provided by law, in making~~  
21 ~~determinations of eligibility for compensation and in deciding~~  
22 ~~upon the amount of compensation, the board shall apply the law~~  
23 ~~in effect as of the date an application was submitted.~~

24     ~~(e) (1) The hearing shall be informal and need not be conducted~~  
25 ~~according to the technical rules relating to evidence and witnesses.~~  
26 ~~The board may rely on any relevant evidence if it is the sort of~~  
27 ~~evidence on which responsible persons are accustomed to rely in~~  
28 ~~the conduct of serious affairs, regardless of the existence of a~~  
29 ~~common law or statutory rule that might make improper the~~  
30 ~~admission of the evidence over objection in a civil action. The~~  
31 ~~board may rely on written reports prepared for the board, or other~~  
32 ~~information received, from public agencies responsible for~~  
33 ~~investigating the crime. If the applicant or the applicant's~~  
34 ~~representative chooses not to appear at the hearing, the board may~~  
35 ~~act solely upon the application for compensation, the staff's report,~~  
36 ~~and other evidence that appears in the record.~~

37     ~~(2) The board shall allow a service animal to accompany and~~  
38 ~~support a witness while testifying at a hearing.~~

39     ~~(f) Hearings shall be held in various locations with the frequency~~  
40 ~~necessary to provide for the speedy adjudication of the applications.~~

1 If the applicant's presence is required at the hearing, the board  
2 shall schedule the applicant's hearing in as convenient a location  
3 as possible.

4 ~~(g) The board may delegate the hearing of applications to~~  
5 ~~hearing officers.~~

6 ~~(h) The decisions of the board shall be in writing. Copies of the~~  
7 ~~decisions shall be delivered to the applicant or to his or her~~  
8 ~~representative personally or sent to him or her by mail.~~

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

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

18 ~~SEC. 6. Section 1202.4 of the Penal Code is amended to read:~~

19 ~~1202.4. (a) (1) It is the intent of the Legislature that a victim~~  
20 ~~of crime who incurs an economic loss as a result of the commission~~  
21 ~~of a crime shall receive restitution directly from a defendant~~  
22 ~~convicted of that crime.~~

23 ~~(2) Upon a person being convicted of a crime in the State of~~  
24 ~~California, the court shall order the defendant to pay a fine in the~~  
25 ~~form of a penalty assessment in accordance with Section 1464.~~

26 ~~(3) The court, in addition to any other penalty provided or~~  
27 ~~imposed under the law, shall order the defendant to pay both of~~  
28 ~~the following:~~

29 ~~(A) A restitution fine in accordance with subdivision (b).~~

30 ~~(B) Restitution to the victim or victims, if any, in accordance~~  
31 ~~with subdivision (f), which shall be enforceable as if the order~~  
32 ~~were a civil judgment.~~

33 ~~(b) In every case where a person is convicted of a crime, the~~  
34 ~~court shall impose a separate and additional restitution fine, unless~~  
35 ~~it finds compelling and extraordinary reasons for not doing so and~~  
36 ~~states those reasons on the record.~~

37 ~~(1) The restitution fine shall be set at the discretion of the court~~  
38 ~~and commensurate with the seriousness of the offense. If the person~~  
39 ~~is convicted of a felony, the fine shall not be less than two hundred~~  
40 ~~forty dollars (\$240) starting on January 1, 2012, two hundred eighty~~

1 dollars (\$280) starting on January 1, 2013, and three hundred  
 2 dollars (\$300) starting on January 1, 2014, and not more than ten  
 3 thousand dollars (\$10,000). If the person is convicted of a  
 4 misdemeanor, the fine shall not be less than one hundred twenty  
 5 dollars (\$120) starting on January 1, 2012, one hundred forty  
 6 dollars (\$140) starting on January 1, 2013, and one hundred fifty  
 7 dollars (\$150) starting on January 1, 2014, and not more than one  
 8 thousand dollars (\$1,000).

