

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JULY 6, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY APRIL 28, 1999

AMENDED IN ASSEMBLY APRIL 14, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 606

Introduced by Assembly Member Jackson

February 19, 1999

An act to amend Section 13965 of, and to add and repeal Section 13968.5 of, the Government Code, and to amend Section 1202.4 of the Penal Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 606, as amended, Jackson. Victims of crimes: payments.

(1) Existing law provides for the indemnification of victims of specified types of crimes for specified types of expenses. Among these expenses are outpatient psychiatric, psychological, or other mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may only be reimbursed if provided by specified individuals. Indemnification is made under these provisions from the Restitution Fund, which is

continuously appropriated to the State Board of Control for these purposes.

This bill would, *until January 1, 2004*, require the board to conduct a ~~2-year~~ *pilot* program to provide reimbursement for grief, mourning, and bereavement services provided by a person certified as a child life specialist, and to report to the Legislature by March 1, 2002, on this pilot program.

This bill would additionally authorize a cash payment *or reimbursement* to an adult victim of domestic violence for specified expenses incurred in relocating, not to exceed \$2,000. In the case of a victim ~~who is age 50 years or over or permanently disabled~~ *of a crime that occurred in the victim's residence*, it would authorize a cash payment not to exceed \$1,000 for the expense of installing or increasing residential security, and in the case of a victim who is permanently disabled as a direct result of the crime, a cash payment not to exceed \$5,000 for the expense of renovating or retrofitting his or her residence or vehicle, *subject to specified conditions*.

By providing for new uses for a continuously appropriated fund, this bill would make an appropriation.

(2) Existing law requires a court to require a criminal defendant to pay restitution, which is to be made to the Restitution Fund to the extent that the victim of the crime has received assistance from the State Board of Control.

This bill would require a court to order a criminal defendant to pay restitution to be deposited in the Restitution Fund for mental health counseling expenses and other types of expenses for which the bill would provide payments to the victim of a crime. *It would additionally incorporate changes to these provisions made by Chapter 121 of the Statutes of 1999.*

Vote: $\frac{2}{3}$. 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 13965 of the Government Code,
2 as amended by Section 3.5 of Chapter 895 of the Statutes
3 of 1998, is amended to read:



1 13965. (a) If the application for assistance is
2 approved, the board shall determine what type of state
3 assistance will best aid the victim or derivative victim.
4 The board may take any or all of the following actions:

5 (1) Reimburse the following persons for the expense
6 of their out-patient mental health counseling when that
7 mental health counseling is necessary as a direct result of
8 the crime:

9 (A) A victim in an amount not to exceed ten thousand
10 dollars (\$10,000).

11 (B) A derivative victim who is the surviving parent,
12 sibling, child, spouse, or fiancé of a victim of a crime
13 which directly resulted in the death of the victim in an
14 amount not to exceed ten thousand dollars (\$10,000).

15 (C) A derivative victim, as defined in subparagraph
16 (A), (B), (C), or (D) of paragraph (2) of subdivision (a)
17 of Section 13960, who is the primary caretaker of a minor
18 victim of sexual or physical abuse whose claim is not
19 denied or reduced pursuant to subdivision (b) or (d) of
20 Section 13964 in a total amount not to exceed ten
21 thousand dollars (\$10,000) for not more than two
22 derivative victims described in this subparagraph.

23 (D) A derivative victim not eligible for
24 reimbursement pursuant to subparagraph (B) or (C) in
25 an amount not to exceed three thousand dollars (\$3,000),
26 provided that mental health counseling of a derivative
27 victim under subparagraph (E) of paragraph (2) of
28 subdivision (a) of Section 13960 shall be reimbursed only
29 if that counseling is necessary for the treatment of the
30 victim.

31 (E) A victim of a crime committed in violation of
32 subdivision (d) of Section 261.5 of the Penal Code in an
33 amount not to exceed three thousand dollars (\$3,000) for
34 mental health counseling expenses only. A derivative
35 victim of a crime committed in violation of subdivision
36 (d) of Section 261.5 of the Penal Code shall not be eligible
37 for reimbursement of mental health counseling expenses.

38 The board may authorize a direct cash payment to a
39 provider of psychological or psychiatric treatment or
40 mental health counseling services, including peer



1 counseling services provided by a rape crisis center as
2 defined by Section 13837 of the Penal Code or to either
3 the victim or the derivative victim, equal to the
4 pecuniary loss attributable to medical or medical-related
5 expenses, including counseling, directly resulting from
6 the injury. Reimbursement on the initial claim for any
7 psychological, psychiatric, or mental health counseling
8 services, including peer counseling services provided by
9 a rape crisis center, shall, if the application has been
10 approved, be paid by the board within 90 days of the date
11 of receipt of the claim for payment, with subsequent
12 payments to be made to the provider within one month
13 of the receipt of a claim for payment. However, the board
14 may not authorize without good cause a direct cash
15 payment to a licensed health care provider or rape crisis
16 center over the objection of the applicant.

17 When a public agency, including a court or district
18 attorney or a police, county child protective services, or
19 other state or local governmental agency, refers a victim
20 of crime to a private nonprofit agency for treatment for
21 that victim, the private nonprofit agency shall be
22 reimbursed for those services at the level of the normal
23 and customary fee charged by the private nonprofit
24 agency to clients with adequate means of payment for its
25 services, except that this reimbursement shall not exceed
26 the maximum reimbursement rates set by the board and
27 may be made only to the extent that the victim otherwise
28 qualifies for services under the victims of crime program
29 and that other reimbursement or direct subsidies are not
30 available to serve the victim.

31 Payments authorized pursuant to this paragraph for
32 peer counseling services provided by a rape crisis center
33 shall not exceed fifteen dollars (\$15) for each hour of
34 services provided. Those services shall be limited to
35 individual, in-person counseling on a face-to-face basis for
36 a period not to exceed 10 weeks plus one series of
37 facilitated support group counseling sessions.

38 (2) Authorize a cash payment to the victim equal to
39 the pecuniary loss resulting from loss of wages directly
40 resulting from the injury. Loss of wages shall not be paid



1 by the board for more than three years following the
2 crime. If the board determines, after review of an
3 application for assistance, including the evaluation of a
4 qualified provider, that pecuniary loss for which payment
5 may be made under this paragraph is expected to
6 continue more than six months after the date of approval
7 of the victim's application for assistance, disbursement
8 shall commence and continue on a monthly basis for the
9 period of time pecuniary loss is expected to continue.

10 (3) Authorize a cash payment to a derivative victim
11 described in subparagraphs (A) and (B) of paragraph (2)
12 of subdivision (a) of Section 13960 who was legally
13 dependent on the victim at the time of the crime for the
14 loss of support incurred by that person as a direct result
15 of the crime.

16 (A) Loss of support shall not be paid by the board for
17 income lost by an adult for a period of more than three
18 years following the date of the crime.

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

22 (C) The total amount payable to all derivative victims
23 for loss of support pursuant to this paragraph as the result
24 of one crime shall not exceed forty-six thousand dollars
25 (\$46,000).

26 (4) (A) Authorize a cash payment *or reimbursement*
27 not to exceed two thousand dollars (\$2,000) to an adult
28 victim of domestic violence for expenses incurred in
29 relocating, if the expenses are determined by law
30 enforcement to be necessary for the personal safety of the
31 victim or by a mental health treatment provider to be
32 necessary for the emotional well-being of the victim. ~~The~~
33 ~~reimbursement shall only be awarded once for any crime~~
34 ~~or series of crimes between the same victim and~~
35 ~~perpetrator.~~ *These* These expenses may include, but
36 need not be limited to, all of the following:

37 (i) Deposits for utilities and telephone service.

38 (ii) Deposits for rental housing, not to exceed the first
39 and last month's rent or two thousand dollars (\$2,000),
40 whichever is less.



1 (iii) Temporary lodging and food expenses, not to
2 exceed one thousand dollars (\$1,000).

3 (iv) Clothing and other personal items, not to exceed
4 five hundred dollars (\$500).

