

**ASSEMBLY BILL**

**No. 1140**

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**Introduced by Assembly Member Bonta**

February 27, 2015

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An act to amend Sections 13952, 13954, 13955, 13956, 13957, 13957.5, 13957.7, 13959, 13963, 13965, 13971, 13972, and 13973 of the Government Code, and to amend Section 2085.5 of the Penal Code, relating to crime victim compensation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as introduced, Bonta. Crime victim compensation.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and limits on the amount of compensation the board may award. Existing law requires the application for compensation to be verified under penalty of perjury.

(1) Existing law authorizes the board to recognize an authorized representative of a victim or derivative victim, including an attorney, the legal guardian, conservator, immediate family member, parent, or relative caregiver, certified victim assistance advocate, county social worker, or other persons, as specified, to represent the victim or derivative victim pursuant to rules adopted by the board.

This bill would expand the term “authorized representative” to mean any person designated by law or any person who has written authorization by the victim or derivative victim, excluding a medical

or mental health provider who has provided services to the victim or derivative victim.

(2) Existing law requires the board to verify any information it deems pertinent to an application for compensation, and requires the victim and the applicant, if other than the victim, to cooperate with the staff of the board or a victim and witness assistance center in this task. Existing law authorizes the board to reject an application solely on the basis that the victim or applicant failed to cooperate as required.

This bill would instead require the applicant to cooperate in verifying the application and would specify the circumstances under which an applicant may be found to have failed to cooperate with the board.

Existing law requires every law enforcement and social service agency in the state to provide to the board or to a contracted victim center reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim.

This bill would instead require law enforcement and social service agencies to provide a complete copy of the law enforcement report and other supplemental reports and documents for the purpose of determining the eligibility of a claim.

(3) Existing law requires a victim or derivative victim seeking compensation to have sustained one or more specified physical or emotional injuries, or pecuniary losses, as a direct result of the crime. Existing law includes among those injuries emotional injury that occurred due to a violation of provisions prohibiting child abduction, as specified, if the deprivation of custody endured for 30 calendar days or more.

This bill would include among those injuries emotional injury that occurred due to a violation of provisions prohibiting publishing or disseminating via an electronic communication device personal identifying information or a digital image of another person, without consent of the other person, and for the purpose of causing that other person injury or harassment, by a 3rd party. The bill would also require, in the case of emotional injury caused by a child abduction, only that criminal charges were filed.

(4) Existing law authorizes the board to deny an application if it finds that the victim or derivative victim knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought, except as specified.

This bill would instead authorize an application for compensation to be denied, in whole or in part, if the board finds that denial is appropriate based upon consideration of specified factors in determining the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application, and specified factors that may be considered to mitigate or overcome that involvement.

Existing law requires an application to be denied of the victim failed to cooperate reasonably with law enforcement in apprehending and convicting the person who committed the crime.

This bill would prohibit a victim of domestic violence from being determined to have failed to cooperate based on his or her conduct with law enforcement at the scene of the crime, and would prohibit lack of cooperation from being found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. The bill would also prohibit a claim based on a sexual assault from being denied solely because a police report was not made by the victim. The bill would require the board to adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred.

Existing law prohibits any person who is convicted of a felony from being granted compensation until he or she has been discharged from probation or has been released from a correctional institution, and has been discharged from parole, if any. Existing law prohibits compensation from being granted to an applicant being held in a correctional institution. Existing law prioritizes the applications of victims who are not felons over those who are felons who have been discharged from probation or have been released from a correctional institution, and have been discharged from parole.

This bill would instead prohibit any person who is convicted of a violent felony, as specified, from being granted compensation until he or she is discharged from probation or released from a correctional institution, and discharged from parole, or until he or she is discharged from postrelease community supervision or mandatory supervision. This bill would also prohibit compensation from being granted to an applicant while he or she is required to be registered as a sex offender. This bill would remove provisions prioritizing the applications of victims who are not felons.

(5) Existing law authorizes derivative victims, including parents and siblings, of a victim of a crime that directly led to the death of the victim, to be reimbursed for the expense of their outpatient mental health counseling.

This bill would include grandparents and grandchildren among those derivative victims who are eligible to be reimbursed for their mental health counseling. Because an application for reimbursement is required to be submitted under penalty of perjury, this bill would expand the definition of a crime and thus impose a state-mandated local program.

Existing law limits the reimbursement amount for outpatient mental health counseling of a victim of a crime of unlawful intercourse with a minor in which a person 21 years of age or older engaged in an act of unlawful sexual intercourse with a minor who was under 16 years of age to an amount not exceeding \$5,000. Existing law prohibits a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

The bill would remove provisions limiting the reimbursement of a victim of a crime of unlawful intercourse with a minor as described above and remove provisions prohibiting a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

Existing law authorizes the board to grant reimbursement for pecuniary loss of the expense of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law if it determines it will best aid the person seeking compensation.

This bill would remove the provisions authorizing reimbursement for this type of care or treatment.

Existing law authorizes the board to grant for pecuniary loss if it determines it will best aid the person seeking compensation reimbursement for the expense of installing or increasing residential security, if it receives verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant.

This bill would remove the provisions requiring the verification by law enforcement or a mental health treatment provider described above.