9 (2) In setting a felony restitution fine, the court may determine  
 10 the amount of the fine as the product of the minimum fine pursuant  
 11 to paragraph (1) multiplied by the number of years of imprisonment  
 12 the defendant is ordered to serve, multiplied by the number of  
 13 felony counts of which the defendant is convicted.

14 (e) The court shall impose the restitution fine unless it finds  
 15 compelling and extraordinary reasons for not doing so and states  
 16 those reasons on the record. A defendant's inability to pay shall  
 17 not be considered a compelling and extraordinary reason not to  
 18 impose a restitution fine. Inability to pay may be considered only  
 19 in increasing the amount of the restitution fine in excess of the  
 20 minimum fine pursuant to paragraph (1) of subdivision (b). The  
 21 court may specify that funds confiscated at the time of the  
 22 defendant's arrest, except for funds confiscated pursuant to Section  
 23 11469 of the Health and Safety Code, be applied to the restitution  
 24 fine if the funds are not exempt for spousal or child support or  
 25 subject to any other legal exemption.

26 (d) In setting the amount of the fine pursuant to subdivision (b)  
 27 in excess of the minimum fine pursuant to paragraph (1) of  
 28 subdivision (b), the court shall consider any relevant factors,  
 29 including, but not limited to, the defendant's inability to pay, the  
 30 seriousness and gravity of the offense and the circumstances of its  
 31 commission, any economic gain derived by the defendant as a  
 32 result of the crime, the extent to which any other person suffered  
 33 losses as a result of the crime, and the number of victims involved  
 34 in the crime. Those losses may include pecuniary losses to the  
 35 victim or his or her dependents as well as intangible losses, such  
 36 as psychological harm caused by the crime. Consideration of a  
 37 defendant's inability to pay may include his or her future earning  
 38 capacity. A defendant shall bear the burden of demonstrating his  
 39 or her inability to pay. Express findings by the court as to the

1 factors bearing on the amount of the fine shall not be required. A  
2 separate hearing for the fine shall not be required.

3 (e) The restitution fine shall not be subject to penalty  
4 assessments authorized in Section 1464 or Chapter 12  
5 (commencing with Section 76000) of Title 8 of the Government  
6 Code, or the state surcharge authorized in Section 1465.7, and  
7 shall be deposited in the Restitution Fund in the State Treasury.

8 (f) Except as provided in subdivisions (q) and (r), in every case  
9 in which a victim has suffered economic loss as a result of the  
10 defendant's conduct, the court shall require that the defendant  
11 make restitution to the victim or victims in an amount established  
12 by court order, based on the amount of loss claimed by the victim  
13 or victims or any other showing to the court. If the amount of loss  
14 cannot be ascertained at the time of sentencing, the restitution  
15 order shall include a provision that the amount shall be determined  
16 at the direction of the court. The court shall order full restitution  
17 unless it finds compelling and extraordinary reasons for not doing  
18 so and states them on the record. The court may specify that funds  
19 confiscated at the time of the defendant's arrest, except for funds  
20 confiscated pursuant to Section 11469 of the Health and Safety  
21 Code, be applied to the restitution order if the funds are not exempt  
22 for spousal or child support or subject to any other legal exemption.

23 (1) The defendant has the right to a hearing before a judge to  
24 dispute the determination of the amount of restitution. The court  
25 may modify the amount, on its own motion or on the motion of  
26 the district attorney, the victim or victims, or the defendant. If a  
27 motion is made for modification of a restitution order, the victim  
28 shall be notified of that motion at least 10 days prior to the  
29 proceeding held to decide the motion. A victim at a restitution  
30 hearing or modification hearing described in this paragraph may  
31 testify by live, two-way audio and video transmission, if testimony  
32 by live, two-way audio and video transmission is available at the  
33 court.