5 (B) The board shall develop procedures to ensure that
6 the victim is using the cash payment only for the purposes
7 of this paragraph. The procedures may include, but need
8 not be limited to, requiring copies of receipts, lease
9 agreements, or other documents as requested, or
10 developing a method for direct payment to the landlord
11 *or vendor*.

12 (C) When ~~relocation expenses are reimbursed~~ a
13 *relocation payment or reimbursement is provided* to a
14 victim of domestic violence, the victim shall agree to not
15 inform the offender of the location of the victim's new
16 residence and to not allow the offender on the premises
17 at any time, or shall agree to seek a restraining order
18 against the offender.

19 (D) *The board may authorize a cash payment or*
20 *reimbursement pursuant to this paragraph to victims of*
21 *crimes other than domestic violence if the expenses are*
22 *determined by law enforcement to be necessary for the*
23 *personal safety of the victim or by a mental health*
24 *treatment provider to be necessary for the emotional*
25 *well-being of the victim.*

26 (E) *The cash payment or reimbursement made under*
27 *this paragraph shall only be awarded once to any victim,*
28 *except that the board may, under compelling*
29 *circumstances, award a second cash payment or*
30 *reimbursement to the same victim if both of the following*
31 *conditions are met:*

32 (i) *The crime or series of crimes occurs more than*
33 *three years from the date of the crime giving rise to the*
34 *initial relocation cash payment or reimbursement.*

35 (ii) *The crime does not involve the same perpetrator.*

36 (5) Authorize cash payments to or on behalf of the
37 victim for job retraining or similar employment-oriented
38 rehabilitative services.

39 (6) (A) In the case of a victim of a crime that occurred
40 in the victim's residence ~~when the victim was age 50 years~~



1 ~~or over, or who is permanently disabled, whether the~~
2 ~~disability is partial or total, authorize a cash payment for,~~
3 *authorize reimbursement for* the expense for installing or
4 increasing residential security, not to exceed one
5 thousand dollars (\$1,000). Installing or increasing
6 residential security may include, but need not be limited
7 to, both of the following:

- 8 (i) Home security device or system.
- 9 (ii) Replacing or increasing the number of locks.

10 (B) *Reimbursement under this paragraph shall be*
11 *made upon verification by law enforcement to be*
12 *necessary for the personal safety of the victim or by a*
13 *mental health treatment provider to be necessary for the*
14 *emotional well-being of the victim.*

15 (C) The board shall develop procedures to ensure that
16 the victim is using the ~~cash payment reimbursement~~ only
17 for the purposes of this paragraph. The procedures may
18 include, but need not be limited to, requiring copies of
19 receipts, invoices, estimates, or other documents, or
20 developing a method for direct payment to the vendor.

21 (7) (A) In the case of a victim who is permanently
22 disabled as a direct result of the crime, whether the
23 disability is partial or total, authorize a ~~cash payment~~
24 *reimbursement* for the expense of renovating or
25 retrofitting his or her residence or vehicle, or both, to
26 make the residence accessible or the vehicle operational
27 by the victim. *Reimbursement shall be made upon*
28 *verification that the expense is medically necessary.*
29 Payment for these purposes shall not exceed five
30 thousand dollars (\$5,000), *except that the board may*
31 *award a greater amount when justified by the disability*
32 *of the victim.*

33 (B) The board shall develop procedures to ensure that
34 ~~the victim is using the cash payment reimbursement is~~
35 *made* only for the purposes of this paragraph. The
36 procedures may include, but need not be limited to,
37 requiring copies of receipts, invoices, estimates, or other
38 documents, or developing a method for direct payment
39 to the vendor.



1 (8) Obtain an independent examination and report
2 from any provider of psychological or psychiatric
3 treatment or mental health counseling services, if it
4 believes there is a reasonable basis for requesting an
5 additional evaluation. In cases where the crime involves
6 sexual assault, the provider shall have expertise in the
7 needs of sexual assault victims. In cases where the crime
8 involves child abuse or molestation, the provider shall
9 have expertise in the needs of victims of child abuse or
10 molestation, as appropriate. When a reevaluation is
11 obtained, payments shall not be discontinued prior to
12 completion of the reevaluation.

13 (9) When a victim dies as a direct result of a crime, the
14 board may reimburse any individual who voluntarily, and
15 without anticipation of personal gain, pays or assumes the
16 obligation to pay, the medical or burial expenses incurred
17 as a direct result of the crime for the medical or burial
18 expenses incurred in an amount not to exceed the rates
19 or limitations established by the board.

20 (10) The total award to or on behalf of the victim or a
21 derivative victim shall not exceed twenty-three thousand
22 dollars (\$23,000), and may be increased only in
23 accordance with this section.

24 (11) In the event that the victim requests that the
25 board give priority to reimbursement of loss of wages, the
26 board shall not pay medical expenses or mental health
27 counseling expenses except upon the request of the
28 victim or after determining that payment of these
29 expenses will not decrease the funds available to the
30 victim for payment of loss of wages.

31 (12) The board may authorize a direct cash payment
32 to a provider of services that are reimbursable pursuant
33 to this article. However, the board may not, without good
34 cause, authorize a direct cash payment to a provider over
35 the objection of the victim or applicant.

36 (b) Assistance granted pursuant to this article shall not
37 disqualify an otherwise eligible victim or derivative
38 victim from participation in any other public assistance
39 program.



1 (c) Cash payments made pursuant to this article may
2 be on a one-time or periodic basis. If periodic, the board
3 may increase, reduce, or terminate the amount of
4 assistance according to the victim's or derivative victim's
5 need, subject to the maximum limits provided in this
6 section.

7 (d) The board shall pay attorney's fees representing
8 the reasonable value of legal services rendered to the
9 applicant, in an amount equal to 10 percent of the amount
10 of the award, or five hundred dollars (\$500), whichever
11 is less for each victim and each derivative victim. An
12 attorney receiving fees from another source may waive
13 the right to receive fees under this section. Payments
14 under this section shall be in addition to any amount
15 authorized or ordered under subdivision (d) of Section
16 13969.1.

17 (e) No attorney shall charge, demand, receive, or
18 collect any amount for services rendered in connection
19 with any proceedings under this article except as
20 awarded under this article.

21 (f) The maximum cash payments authorized in
22 paragraph (7) of subdivision (a) shall be increased to
23 forty-six thousand dollars (\$46,000) if federal funds for
24 those increases are available.

25 (g) Notwithstanding subdivisions (a) and (f), a victim
26 injured between January 1, 1985, and December 31, 1985,
27 shall be entitled to receive a maximum cash payment of
28 forty-six thousand dollars (\$46,000) if federal funds for
29 these increases are available, but only for costs in excess
30 of limitations provided for in subdivision (a) which are
31 attributable to medical or medical-related expenses,
32 except for psychological or psychiatric treatment, or
33 mental health counseling services.

34 (h) Notwithstanding any conflicting provision of this
35 chapter, the board may make additional payments for
36 purposes described in paragraph (1) of subdivision (a) to
37 any victim who filed an application with the board on or
38 after December 1, 1982, who was a victim of a crime
39 involving sexual assault, and who is a minor at the time the
40 additional payments pursuant to this subdivision are



1 made. The payments authorized by this subdivision shall
2 not exceed the limits imposed by subdivisions (a) and (j).

3 (i) Reimbursement for any medical or
4 medical-related services shall, if the victim's application
5 has been approved, be paid by the board within an
6 average of 90 days from receipt of the claim for payment.
7 Payments to a medical or mental health provider under
8 this subdivision or paragraph (1) of subdivision (a) shall
9 not be discontinued prior to completion of any
10 reevaluation. Whether or not a reevaluation is obtained,
11 if the board determines that payments to a provider shall
12 be discontinued, the board shall notify the provider of
13 their discontinuance within 30 days of its determination.

