

AMENDED IN ASSEMBLY MAY 15, 1997
AMENDED IN ASSEMBLY MAY 1, 1997
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 856

**Introduced by Assembly Member Hertzberg
(Coauthor: Assembly Member Villaraigosa)**

February 27, 1997

An act to add Title ~~7~~ 7.5 (commencing with Section ~~14000~~ 14020) 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 *intimidation or* 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 appropriate \$149,000 from the General Fund to the Attorney General to implement the program.

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. Title—7 7.5 (commencing with Section
2 ~~14000~~ 14020) is added to Part 4 of the Penal Code, to read:

3

4 TITLE ~~7~~. 7.5. WITNESS PROTECTION PROGRAM

5

6 ~~14000.~~

7 14020. There is hereby established the Witness
8 Protection Program.

9 ~~14001.~~

10 14021. As used in this ~~chapter~~ title:

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

21 (b) “Credible evidence” means documentation
22 leading a reasonable person to believe that substantial
23 reliability should be attached to the evidence.

24 (c) “Protection” means formal admission into a
25 witness protection program established by this—~~chapter~~
26 ~~title~~ memorialized by a written agreement between the
27 Attorney General and the witness.

28 ~~14002.~~

29 14022. The program shall be administered by the
30 Attorney General. In any criminal proceeding within this
31 state, whether the action is brought by state or local
32 prosecutors, where credible evidence exists of a
33 substantial danger that a witness may suffer *intimidation*



1 ~~or retaliatory violence or oppression,~~ the Attorney
2 General shall provide for the relocation or other
3 protection of a witness, as reasonably requested by the
4 *prosecution's* investigative agency in that proceeding.

5 ~~14003.~~

6 14023. The Attorney General shall give priority to
7 matters involving organized crime, gang activities, drug
8 trafficking, and cases involving a high degree of risk to the
9 witness. Special regard shall also be given to the elderly,
10 the young, battered, victims of domestic violence, the
11 infirm, the handicapped, and *victims of* hate incidents.

12 ~~14004.~~

13 14024. 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)~~

35 (g) *Mental health counseling.*

36 (h) Other services as needed.

37 ~~14005.~~

38 14025. The witness protection agreement shall be in
39 writing, and shall specify the responsibilities of the
40 protected person that establish the conditions for the



1 Attorney General providing protection. The protected
2 person shall agree to all of the following:

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

6 (b) To refrain from committing any crime.

7 (c) To take all necessary steps to avoid detection by
8 others of the facts concerning the protection provided to
9 that person under this ~~chapter~~ *title*.

10 (d) To comply with legal obligations and civil
11 judgments against that person.

12 (e) To cooperate with all reasonable requests of
13 officers and employees of this state who are providing
14 protection under this ~~chapter~~ *title*.

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

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

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

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

25 ~~14006.~~

26 *14026.* Funds available to implement this ~~chapter~~ *title*
27 may be used for any of the following:

28 (a) To protect witnesses where credible evidence
29 exists that they may be in *substantial* danger of
30 intimidation or ~~retaliation~~ *retaliatory violence* because of
31 their testimony.

32 (b) To provide temporary and permanent relocation
33 of witnesses and provide for their transition and
34 well-being into a safe and secure environment.

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

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

38 ~~14007.~~



1 14027. The Attorney General shall issue appropriate
2 guidelines and may adopt regulations to implement this
3 ~~chapter title.~~

4 ~~14008.~~

5 14028. The State of California ~~and its~~, *the counties and*
6 *cities within the state, and their respective* officers and
7 employees shall have immunity from civil liability for any
8 decision declining *or revoking* protection to a witness
9 under this ~~section~~ *title.*

10 ~~14009.~~

11 14029. The Attorney General shall pursue all federal
12 sources that may be available for implementing this
13 program.

14 ~~14010.~~

15 14030. Commencing one year ~~from~~ *after* the effective
16 date of this ~~chapter title~~, the Attorney General shall make
17 an annual report to the Legislature no later than January
18 1 on the fiscal and operational status of the program.

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