34 (2) Determination of the amount of restitution ordered pursuant  
35 to this subdivision shall not be affected by the indemnification or  
36 subrogation rights of a third party. Restitution ordered pursuant to  
37 this subdivision shall be ordered to be deposited to the Restitution  
38 Fund to the extent that the victim, as defined in subdivision (k),  
39 has received assistance from the California Victim Compensation  
40 and Government Claims Board pursuant to Chapter 5 (commencing

1 with Section 13950) of Part 4 of Division 3 of Title 2 of the  
2 Government Code.

3 ~~(3) To the extent possible, the restitution order shall be prepared~~  
4 ~~by the sentencing court, shall identify each victim and each loss~~  
5 ~~to which it pertains, and shall be of a dollar amount that is sufficient~~  
6 ~~to fully reimburse the victim or victims for every determined~~  
7 ~~economic loss incurred as the result of the defendant's criminal~~  
8 ~~conduct, including, but not limited to, all of the following:~~

9 ~~(A) Full or partial payment for the value of stolen or damaged~~  
10 ~~property. The value of stolen or damaged property shall be the~~  
11 ~~replacement cost of like property, or the actual cost of repairing~~  
12 ~~the property when repair is possible.~~

13 ~~(B) Medical expenses.~~

14 ~~(C) Mental health counseling expenses.~~

15 ~~(D) Wages or profits lost due to injury incurred by the victim,~~  
16 ~~and if the victim is a minor, wages or profits lost by the minor's~~  
17 ~~parent, parents, guardian, or guardians, while caring for the injured~~  
18 ~~minor. Lost wages shall include commission income as well as~~  
19 ~~base wages. Commission income shall be established by evidence~~  
20 ~~of commission income during the 12-month period prior to the~~  
21 ~~date of the crime for which restitution is being ordered, unless~~  
22 ~~good cause for a shorter time period is shown.~~

23 ~~(E) Wages or profits lost by the victim, and if the victim is a~~  
24 ~~minor, wages or profits lost by the minor's parent, parents,~~  
25 ~~guardian, or guardians, due to time spent as a witness or in assisting~~  
26 ~~the police or prosecution. Lost wages shall include commission~~  
27 ~~income as well as base wages. Commission income shall be~~  
28 ~~established by evidence of commission income during the~~  
29 ~~12-month period prior to the date of the crime for which restitution~~  
30 ~~is being ordered, unless good cause for a shorter time period is~~  
31 ~~shown.~~

32 ~~(F) Noneconomic losses, including, but not limited to,~~  
33 ~~psychological harm, for felony violations of Section 288.~~

34 ~~(G) Interest, at the rate of 10 percent per annum, that accrues~~  
35 ~~as of the date of sentencing or loss, as determined by the court.~~

36 ~~(H) Actual and reasonable attorney's fees and other costs of~~  
37 ~~collection accrued by a private entity on behalf of the victim.~~

38 ~~(I) Expenses incurred by an adult victim in relocating away~~  
39 ~~from the defendant, including, but not limited to, deposits for~~  
40 ~~utilities and telephone service, deposits for rental housing,~~

1 temporary lodging and food expenses, clothing, and personal items.  
2 Expenses incurred pursuant to this section shall be verified by law  
3 enforcement to be necessary for the personal safety of the victim  
4 or by a mental health treatment provider to be necessary for the  
5 emotional well-being of the victim.

6 ~~(J) Expenses to install or increase residential security incurred~~  
7 ~~related to a violent felony, as defined in subdivision (e) of Section~~  
8 ~~667.5, including, but not limited to, a home security device or~~  
9 ~~system, or replacing or increasing the number of locks.~~

10 ~~(K) Expenses to retrofit a residence or vehicle, or both, to make~~  
11 ~~the residence accessible to or the vehicle operational by the victim,~~  
12 ~~if the victim is permanently disabled, whether the disability is~~  
13 ~~partial or total, as a direct result of the crime.~~