14 (j) The board may establish maximum rates and
15 service limitations for reimbursement of medical and
16 medical-related expenses, including counseling expenses,
17 for which restitution is requested pursuant to this section.
18 For mental health and counseling services, rates shall not
19 exceed the statewide average. The adoption,
20 amendment, and repeal of these maximum rates shall not
21 be subject to the Administrative Procedure Act under
22 Chapter 3.5 (commencing with Section 11340) of Part 1.
23 An informational copy of the maximum rates shall be filed
24 with the Secretary of State upon adoption by the board.
25 A provider who accepts payment from the program for
26 a service shall accept the program's rates as payment in
27 full and shall not accept any payment on account of the
28 service from any other source if the total of payments
29 accepted would exceed the maximum rate set by the
30 board for that service.

31 To assure service limitations which are uniform and
32 appropriate to the levels of treatment required by the
33 victim or derivative victim, the board may review all
34 claims for these services as necessary to ensure their
35 medical necessity. The board may further require
36 additional documentation, information, or medical
37 review of cases of continuing treatment which are
38 projected to exceed five thousand dollars (\$5,000) to
39 determine the need to continue treatment in excess of
40 that amount. The board may accept or reject claims for



1 the amount in excess of five thousand dollars (\$5,000) by
2 applying the same standards applicable to processing the
3 initial claim or may approve a continuing treatment
4 regimen for a specific interval or subject to periodic
5 review as appropriate. All information requested of the
6 treating therapist shall be provided at no cost to the
7 applicant, the board, or to local victim centers, pursuant
8 to subdivision (b) of Section 13962. Requests for
9 additional information shall be made in a timely manner
10 so as not to interfere with necessary treatment.

11 (k) The authority provided by this section shall not be
12 construed to in any way diminish, enhance, or otherwise
13 affect any authority which the board may have under
14 current law except as explicitly provided in this section.

15 (l) The board, in its discretion, may make payments
16 directly to providers prior to verification.

17 (m) Notwithstanding paragraph (1) of subdivision
18 (a), the board may reimburse a victim or derivative
19 victim for mental health counseling in excess of that
20 authorized by that paragraph if the claim is based on dire
21 or exceptional circumstances that require more extensive
22 treatment, as approved by the board.

23 (n) Notwithstanding paragraph (1) of subdivision (a),
24 if, as of December 31, 1993, a person has incurred mental
25 health counseling expenses pursuant to this article in
26 excess of one-half of the amount specified in that
27 subdivision, the board may award, in addition to amounts
28 awarded for previously incurred expenses, an amount
29 equal to not more than one-half of the applicable
30 maximum amount specified in that paragraph or any
31 additional amounts as the board determines is necessary.

32 (o) The limitations on the amounts which the board
33 may reimburse for loss of support and loss of wages
34 pursuant to paragraphs (2) and (3) of subdivision (a)
35 shall not apply to victims or derivative victims whose
36 claims for loss of wages and loss of support had been
37 approved prior to January 1, 1994.

38 (p) The total award to or on behalf of a victim of a
39 crime committed in violation of subdivision (d) of Section
40 261.5 of the Penal Code shall not exceed three thousand



1 dollars (\$3,000) for mental health counseling expenses
2 only.

3 (q) This section shall remain in effect only until
4 January 1, 2003, and as of that date is repealed, unless a
5 later enacted statute, that is enacted before January 1,
6 2003, deletes or extends that date.

7 SEC. 2. Section 13965 of the Government Code, as
8 added by Section 3.7 of Chapter 895 of the Statutes of
9 1998, is amended to read:

10 13965. (a) If the application for assistance is
11 approved, the board shall determine what type of state
12 assistance will best aid the victim or derivative victim.
13 The board may take any or all of the following actions:

14 (1) Reimburse the following persons for the expense
15 of their out-patient mental health counseling when that
16 mental health counseling is necessary as a direct result of
17 the crime:

18 (A) A victim in an amount not to exceed ten thousand
19 dollars (\$10,000).

20 (B) A derivative victim who is the surviving parent,
21 sibling, child, spouse, or fiancé of a victim of a crime
22 which directly resulted in the death of the victim in an
23 amount not to exceed ten thousand dollars (\$10,000).

24 (C) A derivative victim who is the primary caretaker
25 of a minor victim of sexual or physical abuse whose claim
26 is not denied or reduced pursuant to subdivision (b) or
27 (d) of Section 13964 in a total amount not to exceed ten
28 thousand dollars (\$10,000) for not more than two
29 derivative victims described in this subparagraph.

30 (D) A derivative victim not eligible for
31 reimbursement pursuant to subparagraph (B) or (C) in
32 an amount not to exceed three thousand dollars (\$3,000).

33 The board may authorize a direct cash payment to a
34 provider of psychological or psychiatric treatment or
35 mental health counseling services, including peer
36 counseling services provided by a rape crisis center as
37 defined by Section 13837 of the Penal Code or to either
38 the victim or the derivative victim, equal to the
39 pecuniary loss attributable to medical or medical-related
40 expenses, including counseling, directly resulting from



1 the injury. Reimbursement on the initial claim for any
2 psychological, psychiatric, or mental health counseling
3 services, including peer counseling services provided by
4 a rape crisis center, shall, if the application has been
5 approved, be paid by the board within 90 days of the date
6 of receipt of the claim for payment, with subsequent
7 payments to be made to the provider within one month
8 of the receipt of a claim for payment. However, the board
9 may not authorize without good cause a direct cash
10 payment to a licensed health care provider or rape crisis
11 center over the objection of the applicant.

12 When a public agency, including a court or district
13 attorney or a police, county child protective services, or
14 other state or local governmental agency, refers a victim
15 of crime to a private nonprofit agency for treatment for
16 that victim, the private nonprofit agency shall be
17 reimbursed for those services at the level of the normal
18 and customary fee charged by the private nonprofit
19 agency to clients with adequate means of payment for its
20 services, except that this reimbursement shall not exceed
21 the maximum reimbursement rates set by the board and
22 may be made only to the extent that the victim otherwise
23 qualifies for services under the victims of crime program
24 and that other reimbursement or direct subsidies are not
25 available to serve the victim.

26 Payments authorized pursuant to this paragraph for
27 peer counseling services provided by a rape counseling
28 center shall not exceed fifteen dollars (\$15) for each hour
29 of services provided. Those services shall be limited to
30 individual, in-person counseling on a face-to-face basis for
31 a period not to exceed 10 weeks plus one series of
32 facilitated support group counseling sessions.

33 (2) Authorize a cash payment to the victim equal to
34 the pecuniary loss resulting from loss of wages directly
35 resulting from the injury. Loss of wages shall not be paid
36 by the board for more than two years following the crime.
37 However, loss of wages may be extended for one
38 additional year if the victim is either enrolled in a
39 program of retraining or other rehabilitation approved
40 by the board or has established to the satisfaction of the



1 board that because of his or her disability arising from the
2 crime he or she is unable to participate in any retraining
3 or rehabilitation. If the board determines, after review of
4 an application for assistance, including the evaluation of
5 a qualified provider, that pecuniary loss for which
6 payment may be made under this paragraph is expected
7 to continue more than six months after the date of
8 approval of the victim's application for assistance,
9 disbursement shall commence and continue on a monthly
10 basis for the period of time pecuniary loss is expected to
11 continue.

12 (3) Authorize a cash payment to a derivative victim
13 described in subparagraphs (A) and (B) of paragraph (2)
14 of subdivision (a) of Section 13960 who was legally
15 dependent on the victim at the time of the crime for the
16 loss of support incurred by that person as a direct result
17 of the crime.

18 (A) Loss of support shall not be paid by the board for
19 income lost by an adult for a period of more than two
20 years and shall not extend more than three years
21 following the date of the crime.

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

25 (C) The total amount payable to all derivative victims
26 for loss of support pursuant to this paragraph as the result
27 of one crime shall not exceed forty-six thousand dollars
28 (\$46,000).

29 (4) (A) Authorize a cash payment *or reimbursement*
30 not to exceed two thousand dollars (\$2,000) to an adult
31 victim of domestic violence for expenses incurred in
32 relocating, if the expenses are determined by law
33 enforcement to be necessary for the personal safety of the
34 victim or by a mental health treatment provider to be
35 necessary for the emotional well-being of the victim. ~~The~~
36 ~~reimbursement shall only be awarded once for any crime~~
37 ~~or series of crimes between the same victim and~~
38 ~~perpetrator. These~~ *These* expenses may include, but
39 need not be limited to, all of the following:

40 (i) Deposits for utilities and telephone service.



