

Senate Bill No. 2202

Passed the Senate August 6, 1998

Secretary of the Senate

Passed the Assembly July 7, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Section 13961.1 of the Government Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2202, Haynes. Victims of crime: emergency awards: funeral and burial expenses.

Existing law authorizes the State Board of Control to make emergency awards to victims and derivative victims of certain crimes if the victim incurs loss of income or the derivative victim incurs loss of support, or if the victim requires emergency medical treatment, and sets forth the procedures to be followed in that regard. These awards are made from the Restitution Fund, which is continuously appropriated to the board to indemnify victims of crime.

This bill would additionally authorize the board to make an emergency award of up to \$5,000 if the victim dies as a result of the crime and any individual, without anticipation of personal gain, incurs the funeral and burial expense. The bill would make conforming changes in the procedures to be followed in regard to the emergency award and would require the submission of additional qualifying reports and statements in connection with the new category of emergency awards. By providing for a new use for a continuously appropriated fund, this bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 13961.1 of the Government Code is amended to read:

13961.1. (a) An emergency award shall be available for a victim or derivative victim if any of the following occur as a result of the crime:



(1) The victim incurs loss of income or the derivative victim incurs loss of support.

(2) The victim requires emergency medical treatment.

(3) The victim dies as a result of the crime and any individual, without anticipation of personal gain, incurs the funeral and burial expense.

(b) Emergency award application forms shall be provided by the board upon request of the applicant. The board shall make available the application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim or derivative victim. Disbursements of funds for emergency awards shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards. By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board or the applicant's representative may take additional 10-day periods to verify the emergency award claim and make payment.

(d) An applicant for an emergency award is not entitled to a hearing before the board to contest a denial of an emergency award. However, the applicant may submit an application for a regular award and is entitled to a hearing pursuant to Section 13963 if that application is recommended for denial.

(e) The application for an emergency award shall notify the applicant that he or she must complete the regular application within one year of the date of the crime or certify that he or she does not anticipate claiming reimbursements in addition to those claimed in the application for an emergency award.

(f) If the applicant certifies that no expenses will be claimed beyond those claimed in the emergency award, the board shall subsequently verify the emergency award



application upon receipt of the crime report or any other information the board may require. The other information shall include statements signed by the applicant authorizing the release of information to the board necessary for the verification of the claimed losses, and authorizing a lien in favor of the board against any recovery by the applicant by judgment, settlement, or otherwise as a result of any injury to the victim.

(g) If upon final disposition of the regular application or verification of the emergency award, it is found that the applicant is not eligible for assistance from the board, the applicant shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon a final disposition of the application, the board grants assistance to the applicant, the amount of the emergency award shall be deducted from the final award of compensation granted; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's or derivative victim's application for assistance, before any appellate action is instituted. If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(h) The amount of the emergency award shall be dependent upon the immediate needs of the victim or derivative victim, as evidenced by the victim's loss of income or the derivative victim's loss of support, the funeral and burial expenses incurred on behalf of the victim, and other losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. Except for applications filed pursuant to paragraph (3) of subdivision (a), in no event shall the amount of the emergency award exceed two thousand dollars (\$2,000). Where an application has been filed pursuant to paragraph (3) of subdivision (a), the amount of the



emergency award shall not exceed five thousand dollars (\$5,000).

(i) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim or derivative victim on whose behalf the application is made.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of the agency.

(4) The name, address, and telephone number of the employer or self-employed entity, the loss of income or support to date and estimate of future loss.

(5) The nature of the injury and the name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) The name, address, and telephone number of the funeral and burial providers and the cost of funeral and burial expenses incurred to date.

(7) A statement that in the event the applicant is later found ineligible for assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(8) The applicant's signature and a statement that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(j) Where an application has been filed pursuant to paragraph (3) of subdivision (a), the application for the emergency award shall additionally contain the following:

(1) A statement that in the event the applicant receives reimbursement from another source, including, but not limited to, court-ordered restitution or life insurance, either in whole or in part for the funeral and burial expenses incurred on behalf of the victim, that the applicant will be required to repay the board.



(2) A complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to the claim, as prepared by a law enforcement agency pursuant to subdivision (d) of Section 13968. This report may, at the discretion of the law enforcement agency and as provided in subdivision (e) of Section 13968, exclude the names of witnesses or informants, if the release of this information would be detrimental to the parties or to an investigation currently in progress.



Approved _____, 1998

Governor