14 ~~(L) Expenses for a period of time reasonably necessary to make~~  
15 ~~the victim whole, for the costs to monitor the credit report of, and~~  
16 ~~for the costs to repair the credit of, a victim of identity theft, as~~  
17 ~~defined in Section 530.5.~~

18 ~~(4) (A) If, as a result of the defendant's conduct, the Restitution~~  
19 ~~Fund has provided assistance to or on behalf of a victim or~~  
20 ~~derivative victim pursuant to Chapter 5 (commencing with Section~~  
21 ~~13950) of Part 4 of Division 3 of Title 2 of the Government Code,~~  
22 ~~the amount of assistance provided shall be presumed to be a direct~~  
23 ~~result of the defendant's criminal conduct and shall be included~~  
24 ~~in the amount of the restitution ordered.~~

25 ~~(B) The amount of assistance provided by the Restitution Fund~~  
26 ~~shall be established by copies of bills submitted to the California~~  
27 ~~Victim Compensation and Government Claims Board reflecting~~  
28 ~~the amount paid by the board and whether the services for which~~  
29 ~~payment was made were for medical or dental expenses, funeral~~  
30 ~~or burial expenses, mental health counseling, wage or support~~  
31 ~~losses, or rehabilitation. Certified copies of these bills provided~~  
32 ~~by the board and redacted to protect the privacy and safety of the~~  
33 ~~victim or any legal privilege, together with a statement made under~~  
34 ~~penalty of perjury by the custodian of records that those bills were~~  
35 ~~submitted to and were paid by the board, shall be sufficient to meet~~  
36 ~~this requirement.~~

37 ~~(C) If the defendant offers evidence to rebut the presumption~~  
38 ~~established by this paragraph, the court may release additional~~  
39 ~~information contained in the records of the board to the defendant~~  
40 ~~only after reviewing that information in camera and finding that~~

1 the information is necessary for the defendant to dispute the amount  
2 of the restitution order.

3 ~~(5) Except as provided in paragraph (6), in any case in which  
4 an order may be entered pursuant to this subdivision, the defendant  
5 shall prepare and file a disclosure identifying all assets, income,  
6 and liabilities in which the defendant held or controlled a present  
7 or future interest as of the date of the defendant's arrest for the  
8 crime for which restitution may be ordered. The financial disclosure  
9 statements shall be made available to the victim and the board  
10 pursuant to Section 1214. The disclosure shall be signed by the  
11 defendant upon a form approved or adopted by the Judicial Council  
12 for the purpose of facilitating the disclosure. A defendant who  
13 willfully states as true a material matter that he or she knows to  
14 be false on the disclosure required by this subdivision is guilty of  
15 a misdemeanor, unless this conduct is punishable as perjury or  
16 another provision of law provides for a greater penalty.~~

17 ~~(6) A defendant who fails to file the financial disclosure required  
18 in paragraph (5), but who has filed a financial affidavit or financial  
19 information pursuant to subdivision (e) of Section 987, shall be  
20 deemed to have waived the confidentiality of that affidavit or  
21 financial information as to a victim in whose favor the order of  
22 restitution is entered pursuant to subdivision (f). The affidavit or  
23 information shall serve in lieu of the financial disclosure required  
24 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
25 apply.~~

26 ~~(7) Except as provided in paragraph (6), the defendant shall file  
27 the disclosure with the clerk of the court no later than the date set  
28 for the defendant's sentencing, unless otherwise directed by the  
29 court. The disclosure may be inspected or copied as provided by  
30 subdivision (b), (e), or (d) of Section 1203.05.~~

31 ~~(8) In its discretion, the court may relieve the defendant of the  
32 duty under paragraph (7) of filing with the clerk by requiring that  
33 the defendant's disclosure be submitted as an attachment to, and  
34 be available to, those authorized to receive the following:~~

35 ~~(A) A report submitted pursuant to subparagraph (C) of  
36 paragraph (2) of subdivision (b) of Section 1203 or subdivision  
37 (g) of Section 1203.~~