1 (ii) Deposits for rental housing, not to exceed the first
2 and last month's rent or two thousand dollars (\$2,000),
3 whichever is less.

4 (iii) Temporary lodging and food expenses, not to
5 exceed one thousand dollars (\$1,000).

6 (iv) Clothing and other personal items, not to exceed
7 five hundred dollars (\$500).

8 (B) The board shall develop procedures to ensure that
9 the victim is using the cash payment only for the purposes
10 of this paragraph. The procedures may include, but need
11 not be limited to, requiring copies of receipts, lease
12 agreements, or other documents as requested, or
13 developing a method of direct payment to the landlord
14 or vendor.

15 (C) When ~~relocation expenses are reimbursed~~ a
16 *relocation payment or reimbursement is provided* to a
17 victim of domestic violence, the victim shall agree to not
18 inform the offender of the location of the victim's new
19 residence and to not allow the offender on the premises
20 at any time, or shall agree to seek a restraining order
21 against the offender.

22 (D) *The board may authorize a cash payment or*
23 *reimbursement pursuant to this paragraph to victims of*
24 *crimes other than domestic violence if the expenses are*
25 *determined by law enforcement to be necessary for the*
26 *personal safety of the victim or by a mental health*
27 *treatment provider to be necessary for the emotional*
28 *well-being of the victim.*

29 (E) *The cash payment or reimbursement made under*
30 *this paragraph shall only be awarded once to any victim,*
31 *except that the board may, under compelling*
32 *circumstances, award a second cash payment or*
33 *reimbursement to the same victim if both of the following*
34 *conditions are met:*

35 (i) *The crime or series of crimes occurs more than*
36 *three years from the date of the crime giving rise to the*
37 *initial relocation cash payment or reimbursement.*

38 (ii) *The crime does not involve the same perpetrator.*



1 (5) Authorize cash payments to or on behalf of the
2 victim for job retraining or similar employment-oriented
3 rehabilitative services.

4 (6) (A) In the case of a victim of a crime that occurred
5 in the victim's residence ~~when the victim was age 50 years~~
6 ~~or over, or who is permanently disabled, whether the~~
7 ~~disability is partial or total, authorize a cash payment for,~~
8 *authorize reimbursement for* the expense for installing or
9 increasing residential security, not to exceed one
10 thousand dollars (\$1,000). Installing or increasing
11 residential security may include, but need not be limited
12 to, both of the following:

13 (i) Home security device or system.

14 (ii) Replacing or increasing the number of locks.

15 (B) *Reimbursement under this paragraph shall be*
16 *made upon verification by law enforcement to be*
17 *necessary for the personal safety of the victim or by a*
18 *mental health treatment provider to be necessary for the*
19 *emotional well-being of the victim.*

20 (C) The board shall develop procedures to ensure that
21 the victim is using the ~~cash payment reimbursement~~ only
22 for the purposes of this paragraph. The procedures may
23 include, but need not be limited to, requiring copies of
24 receipts, invoices, estimates, or other documents, or
25 developing a method for direct payment to the vendor.

26 (7) (A) In the case of a victim who is permanently
27 disabled as a direct result of the crime, whether the
28 disability is partial or total, ~~authorize a cash payment~~
29 *reimbursement* for the expense of renovating or
30 retrofitting his or her residence or vehicle, or both, to
31 make the residence accessible or the vehicle operational
32 by the victim. *Reimbursement shall be made upon*
33 *verification that the expense is medically necessary.*
34 Payment for these purposes shall not exceed five
35 thousand dollars (\$5,000), *except that the board may*
36 *award a greater amount when justified by the disability*
37 *of the victim.*

38 (B) The board shall develop procedures to ensure that
39 ~~the victim is using the cash payment reimbursement is~~
40 *made* only for the purposes of this paragraph. The



1 procedures may include, but need not be limited to,
2 requiring copies of receipts, invoices, estimates, or other
3 documents, or developing a method for direct payment
4 to the vendor.

5 (8) Obtain an independent examination and report
6 from any provider of psychological or psychiatric
7 treatment or mental health counseling services, if it
8 believes there is a reasonable basis for requesting an
9 additional evaluation. In cases where the crime involves
10 sexual assault, the provider shall have expertise in the
11 needs of sexual assault victims. In cases where the crime
12 involves child abuse or molestation, the provider shall
13 have expertise in the needs of victims of child abuse or
14 molestation, as appropriate. When a reevaluation is
15 obtained, payments shall not be discontinued prior to
16 completion of the reevaluation.

17 (9) When a victim dies as a direct result of a crime, the
18 board may reimburse any individual who voluntarily, and
19 without anticipation of personal gain, pays or assumes the
20 obligation to pay, the medical or burial expenses incurred
21 as a direct result of the crime for the medical or burial
22 expenses incurred in an amount not to exceed the rates
23 or limitations established by the board.

24 (10) The total award to or on behalf of the victim or a
25 derivative victim shall not exceed twenty-three thousand
26 dollars (\$23,000), and may be increased only in
27 accordance with this section.

28 (11) In the event that the victim requests that the
29 board give priority to reimbursement of loss of wages, the
30 board shall not pay medical expenses or mental health
31 counseling expenses except upon the request of the
32 victim or after determining that payment of these
33 expenses will not decrease the funds available to the
34 victim for payment of loss of wages.

35 (12) The board may authorize a direct cash payment
36 to a provider of services that are reimbursable pursuant
37 to this article. However, the board may not, without good
38 cause, authorize a direct cash payment to a provider over
39 the objection of the victim or applicant.



1 (b) Assistance granted pursuant to this article shall not
2 disqualify an otherwise eligible victim or derivative
3 victim from participation in any other public assistance
4 program.

5 (c) Cash payments made pursuant to this article may
6 be on a one-time or periodic basis. If periodic, the board
7 may increase, reduce, or terminate the amount of
8 assistance according to the victim's or derivative victim's
9 need, subject to the maximum limits provided in this
10 section.

11 (d) The board shall pay attorney's fees representing
12 the reasonable value of legal services rendered to the
13 applicant, in an amount equal to 10 percent of the amount
14 of the award, or five hundred dollars (\$500), whichever
15 is less for each victim and each derivative victim. An
16 attorney receiving fees from another source may waive
17 the right to receive fees under this section. Payments
18 under this section shall be in addition to any amount
19 authorized or ordered under subdivision (d) of Section
20 13969.1.

21 (e) No attorney shall charge, demand, receive, or
22 collect any amount for services rendered in connection
23 with any proceedings under this article except as
24 awarded under this article.

25 (f) The maximum cash payments authorized in
26 paragraph (7) of subdivision (a) shall be increased to
27 forty-six thousand dollars (\$46,000) if federal funds for
28 those increases are available.

29 (g) Notwithstanding subdivisions (a) and (f), a victim
30 injured between January 1, 1985, and December 31, 1985,
31 shall be entitled to receive a maximum cash payment of
32 forty-six thousand dollars (\$46,000) if federal funds for
33 these increases are available, but only for costs in excess
34 of limitations provided for in subdivision (a) which are
35 attributable to medical or medical-related expenses,
36 except for psychological or psychiatric treatment, or
37 mental health counseling services.

38 (h) Notwithstanding any conflicting provision of this
39 chapter, the board may make additional payments for
40 purposes described in paragraph (1) of subdivision (a) to



1 any victim who filed an application with the board on or
2 after December 1, 1982, who was a victim of a crime
3 involving sexual assault, and who is a minor at the time the
4 additional payments pursuant to this subdivision are
5 made. The payments authorized by this subdivision shall
6 not exceed the limits imposed by subdivisions (a) and (j).

7 (i) Reimbursement for any medical or
8 medical-related services shall, if the victim's application
9 has been approved, be paid by the board within an
10 average of 90 days from receipt of the claim for payment.
11 Payments to a medical or mental health provider under
12 this subdivision or paragraph (1) of subdivision (a) shall
13 not be discontinued prior to completion of any
14 reevaluation. Whether or not a reevaluation is obtained,
15 if the board determines that payments to a provider shall
16 be discontinued, the board shall notify the provider of
17 their discontinuance within 30 days of its determination.

