

AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 856

Introduced by Assembly Member Hertzberg

February 27, 1997

An act to add Title 7 (commencing with Section 14000) to Part 4 of the Penal Code, relating to crime prevention, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 856, as amended, Hertzberg. Crime prevention: Witness Protection Program.

Existing law prohibits intimidation of witnesses and establishes a Victim-Witness Assistance Fund as well as local assistance centers for victims and witnesses.

This bill would establish the Witness Protection Program and require that the program be administered by the Attorney General to provide for the relocation or other protection of a witness in a criminal proceeding where there is credible evidence, as defined, of substantial danger that the witness may suffer retaliatory violence or oppression. The Attorney General *would* be authorized to enter into an agreement with the witness in accordance with specified terms. The bill would make it a felony for any person to knowingly and willfully make an unauthorized disclosure of pertinent information relating to a protected witness. By creating a new crime, this bill would impose a state-mandated local program.

The bill would appropriate \$149,000 from the General Fund to the Attorney General to implement the program.

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: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Title 7 (commencing with Section
2 14000) is added to Part 4 of the Penal Code, to read:

3

4 TITLE 7. WITNESS PROTECTION PROGRAM

5

6 14000. There is hereby established the Witness
7 Protection Program.

8 14001. As used in this chapter:

9 (a) "Witness" means any person who has been
10 summoned, or is reasonably expected to be summoned,
11 to testify in a criminal matter, *including grand jury*
12 *proceedings*, for either the people or the defense,
13 whether or not formal legal proceedings have been filed.
14 Active or passive participation in the criminal matter
15 does not disqualify an individual from being a witness.
16 "Witness" may also apply to family, friends, or associates
17 of the witness who are deemed by the Attorney General
18 to be endangered.

19 (b) "Credible evidence" means documentation
20 leading a reasonable person to believe that substantial
21 reliability should be attached to the evidence.

22 (c) "Protection" means formal admission into a
23 witness protection program established by this chapter
24 memorialized by a written agreement between the
25 Attorney General and the witness.

26 14002. The program shall be administered by the
27 Attorney General. In any criminal proceeding within this



1 state, whether the action is brought by state or local
2 prosecutors, where credible evidence exists of substantial
3 danger that a witness may suffer retaliatory violence or
4 oppression, the Attorney General shall provide for the
5 relocation or other protection of a witness, as reasonably
6 requested by the investigative agency in that proceeding.

7 14003. The Attorney General shall give priority to
8 matters involving organized crime, gang activities, drug
9 trafficking, and cases involving a high degree of risk to the
10 witness. Special regard shall also be given to the elderly,
11 the young, battered, ~~abused—women~~ *victims of domestic*
12 *violence*, the infirm, the handicapped, and hate incidents.

13 14004. The Attorney General shall take whatever
14 action he or she determines to be necessary to protect a
15 witness from bodily injury and otherwise to assure the
16 health, safety, and welfare of the witness, including the
17 psychological well-being and the social adjustment of the
18 witness for as long as the Attorney General determines
19 that the danger to the witness exists. The Attorney
20 General may provide the witness with any of the
21 following:

22 (a) Armed protection or escort by law enforcement
23 officials or security personnel before, during, or
24 subsequent to, legal proceedings.

25 (b) Physical relocation to an alternate residence.

26 (c) Housing expense.

27 (d) Appropriate documents to establish a new
28 identity.

29 (e) Transportation or storage of personal possessions.

30 (f) Basic living expenses, including, but not limited to,
31 food, transportation, utility costs, and health care.

32 (g) Appointment of legal counsel.

33 (h) Psychological counseling.

34 (i) Other services as needed.

35 14005. The witness protection agreement shall be in
36 writing, and shall specify the responsibilities of the
37 protected person that establish the conditions for the
38 Attorney General providing protection. The protected
39 person shall agree to all of the following:

1 (a) If a witness or potential witness, to testify in and
2 provide information to all appropriate law enforcement
3 officials concerning all appropriate proceedings.

4 (b) To refrain from committing any crime.

5 (c) To take all necessary steps to avoid detection by
6 others of the facts concerning the protection provided to
7 that person under this chapter.

8 (d) To comply with legal obligations and civil
9 judgments against that person.

10 (e) To cooperate with all reasonable requests of
11 officers and employees of this state who are providing
12 protection under this chapter.

13 (f) To designate another person to act as agent for the
14 service of process.

15 (g) To make a sworn statement of all outstanding legal
16 obligations, including obligations concerning child
17 custody and visitation.

18 (h) To disclose any probation or parole
19 responsibilities, and if the person is on probation or
20 parole.

21 (i) To regularly inform the appropriate program
22 official of his or her activities and current address.

23 14006. Funds available to implement this chapter
24 may be used for any of the following:

25 (a) To protect witnesses where credible evidence
26 exists that they may be in danger of intimidation or
27 retaliation because of their testimony.

28 (b) To provide temporary and permanent relocation
29 of witnesses and provide for their transition and
30 well-being into a safe and secure environment.

31 (c) To train and supervise persons associated with
32 victim witness protection throughout the state.

33 (d) To pay the costs of administering the program.

34 14007. The Attorney General shall issue appropriate
35 guidelines and may adopt regulations to implement this
36 chapter.

37 14008. The State of California and its officers and
38 employees shall have immunity from civil liability for any
39 decision declining protection to a witness under this
40 section.



1 14009. Any person who knowingly and willfully makes
2 an unauthorized disclosure of pertinent information
3 relating to a witness protected under this chapter,
4 including, but not limited to, disclosure of the new
5 identity of a witness, at any stage of the investigation or
6 thereafter, shall be punished by a fine not to exceed
7 twenty-five thousand dollars (\$25,000), or by
8 imprisonment in the state prison ~~not to exceed for three,~~
9 *four, or five years*, or by both that fine and imprisonment.

10 14010. The Attorney General shall pursue all federal
11 sources that may be available for implementing this
12 program.

13 14011. Commencing one year from the effective date
14 of this chapter, the Attorney General shall make an
15 annual report to the Legislature no later than January 1
16 on the fiscal and operational status of the program.

17 SEC. 2. The sum of one hundred forty-nine thousand
18 dollars (\$149,000) is hereby appropriated from the
19 General Fund to the Attorney General to implement the
20 Witness Protection Program pursuant to this act.

21 SEC. 3. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.

31 Notwithstanding Section 17580 of the Government
32 Code, unless otherwise specified, the provisions of this act
33 shall become operative on the same date that the act
34 takes effect pursuant to the California Constitution.