38 ~~(B) A stipulation submitted pursuant to paragraph (4) of  
39 subdivision (b) of Section 1203.~~

1 ~~(C) A report by the probation officer, or information submitted~~  
2 ~~by the defendant applying for a conditional sentence pursuant to~~  
3 ~~subdivision (d) of Section 1203.~~

4 ~~(9) The court may consider a defendant's unreasonable failure~~  
5 ~~to make a complete disclosure pursuant to paragraph (5) as any of~~  
6 ~~the following:~~

7 ~~(A) A circumstance in aggravation of the crime in imposing a~~  
8 ~~term under subdivision (b) of Section 1170.~~

9 ~~(B) A factor indicating that the interests of justice would not be~~  
10 ~~served by admitting the defendant to probation under Section 1203.~~

11 ~~(C) A factor indicating that the interests of justice would not be~~  
12 ~~served by conditionally sentencing the defendant under Section~~  
13 ~~1203.~~

14 ~~(D) A factor indicating that the interests of justice would not~~  
15 ~~be served by imposing less than the maximum fine and sentence~~  
16 ~~fixed by law for the case.~~

17 ~~(10) A defendant's failure or refusal to make the required~~  
18 ~~disclosure pursuant to paragraph (5) shall not delay entry of an~~  
19 ~~order of restitution or pronouncement of sentence. In appropriate~~  
20 ~~cases, the court may do any of the following:~~

21 ~~(A) Require the defendant to be examined by the district attorney~~  
22 ~~pursuant to subdivision (h).~~

23 ~~(B) If sentencing the defendant under Section 1170, provide~~  
24 ~~that the victim shall receive a copy of the portion of the probation~~  
25 ~~report filed pursuant to Section 1203.10 concerning the defendant's~~  
26 ~~employment, occupation, finances, and liabilities.~~

27 ~~(C) If sentencing the defendant under Section 1203, set a date~~  
28 ~~and place for submission of the disclosure required by paragraph~~  
29 ~~(5) as a condition of probation or suspended sentence.~~

30 ~~(11) If a defendant has any remaining unpaid balance on a~~  
31 ~~restitution order or fine 120 days prior to his or her scheduled~~  
32 ~~release from probation or 120 days prior to his or her completion~~  
33 ~~of a conditional sentence, the defendant shall prepare and file a~~  
34 ~~new and updated financial disclosure identifying all assets, income,~~  
35 ~~and liabilities in which the defendant holds or controls or has held~~  
36 ~~or controlled a present or future interest during the defendant's~~  
37 ~~period of probation or conditional sentence. The financial~~  
38 ~~disclosure shall be made available to the victim and the board~~  
39 ~~pursuant to Section 1214. The disclosure shall be signed and~~  
40 ~~prepared by the defendant on the same form as described in~~

1 paragraph (5). A defendant who willfully states as true a material  
2 matter that he or she knows to be false on the disclosure required  
3 by this subdivision is guilty of a misdemeanor, unless this conduct  
4 is punishable as perjury or another provision of law provides for  
5 a greater penalty. The financial disclosure required by this  
6 paragraph shall be filed with the clerk of the court no later than  
7 90 days prior to the defendant's scheduled release from probation  
8 or completion of the defendant's conditional sentence.

9 (12) In cases where an employer is convicted of a crime against  
10 an employee, a payment to the employee or the employee's  
11 dependent that is made by the employer's workers' compensation  
12 insurance carrier shall not be used to offset the amount of the  
13 restitution order unless the court finds that the defendant  
14 substantially met the obligation to pay premiums for that insurance  
15 coverage.

16 (g) The court shall order full restitution unless it finds  
17 compelling and extraordinary reasons for not doing so and states  
18 those reasons on the record. A defendant's inability to pay shall  
19 not be considered a compelling and extraordinary reason not to  
20 impose a restitution order, nor shall inability to pay be a  
21 consideration in determining the amount of a restitution order.