18 (j) The board may establish maximum rates and
19 service limitations for reimbursement of medical and
20 medical-related expenses, including counseling expenses,
21 for which restitution is requested pursuant to this section.
22 For mental health and counseling services, rates shall not
23 exceed the statewide average. The adoption,
24 amendment, and repeal of these maximum rates shall not
25 be subject to the Administrative Procedure Act under
26 Chapter 3.5 (commencing with Section 11340) of Part 1.
27 An informational copy of the maximum rates shall be filed
28 with the Secretary of State upon adoption by the board.
29 A provider who accepts payment from the program for
30 a service shall accept the program's rates as payment in
31 full and shall not accept any payment on account of the
32 service from any other source if the total of payments
33 accepted would exceed the maximum rate set by the
34 board for that service.

35 To assure service limitations which are uniform and
36 appropriate to the levels of treatment required by the
37 victim or derivative victim, the board may review all
38 claims for these services as necessary to ensure their
39 medical necessity. The board may further require
40 additional documentation, information, or medical



1 review of cases of continuing treatment which are
2 projected to exceed five thousand dollars (\$5,000) to
3 determine the need to continue treatment in excess of
4 that amount. The board may accept or reject claims for
5 the amount in excess of five thousand dollars (\$5,000) by
6 applying the same standards applicable to processing the
7 initial claim or may approve a continuing treatment
8 regimen for a specific interval or subject to periodic
9 review as appropriate. All information requested of the
10 treating therapist shall be provided at no cost to the
11 applicant, the board, or to local victim centers, pursuant
12 to subdivision (b) of Section 13962. Requests for
13 additional information shall be made in a timely manner
14 so as not to interfere with necessary treatment.

15 (k) The authority provided by this section shall not be
16 construed to in any way diminish, enhance, or otherwise
17 affect any authority which the board may have under
18 current law except as explicitly provided in this section.

19 (l) The board, in its discretion, may make payments
20 directly to providers prior to verification.

21 (m) Notwithstanding paragraph (1) of subdivision
22 (a), the board may reimburse a victim or derivative
23 victim for mental health counseling in excess of that
24 authorized by that paragraph if the claim is based on dire
25 or exceptional circumstances that require more extensive
26 treatment, as approved by the board.

27 (n) Notwithstanding paragraph (1) of subdivision (a),
28 if, as of December 31, 1993, a person has incurred mental
29 health counseling expenses pursuant to this article in
30 excess of one-half of the amount specified in that
31 subdivision, the board may award, in addition to amounts
32 awarded for previously incurred expenses, an amount
33 equal to not more than one-half of the applicable
34 maximum amount specified in that paragraph or any
35 additional amounts as the board determines is necessary.

36 (o) The limitations on the amounts which the board
37 may reimburse for loss of support and loss of wages
38 pursuant to paragraphs (2) and (3) of subdivision (a)
39 shall not apply to victims or derivative victims whose



1 claims for loss of wages and loss of support had been
2 approved prior to January 1, 1994.

3 (p) This section shall become operative on January 1,
4 2003.

5 SEC. 3. Section 13968.5 is added to the Government
6 Code, to read:

7 13968.5. (a) The board shall conduct a ~~two-year~~ *pilot*
8 program that entitles a victim or derivative victim to be
9 reimbursed from the Restitution Fund for grief,
10 mourning, and bereavement services in cases of death or
11 severe trauma, except that the services shall not include
12 mental health services for which a state license is
13 *otherwise* required. These services shall be rendered by
14 a person certified as a child life specialist by the National
15 Child Life Council, who has at least five years of
16 professional experience in the field of child life, as defined
17 by the council. These services shall be performed under
18 the supervision of a court, hospital, physician and
19 surgeon, licensed psychotherapist included in Section
20 1010 of the Evidence Code, community-based
21 organization, or county. The board may only include in
22 the program a certified child life specialist who has been
23 determined by a current employer in California or a
24 California licensing entity not to have a criminal history
25 that would prevent that employment or the issuance of
26 a license. If neither determination has occurred, the
27 board shall secure from the Department of Justice a
28 criminal record to determine whether the applicant
29 would be disqualified pursuant to Section 7911.1 of the
30 Health and Safety Code, and for these purposes the board
31 may make the determinations required by that section.
32 The board may charge a certified child life specialist a fee
33 for the actual cost of fingerprinting and obtaining the
34 criminal history information required by this section. The
35 program shall terminate on January 1, ~~2002~~ 2004. The
36 board shall evaluate the ~~results of the~~ program and,
37 notwithstanding Section 7550.5, shall report its
38 conclusions and recommendations to the Legislature by
39 March 1, 2002. The board may consider whether child life

1 specialists ~~are or will~~ *should* be licensed by a state agency
2 in making its recommendations to the Legislature.

3 (b) This section shall remain in effect only until
4 January 1, ~~2003~~ 2004, and as of that date is repealed, unless
5 a later enacted statute, that is enacted before January 1,
6 ~~2003~~ 2004, deletes or extends that date.

7 ~~SEC. 4. Section 1202.4 of the Penal Code, as amended~~
8 ~~by Section 6.5 of Chapter 587 of the Statutes of 1998, is~~
9 ~~amended to read:~~

10 ~~1202.4. (a) (1) It is the intent of the Legislature that~~
11 ~~a victim of crime who incurs any economic loss as a result~~
12 ~~of the commission of a crime shall receive restitution~~
13 ~~directly from any defendant convicted of that crime.~~

14 ~~(2) Upon a person being convicted of any crime in the~~
15 ~~State of California, the court shall order the defendant to~~
16 ~~pay a fine in the form of a penalty assessment in~~
17 ~~accordance with Section 1464.~~

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

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

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

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

31 ~~(1) The restitution fine shall be set at the discretion of~~
32 ~~the court and commensurate with the seriousness of the~~
33 ~~offense, but shall not be less than two hundred dollars~~
34 ~~(\$200), and not more than ten thousand dollars (\$10,000);~~
35 ~~if the person is convicted of a felony, and shall not be less~~
36 ~~than one hundred dollars (\$100), and not more than one~~
37 ~~thousand dollars (\$1,000), if the person is convicted of a~~
38 ~~misdemeanor.~~

39 ~~(2) In setting a felony restitution fine, the court may~~
40 ~~determine the amount of the fine as the product of two~~



1 ~~hundred dollars (\$200) multiplied by the number of years~~
2 ~~of imprisonment the defendant is ordered to serve,~~
3 ~~multiplied by the number of felony counts of which the~~
4 ~~defendant is convicted.~~

5 ~~(e) The court shall impose the restitution fine unless it~~
6 ~~finds compelling and extraordinary reasons for not doing~~
7 ~~so, and states those reasons on the record. A defendant's~~
8 ~~inability to pay shall not be considered a compelling and~~
9 ~~extraordinary reason not to impose a restitution fine.~~
10 ~~Inability to pay may be considered only in increasing the~~
11 ~~amount of the restitution fine in excess of the~~
12 ~~two-hundred-dollar (\$200) or one-hundred-dollar (\$100)~~
13 ~~minimum.~~

14 ~~(d) In setting the amount of the fine pursuant to~~
15 ~~subdivision (b) in excess of the two-hundred-dollar~~
16 ~~(\$200) or one-hundred-dollar (\$100) minimum, the court~~
17 ~~shall consider any relevant factors including, but not~~
18 ~~limited to, the defendant's inability to pay, the seriousness~~
19 ~~and gravity of the offense and the circumstances of its~~
20 ~~commission, any economic gain derived by the defendant~~
21 ~~as a result of the crime, the extent to which any other~~
22 ~~person suffered any losses as a result of the crime, and the~~
23 ~~number of victims involved in the crime. Those losses~~
24 ~~may include pecuniary losses to the victim or his or her~~
25 ~~dependents as well as intangible losses, such as~~
26 ~~psychological harm caused by the crime. Consideration of~~
27 ~~a defendant's inability to pay may include his or her~~
28 ~~future earning capacity. A defendant shall bear the~~
29 ~~burden of demonstrating his or her inability to pay.~~
30 ~~Express findings by the court as to the factors bearing on~~
31 ~~the amount of the fine shall not be required. A separate~~
32 ~~hearing for the fine shall not be required.~~

33 ~~(e) The restitution fine shall not be subject to penalty~~
34 ~~assessments as provided in Section 1464, and shall be~~
35 ~~deposited in the Restitution Fund in the State Treasury.~~

36 ~~(f) In every case in which a victim has suffered~~
37 ~~economic loss as a result of the defendant's conduct, the~~
38 ~~court shall require that the defendant make restitution to~~
39 ~~the victim or victims in an amount established by court~~
40 ~~order, based on the amount of loss claimed by the victim~~



1 or victims or any other showing to the court. If the
2 amount of loss cannot be ascertained at the time of
3 sentencing, the restitution order shall include a provision
4 that the amount shall be determined at the direction of
5 the court. The court shall order full restitution unless it
6 finds compelling and extraordinary reasons for not doing
7 so, and states them on the record.