22 (h) The district attorney may request an order of examination  
23 pursuant to the procedures specified in Article 2 (commencing  
24 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
25 2 of the Code of Civil Procedure, in order to determine the  
26 defendant's financial assets for purposes of collecting on the  
27 restitution order.

28 (i) A restitution order imposed pursuant to subdivision (f) shall  
29 be enforceable as if the order were a civil judgment.

30 (j) The making of a restitution order pursuant to subdivision (f)  
31 shall not affect the right of a victim to recovery from the Restitution  
32 Fund as otherwise provided by law, except to the extent that  
33 restitution is actually collected pursuant to the order. Restitution  
34 collected pursuant to this subdivision shall be credited to any other  
35 judgments for the same losses obtained against the defendant  
36 arising out of the crime for which the defendant was convicted.

37 (k) For purposes of this section, "victim" shall include all of  
38 the following:

39 (1) The immediate surviving family of the actual victim.

- 1     ~~(2) A corporation, business trust, estate, trust, partnership,~~  
2 ~~association, joint venture, government, governmental subdivision,~~  
3 ~~agency, or instrumentality, or any other legal or commercial entity~~  
4 ~~when that entity is a direct victim of a crime.~~
- 5     ~~(3) A person who has sustained economic loss as the result of~~  
6 ~~a crime and who satisfies any of the following conditions:~~
- 7         ~~(A) At the time of the crime was the parent, grandparent, sibling,~~  
8 ~~spouse, child, or grandchild of the victim.~~
- 9         ~~(B) At the time of the crime was living in the household of the~~  
10 ~~victim.~~
- 11         ~~(C) At the time of the crime was a person who had previously~~  
12 ~~lived in the household of the victim for a period of not less than~~  
13 ~~two years in a relationship substantially similar to a relationship~~  
14 ~~listed in subparagraph (A).~~
- 15         ~~(D) Is another family member of the victim, including, but not~~  
16 ~~limited to, the victim's fiancé or fiancée, and who witnessed the~~  
17 ~~crime.~~
- 18         ~~(E) Is the primary caretaker of a minor victim.~~
- 19     ~~(4) A person who is eligible to receive assistance from the~~  
20 ~~Restitution Fund pursuant to Chapter 5 (commencing with Section~~  
21 ~~13950) of Part 4 of Division 3 of Title 2 of the Government Code.~~
- 22     ~~(5) A governmental entity that is responsible for repairing,~~  
23 ~~replacing, or restoring public or privately owned property that has~~  
24 ~~been defaced with graffiti or other inscribed material, as defined~~  
25 ~~in subdivision (e) of Section 594, and that has sustained an~~  
26 ~~economic loss as the result of a violation of Section 594, 594.3,~~  
27 ~~594.4, 640.5, 640.6, or 640.7.~~
- 28     ~~(l) At its discretion, the board of supervisors of a county may~~  
29 ~~impose a fee to cover the actual administrative cost of collecting~~  
30 ~~the restitution fine, not to exceed 10 percent of the amount ordered~~  
31 ~~to be paid, to be added to the restitution fine and included in the~~  
32 ~~order of the court, the proceeds of which shall be deposited in the~~  
33 ~~general fund of the county.~~
- 34     ~~(m) In every case in which the defendant is granted probation,~~  
35 ~~the court shall make the payment of restitution fines and orders~~  
36 ~~imposed pursuant to this section a condition of probation. Any~~  
37 ~~portion of a restitution order that remains unsatisfied after a~~  
38 ~~defendant is no longer on probation shall continue to be enforceable~~  
39 ~~by a victim pursuant to Section 1214 until the obligation is~~  
40 ~~satisfied.~~

1     ~~(n) If the court finds and states on the record compelling and~~  
2 ~~extraordinary reasons why a restitution fine or full restitution order~~  
3 ~~should not be required, the court shall order, as a condition of~~  
4 ~~probation, that the defendant perform specified community service,~~  
5 ~~unless it finds and states on the record compelling and~~  
6 ~~extraordinary reasons not to require community service in addition~~  
7 ~~to the finding that restitution should not be required. Upon~~  
8 ~~revocation of probation, the court shall impose restitution pursuant~~  
9 ~~to this section.~~