8 (1) The defendant has the right to a hearing before a
9 judge to dispute the determination of the amount of
10 restitution. The court may modify the amount, on its own
11 motion or on the motion of the district attorney, the
12 victim or victims, or the defendant. If a motion is made
13 for modification of a restitution order, the victim shall be
14 notified of that motion at least 10 days prior to the
15 proceeding held to decide the motion.

16 (2) Determination of the amount of restitution
17 ordered pursuant to this subdivision shall not be affected
18 by the indemnification or subrogation rights of any third
19 party. Restitution ordered pursuant to this subdivision
20 shall be ordered to be deposited in the Restitution Fund
21 to the extent that the victim, as defined in subdivision (k);
22 has received assistance from the Victims of Crime
23 Program pursuant to Article 1 (commencing with Section
24 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the
25 Government Code.

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

33 (A) Full or partial payment for the value of stolen or
34 damaged property. The value of stolen or damaged
35 property shall be the replacement cost of like property,
36 or the actual cost of repairing the property when repair
37 is possible.

38 (B) Medical expenses.

39 (C) Mental health counseling expenses.



1 ~~(D) Wages or profits lost due to injury incurred by the~~
2 ~~victim, and if the victim is a minor, wages or profits lost~~
3 ~~by the minor's parent, parents, guardian, or guardians,~~
4 ~~while caring for the injured minor.~~

5 ~~(E) Wages or profits lost by the victim, and if the~~
6 ~~victim is a minor, wages or profits lost by the minor's~~
7 ~~parent, parents, guardian, or guardians, due to time spent~~
8 ~~as a witness or in assisting the police or prosecution.~~

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

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

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

17 ~~(I) Expenses incurred by an adult victim in relocating~~
18 ~~away from the defendant, including, but not limited to,~~
19 ~~deposits for utilities and telephone service, deposits for~~
20 ~~rental housing, temporary lodging and food expenses,~~
21 ~~clothing, and personal items. Expenses incurred pursuant~~
22 ~~to this section shall be verified by law enforcement to be~~
23 ~~necessary for the personal safety of the victim or by a~~
24 ~~mental health provider to be necessary for the emotional~~
25 ~~well-being of the victim.~~

26 ~~(J) Expenses to install or increase residential security~~
27 ~~incurred related to a crime, as defined in subdivision (c)~~
28 ~~of Section 667.5, by a victim who is age 50 years or over,~~
29 ~~or who is permanently disabled, whether the disability is~~
30 ~~partial or total, including, but not limited to, a home~~
31 ~~security device or system, or replacing or increasing the~~
32 ~~number of locks.~~

33 ~~(K) Expenses to retrofit a residence or vehicle, or~~
34 ~~both, to make the residence accessible to or the vehicle~~
35 ~~operational by the victim, if the victim is permanently~~
36 ~~disabled, whether the disability is partial or total, as a~~
37 ~~direct result of the crime.~~

38 ~~(4) Except as provided in paragraph (5), in any case~~
39 ~~in which an order may be entered pursuant to this~~
40 ~~subdivision, the defendant shall prepare and file a~~



1 ~~disclosure identifying all assets, income, and liabilities in~~
2 ~~which the defendant held or controlled a present or~~
3 ~~future interest as of the date of the defendant's arrest for~~
4 ~~the crime for which restitution may be ordered. This~~
5 ~~disclosure shall be available to the victim pursuant to~~
6 ~~Section 1214, and any use the court may make of the~~
7 ~~disclosure shall be subject to the restrictions of~~
8 ~~subdivision (g). The disclosure shall be signed by the~~
9 ~~defendant upon a form approved or adopted by the~~
10 ~~Judicial Council for the purpose of facilitating the~~
11 ~~disclosure. Any defendant who willfully states as true any~~
12 ~~material matter that he or she knows to be false on the~~
13 ~~disclosure required by this subdivision is guilty of a~~
14 ~~misdemeanor, unless this conduct is punishable as perjury~~
15 ~~or another provision of law provides for a greater penalty.~~

16 (5) ~~A defendant who fails to file the financial~~
17 ~~disclosure required in paragraph (4), but who has filed a~~
18 ~~financial affidavit or financial information pursuant to~~
19 ~~subdivision (c) of Section 987, shall be deemed to have~~
20 ~~waived the confidentiality of that affidavit or financial~~
21 ~~information as to a victim in whose favor the order of~~
22 ~~restitution is entered pursuant to subdivision (f). The~~
23 ~~affidavit or information shall serve in lieu of the financial~~
24 ~~disclosure required in paragraph (4), and paragraphs (6),~~
25 ~~(7), (8), and (9) shall not apply.~~

26 (6) ~~Except as provided in paragraph (5), the~~
27 ~~defendant shall file the disclosure with the clerk of the~~
28 ~~court no later than the date set for the defendant's~~
29 ~~sentencing, unless otherwise directed by the court. The~~
30 ~~disclosure may be inspected or copied as provided by~~
31 ~~subdivision (b), (c), or (d) of Section 1203.05.~~

32 (7) ~~In its discretion, the court may relieve the~~
33 ~~defendant of the duty under paragraph (6) of filing with~~
34 ~~the clerk by requiring that the defendant's disclosure be~~
35 ~~submitted as an attachment to, and be available to, those~~
36 ~~authorized to receive the following:~~

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



1 ~~(B) Any stipulation submitted pursuant to paragraph~~
2 ~~(4) of subdivision (b) of Section 1203.~~

3 ~~(C) Any report by the probation officer, or any~~
4 ~~information submitted by the defendant applying for a~~
5 ~~conditional sentence pursuant to subdivision (d) of~~
6 ~~Section 1203.~~

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

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

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

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

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

21 ~~(9) A defendant's failure or refusal to make the~~
22 ~~required disclosure pursuant to paragraph (4) shall not~~
23 ~~delay entry of an order of restitution or pronouncement~~
24 ~~of sentence. In appropriate cases, the court may do any~~
25 ~~of the following:~~

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

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

33 ~~(C) If sentencing the defendant under Section 1203,~~
34 ~~set a date and place for submission of the disclosure~~
35 ~~required by paragraph (4) as a condition of probation or~~
36 ~~suspended sentence.~~

37 ~~(g) The court shall order full restitution unless it finds~~
38 ~~compelling and extraordinary reasons for not doing so,~~
39 ~~and states those reasons on the record. A defendant's~~
40 ~~inability to pay shall not be considered a compelling and~~



1 extraordinary reason not to impose a restitution order,
2 nor shall inability to pay be a consideration in
3 determining the amount of a restitution order.

4 (h) The district attorney may request an order of
5 examination pursuant to the procedures specified in
6 Article 2 (commencing with Section 708.110) of Chapter
7 6 of Division 2 of Title 9 of Part 2 of the Code of Civil
8 Procedure, in order to determine the defendant's
9 financial assets for purposes of collecting on the
10 restitution order.

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

14 (j) The making of a restitution order pursuant to
15 subdivision (f) shall not affect the right of a victim to
16 recovery from the Restitution Fund as otherwise
17 provided by law, except to the extent that restitution is
18 actually collected pursuant to the order. Restitution
19 collected pursuant to this subdivision shall be credited to
20 any other judgments for the same losses obtained against
21 the defendant arising out of the crime for which the
22 defendant was convicted.

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

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

27 (2) Any corporation, business trust, estate, trust,
28 partnership, association, joint venture, government,
29 governmental subdivision, agency, or instrumentality, or
30 any other legal or commercial entity when that entity is
31 a direct victim of a crime.

32 (3) "Derivative victims" as defined in Section 13960 of
33 the Government Code.

34 (l) At its discretion, the board of supervisors of any
35 county may impose a fee to cover the actual
36 administrative cost of collecting the restitution fine, not
37 to exceed 10 percent of the amount ordered to be paid,
38 to be added to the restitution fine and included in the
39 order of the court, the proceeds of which shall be
40 deposited in the general fund of the county.



1 ~~(m) In every case in which the defendant is granted~~
2 ~~probation, the court shall make the payment of~~
3 ~~restitution fines and orders imposed pursuant to this~~
4 ~~section a condition of probation. Any portion of a~~
5 ~~restitution order that remains unsatisfied after a~~
6 ~~defendant is no longer on probation shall continue to be~~
7 ~~enforceable by a victim pursuant to Section 1214 until the~~
8 ~~obligation is satisfied.~~

9 ~~(n) If the court finds and states on the record~~
10 ~~compelling and extraordinary reasons why a restitution~~
11 ~~fine or full restitution order should not be required, the~~
12 ~~court shall order, as a condition of probation, that the~~
13 ~~defendant perform specified community service, unless~~
14 ~~it finds and states on the record compelling and~~
15 ~~extraordinary reasons not to require community service~~
16 ~~in addition to the finding that restitution should not be~~
17 ~~required. Upon revocation of probation, the court shall~~
18 ~~impose restitution pursuant to this section.~~

19 ~~(o) The provisions of Section 13966.01 of the~~
20 ~~Government Code shall apply to restitution imposed~~
21 ~~pursuant to this section.~~

22 ~~(p) (1) This section shall become operative on~~
23 ~~January 1, 2000, except when all of the following apply:~~

24 ~~(A) A majority of judges of a court apply to the Judicial~~
25 ~~Council for an extension.~~

26 ~~(B) The judicial application described in paragraph~~
27 ~~(1) documents the need for time to adjust restitution~~
28 ~~procedures and practices, as well as to facilitate judicial~~
29 ~~education and training in direct restitution to victims~~
30 ~~under subdivision (f).~~

31 ~~(C) The Judicial Council grants the extension upon~~
32 ~~finding good cause.~~

33 ~~(2) Upon the grant of an extension pursuant to the~~
34 ~~application of a court under this subdivision, the~~
35 ~~provisions of former Section 1214 shall continue to apply~~
36 ~~with respect to that court. The extension may be for any~~
37 ~~period of time set by the Judicial Council, but shall not~~
38 ~~exceed January 1, 2002, in any case.~~

39 ~~SEC. 4. Section 1202.4 of the Penal Code, as amended~~
40 ~~by Chapter 121 of the Statutes of 1999, is amended to read:~~



1 1202.4. (a) (1) It is the intent of the Legislature that
2 a victim of crime who incurs any economic loss as a result
3 of the commission of a crime shall receive restitution
4 directly from any defendant convicted of that crime.

5 (2) Upon a person being convicted of any crime in the
6 State of California, the court shall order the defendant to
7 pay a fine in the form of a penalty assessment in
8 accordance with Section 1464.

9 (3) The court, in addition to any other penalty
10 provided or imposed under the law, shall order the
11 defendant to pay both of the following:

12 (A) A restitution fine in accordance with subdivision
13 (b).

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

17 (b) In every case where a person is convicted of a
18 crime, the court shall impose a separate and additional
19 restitution fine, unless it finds compelling and
20 extraordinary reasons for not doing so, and states those
21 reasons on the record.

22 (1) The restitution fine shall be set at the discretion of
23 the court and commensurate with the seriousness of the
24 offense, but shall not be less than two hundred dollars
25 (\$200), and not more than ten thousand dollars (\$10,000),
26 if the person is convicted of a felony, and shall not be less
27 than one hundred dollars (\$100), and not more than one
28 thousand dollars (\$1,000), if the person is convicted of a
29 misdemeanor.

30 (2) In setting a felony restitution fine, the court may
31 determine the amount of the fine as the product of two
32 hundred dollars (\$200) multiplied by the number of years
33 of imprisonment the defendant is ordered to serve,
34 multiplied by the number of felony counts of which the
35 defendant is convicted.

36 (c) The court shall impose the restitution fine unless it
37 finds compelling and extraordinary reasons for not doing
38 so, and states those reasons on the record. A defendant's
39 inability to pay shall not be considered a compelling and
40 extraordinary reason not to impose a restitution fine.



1 Inability to pay may be considered only in increasing the
2 amount of the restitution fine in excess of the
3 two-hundred-dollar (\$200) or one-hundred-dollar (\$100)
4 minimum.

5 (d) In setting the amount of the fine pursuant to
6 subdivision (b) in excess of the two-hundred-dollar
7 (\$200) or one-hundred-dollar (\$100) minimum, the court
8 shall consider any relevant factors including, but not
9 limited to, the defendant's inability to pay, the seriousness
10 and gravity of the offense and the circumstances of its
11 commission, any economic gain derived by the defendant
12 as a result of the crime, the extent to which any other
13 person suffered any losses as a result of the crime, and the
14 number of victims involved in the crime. Those losses
15 may include pecuniary losses to the victim or his or her
16 dependents as well as intangible losses, such as
17 psychological harm caused by the crime. Consideration of
18 a defendant's inability to pay may include his or her
19 future earning capacity. A defendant shall bear the
20 burden of demonstrating his or her inability to pay.
21 Express findings by the court as to the factors bearing on
22 the amount of the fine shall not be required. A separate
23 hearing for the fine shall not be required.

24 (e) The restitution fine shall not be subject to penalty
25 assessments as provided in Section 1464, and shall be
26 deposited in the Restitution Fund in the State Treasury.

27 (f) In every case in which a victim has suffered
28 economic loss as a result of the defendant's conduct, the
29 court shall require that the defendant make restitution to
30 the victim or victims in an amount established by court
31 order, based on the amount of loss claimed by the victim
32 or victims or any other showing to the court. If the
33 amount of loss cannot be ascertained at the time of
34 sentencing, the restitution order shall include a provision
35 that the amount shall be determined at the direction of
36 the court. The court shall order full restitution unless it
37 finds compelling and extraordinary reasons for not doing
38 so, and states them on the record.

39 (1) The defendant has the right to a hearing before a
40 judge to dispute the determination of the amount of



1 restitution. The court may modify the amount, on its own
2 motion or on the motion of the district attorney, the
3 victim or victims, or the defendant. If a motion is made
4 for modification of a restitution order, the victim shall be
5 notified of that motion at least 10 days prior to the
6 proceeding held to decide the motion.

7 (2) Determination of the amount of restitution
8 ordered pursuant to this subdivision shall not be affected
9 by the indemnification or subrogation rights of any third
10 party. Restitution ~~payments made~~ *ordered* pursuant to
11 this subdivision shall be ~~made~~ *ordered to be deposited* to
12 the Restitution Fund to the extent that the victim, as
13 defined in subdivision (k), has received assistance *from*
14 *the Victims of Crime Program* pursuant to Article 1
15 (commencing with Section 13959) of Chapter 5 of Part 4
16 of Division 3 of Title 2 of the Government Code.

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

24 (A) Full or partial payment for the value of stolen or
25 damaged property. The value of stolen or damaged
26 property shall be the replacement cost of like property,
27 or the actual cost of repairing the property when repair
28 is possible.

29 (B) Medical expenses.

30 (C) Mental health ~~therapy~~ *counseling* expenses.