10     ~~(o) The provisions of Section 13963 of the Government Code~~  
11 ~~shall apply to restitution imposed pursuant to this section.~~

12     ~~(p) The court clerk shall notify the California Victim~~  
13 ~~Compensation and Government Claims Board within 90 days of~~  
14 ~~an order of restitution being imposed if the defendant is ordered~~  
15 ~~to pay restitution to the board due to the victim receiving~~  
16 ~~compensation from the Restitution Fund. Notification shall be~~  
17 ~~accomplished by mailing a copy of the court order to the board,~~  
18 ~~which may be done periodically by bulk mail or email.~~

19     ~~(q) Upon conviction for a violation of Section 236.1, the court~~  
20 ~~shall, in addition to any other penalty or restitution, order the~~  
21 ~~defendant to pay restitution to the victim in a case in which a victim~~  
22 ~~has suffered economic loss as a result of the defendant's conduct.~~  
23 ~~The court shall require that the defendant make restitution to the~~  
24 ~~victim or victims in an amount established by court order, based~~  
25 ~~on the amount of loss claimed by the victim or victims or another~~  
26 ~~showing to the court. In determining restitution pursuant to this~~  
27 ~~section, the court shall base its order upon the greater of the~~  
28 ~~following: the gross value of the victim's labor or services based~~  
29 ~~upon the comparable value of similar services in the labor market~~  
30 ~~in which the offense occurred, or the value of the victim's labor~~  
31 ~~as guaranteed under California law, or the actual income derived~~  
32 ~~by the defendant from the victim's labor or services or any other~~  
33 ~~appropriate means to provide reparations to the victim.~~

34     ~~(r) (1) In addition to any other penalty or fine, the court shall~~  
35 ~~order a person who has been convicted of a violation of Section~~  
36 ~~350, 653h, 653s, 653u, 653w, or 653aa that involves a recording~~  
37 ~~or audiovisual work to make restitution to an owner or lawful~~  
38 ~~producer, or trade association acting on behalf of the owner or~~  
39 ~~lawful producer, of a phonograph record, disc, wire, tape, film, or~~  
40 ~~other device or article from which sounds or visual images are~~

1 ~~derived that suffered economic loss resulting from the violation.~~  
2 ~~The order of restitution shall be based on the aggregate wholesale~~  
3 ~~value of lawfully manufactured and authorized devices or articles~~  
4 ~~from which sounds or visual images are devised corresponding to~~  
5 ~~the number of nonconforming devices or articles involved in the~~  
6 ~~offense, unless a higher value can be proved in the case of (A) an~~  
7 ~~unreleased audio work, or (B) an audiovisual work that, at the time~~  
8 ~~of unauthorized distribution, has not been made available in copies~~  
9 ~~for sale to the general public in the United States on a digital~~  
10 ~~versatile disc. For purposes of this subdivision, possession of~~  
11 ~~nonconforming devices or articles intended for sale constitutes~~  
12 ~~actual economic loss to an owner or lawful producer in the form~~  
13 ~~of displaced legitimate wholesale purchases. The order of~~  
14 ~~restitution shall also include reasonable costs incurred as a result~~  
15 ~~of an investigation of the violation undertaken by the owner, lawful~~  
16 ~~producer, or trade association acting on behalf of the owner or~~  
17 ~~lawful producer. “Aggregate wholesale value” means the average~~  
18 ~~wholesale value of lawfully manufactured and authorized sound~~  
19 ~~or audiovisual recordings. Proof of the specific wholesale value~~  
20 ~~of each nonconforming device or article is not required.~~  
21 ~~(2) As used in this subdivision, “audiovisual work” and~~  
22 ~~“recording” shall have the same meaning as in Section 653w.~~

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