31 (D) Wages or profits lost due to injury incurred by the
32 victim, and if the victim is a minor, wages or profits lost
33 by the minor's parent, parents, guardian, or guardians,
34 while caring for the injured minor.

35 (E) Wages or profits lost by the victim, and if the
36 victim is a minor, wages or profits lost by the minor's
37 parent, parents, guardian, or guardians, due to time spent
38 as a witness or in assisting the police or prosecution.

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



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

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

7 *(I) Expenses incurred by an adult victim in relocating*
8 *away from the defendant, including, but not limited to,*
9 *deposits for utilities and telephone service, deposits for*
10 *rental housing, temporary lodging and food expenses,*
11 *clothing, and personal items. Expenses incurred pursuant*
12 *to this section shall be verified by law enforcement to be*
13 *necessary for the personal safety of the victim or by a*
14 *mental health treatment provider to be necessary for the*
15 *emotional well-being of the victim.*

16 *(J) Expenses to install or increase residential security*
17 *incurred related to a crime, as defined in subdivision (c)*
18 *of Section 667.5, including, but not limited to, a home*
19 *security device or system, or replacing or increasing the*
20 *number of locks.*

21 *(K) Expenses to retrofit a residence or vehicle, or*
22 *both, to make the residence accessible to or the vehicle*
23 *operational by the victim, if the victim is permanently*
24 *disabled, whether the disability is partial or total, as a*
25 *direct result of the crime.*

26 (4) Except as provided in paragraph (5), in any case
27 in which an order may be entered pursuant to this
28 subdivision, the defendant shall prepare and file a
29 disclosure identifying all assets, income, and liabilities in
30 which the defendant held or controlled a present or
31 future interest as of the date of the defendant's arrest for
32 the crime for which restitution may be ordered. This
33 disclosure shall be available to the victim pursuant to
34 Section 1214, and any use the court may make of the
35 disclosure shall be subject to the restrictions of
36 subdivision (g). The disclosure shall be signed by the
37 defendant upon a form approved or adopted by the
38 Judicial Council for the purpose of facilitating the
39 disclosure. Any defendant who willfully states as true any
40 material matter that he or she knows to be false on the



1 disclosure required by this subdivision is guilty of a
2 misdemeanor, unless this conduct is punishable as perjury
3 or another provision of law provides for a greater penalty.

4 (5) A defendant who fails to file the financial
5 disclosure required in paragraph (4), but who has filed a
6 financial affidavit or financial information pursuant to
7 subdivision (c) of Section 987, shall be deemed to have
8 waived the confidentiality of that affidavit or financial
9 information as to a victim in whose favor the order of
10 restitution is entered pursuant to subdivision (f). The
11 affidavit or information shall serve in lieu of the financial
12 disclosure required in paragraph (4), and paragraphs (6),
13 (7), (8), and (9) shall not apply.

14 (6) Except as provided in paragraph (5), the
15 defendant shall file the disclosure with the clerk of the
16 court no later than the date set for the defendant's
17 sentencing, unless otherwise directed by the court. The
18 disclosure may be inspected or copied as provided by
19 subdivision (b), (c), or (d) of Section 1203.05.

20 (7) In its discretion, the court may relieve the
21 defendant of the duty under paragraph (6) of filing with
22 the clerk by requiring that the defendant's disclosure be
23 submitted as an attachment to, and be available to, those
24 authorized to receive the following:

25 (A) Any report submitted pursuant to subparagraph
26 (C) of paragraph (2) of subdivision (b) of Section 1203 or
27 subdivision (g) of Section 1203.

28 (B) Any stipulation submitted pursuant to paragraph
29 (4) of subdivision (b) of Section 1203.

30 (C) Any report by the probation officer, or any
31 information submitted by the defendant applying for a
32 conditional sentence pursuant to subdivision (d) of
33 Section 1203.

34 (8) The court may consider a defendant's
35 unreasonable failure to make a complete disclosure
36 pursuant to paragraph (4) as any of the following:

37 (A) A circumstance in aggravation of the crime in
38 imposing a term under subdivision (b) of Section 1170.



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

4 (C) A factor indicating that the interests of justice
5 would not be served by conditionally sentencing the
6 defendant under Section 1203.

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

10 (9) A defendant's failure or refusal to make the
11 required disclosure pursuant to paragraph (4) shall not
12 delay entry of an order of restitution or pronouncement
13 of sentence. In appropriate cases, the court may do any
14 of the following:

15 (A) Require the defendant to be examined by the
16 district attorney pursuant to subdivision (h).

17 (B) If sentencing the defendant under Section 1170,
18 provide that the victim shall receive a copy of the portion
19 of the probation report filed pursuant to Section 1203.10
20 concerning the defendant's employment, occupation,
21 finances, and liabilities.

22 (C) If sentencing the defendant under Section 1203,
23 set a date and place for submission of the disclosure
24 required by paragraph (4) as a condition of probation or
25 suspended sentence.

26 (g) The court shall order full restitution unless it finds
27 compelling and extraordinary reasons for not doing so,
28 and states those reasons on the record. A defendant's
29 inability to pay shall not be considered a compelling and
30 extraordinary reason not to impose a restitution order,
31 nor shall inability to pay be a consideration in
32 determining the amount of a restitution order.

33 (h) The district attorney may request an order of
34 examination pursuant to the procedures specified in
35 Article 2 (commencing with Section 708.110) of Chapter
36 6 of Division 2 of Title 9 of Part 2 of the Code of Civil
37 Procedure, in order to determine the defendant's
38 financial assets for purposes of collecting on the
39 restitution order.



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

4 (j) The making of a restitution order pursuant to
5 subdivision (f) shall not affect the right of a victim to
6 recovery from the Restitution Fund as otherwise
7 provided by law, except to the extent that restitution is
8 actually collected pursuant to the order. Restitution
9 collected pursuant to this subdivision shall be credited to
10 any other judgments for the same losses obtained against
11 the defendant arising out of the crime for which the
12 defendant was convicted.

13 (k) For purposes of this section, “victim” shall include
14 ~~the~~ *all of the following*:

15 (1) *The immediate surviving family of the actual*
16 *victim.* ~~“Victim” shall also include any~~

17 (2) *Any corporation, business trust, estate, trust,*
18 *partnership, association, joint venture, government,*
19 *governmental subdivision, agency, or instrumentality, or*
20 *any other legal or commercial entity when that entity is*
21 *a direct victim of a crime.*

22 (3) *“Derivative victims” as defined in Section 13960 of*
23 *the Government Code.*

24 (l) At its discretion, the board of supervisors of any
25 county may impose a fee to cover the actual
26 administrative cost of collecting the restitution fine, not
27 to exceed 10 percent of the amount ordered to be paid,
28 to be added to the restitution fine and included in the
29 order of the court, the proceeds of which shall be
30 deposited in the general fund of the county.

31 (m) In every case in which the defendant is granted
32 probation, the court shall make the payment of
33 restitution fines and orders imposed pursuant to this
34 section a condition of probation. Any portion of a
35 restitution order that remains unsatisfied after a
36 defendant is no longer on probation shall continue to be
37 enforceable by a victim pursuant to Section 1214 until the
38 obligation is satisfied.

39 (n) If the court finds and states on the record
40 compelling and extraordinary reasons why a restitution



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

9 (o) The provisions of Section 13966.01 of the
10 Government Code shall apply to restitution imposed
11 pursuant to this section.

12 (p) (1) This section shall become operative on
13 January 1, 2000, except when all of the following apply:

14 (A) A majority of judges of a court apply to the Judicial
15 Council for an extension.

16 (B) The judicial application described in paragraph
17 (1) documents the need for time to adjust restitution
18 procedures and practices, as well as to facilitate judicial
19 education and training in direct restitution to victims
20 under subdivision (f).

21 (C) The Judicial Council grants the extension upon
22 finding good cause.

23 (2) Upon the grant of an extension pursuant to the
24 application of a court under this subdivision, the
25 provisions of former Section 1214 shall continue to apply
26 with respect to that court. The extension may be for any
27 period of time set by the Judicial Council, but shall not
28 exceed January 1, 2002, in any case.