Existing law also allows reimbursement for renovating or retrofitting a victim's residence or vehicle for a victim permanently disabled by the crime, as specified.

The bill would also allow reimbursement for the purchase of a vehicle for a victim permanently disabled by the crime.

Existing law authorizes the board to provide a cash payment to a victim for expenses incurred in relocating, as specified and requires a victim of sexual assault or domestic violence, who receives a relocation payment to, among other things, agree not to allow the offender on the premises at any time.

This bill would authorize the board to require a victim to repay the relocation payment or reimbursement to the board if he or she violates those terms. The bill would also require the board to be named as the recipient of funds upon the expiration of a rental agreement if a security deposit was required for a relocation.

This bill would also authorize the board to reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs for a trauma scene waste practitioner to clean the scene of the crime if the crime occurred inside a vehicle.

(6) Existing law authorizes the board to pay attorney's fees for legal services rendered to an applicant, in an amount equal to 10% of the amount of the award, or \$500, whichever is less, for each victim and each derivative victim.

This bill would authorize the board to request that an attorney provide verification, and to contact an applicant to verify, that legal services were provided.

(7) Existing law requires the board to grant a hearing to an applicant who contests a staff recommendation to deny compensation. Existing law requires the board to schedule the hearing in as convenient a location as possible if the applicant's presence is required. Existing law authorizes the board to grant no more than one request for reconsideration with respect to any one decision on an application for compensation.

This bill would also authorize the hearing to be conducted by telephone. The bill would also prohibit evidence submitted after the board has denied a request for reconsideration from being considered unless the board chooses to reconsider its decision on its own motion.

(8) Existing law provides that the board is entitled to a lien on any judgment, award, or settlement in favor of or on behalf of the recipient for losses suffered as a direct result of the crime that was the basis for receipt of compensation in the amount of the compensation granted by the board. If a claim is filed within one year of the date of recovery, the

board is required to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien is recovered and the remaining 75% is deposited in the Restitution Fund, a continuously appropriated fund.

This bill would instead require the board to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery only if the recipient notified the board of the action prior to receiving any recovery with the remainder being deposited into the Restitution Fund. By increasing deposits to be made to a continuously appropriated fund, this bill would make an appropriation.

(9) Under existing law a person who has been overpaid pursuant to these provisions governing victim compensation is liable for that amount, except as specified.

This bill would require that all actions to collect overpayments be commenced within 7 years of the date of the overpayment, except as specified. The bill would also authorize any recipient of an overpayment to contest the related staff recommendation.

(10) Existing law authorizes a private citizen, his or her surviving spouse, his or her surviving children, or a person dependent upon the citizen for his or her principal support to file a claim for indemnification, as specified, if the private citizen incurred personal injury, death, or damage to his or her property in preventing the commission of a crime, in apprehending a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe. Existing law defines “private citizen” for this and related provisions as a natural person except as specified.

This bill would also authorize any person who is legally liable for the citizen’s pecuniary losses to file a claim for indemnification. This bill would revise the definition of “private citizen” to mean a person, except as specified.

(11) Existing law provides that if a parolee or a prisoner owes a specified order of restitution, any moneys owing are collected from the parolee or prisoner, as specified, and transferred to the California Victim Compensation and Government Claims Board for direct payment to the victim. Existing law requires that the victim be paid within 60 days from the date the restitution revenues are received, however, the restitution payment need not be forwarded to that victim unless it is

\$50 or more, or until 180 days from the date the first payment is received, whichever occurs sooner.

This bill would provide instead that the payment need not be forwarded to the victim until it is \$25 or more, or the victim requests payment of the lesser amount.

(12) The bill would make other conforming and nonsubstantive changes.

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

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

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

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

3 13952. (a) An application for compensation shall be filed with  
4 the board in the manner determined by the board.

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

1 (2) For purposes of this subdivision, “relative caregiver” means  
2 a relative as defined in *paragraph (2) of subdivision (i) (h)* of  
3 Section 6550 of the Family Code, who assumed primary  
4 responsibility for the child while the child was in the relative’s  
5 care and control, and who is not a biological or adoptive parent.

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

9 (2) The staff of the board shall determine whether an application  
10 for compensation contains all of the information required by the  
11 board. If the staff determines that an application does not contain  
12 all of the required information, the staff shall communicate that  
13 determination to the applicant with a brief statement of the  
14 additional information required. The applicant, within 30 calendar  
15 days of being notified that the application is incomplete, may either  
16 supply the additional information or appeal the staff’s  
17 determination to the board, which shall review the application to  
18 determine whether it is complete.

19 (d) (1) The board may recognize an authorized representative  
20 of the victim or derivative victim, who shall represent the victim  
21 or derivative victim pursuant to rules adopted by the board.

22 (2) For purposes of this subdivision, “authorized representative”  
23 means any of the following:

24 ~~(A) An attorney.~~

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

29 ~~(C) A victim assistance advocate certified pursuant to Section~~  
30 ~~13835.10 of the Penal Code.~~

31 ~~(D) An immediate family member of the victim or derivative~~  
32 ~~victim, who has written authorization by the victim or derivative~~  
33 ~~victim, and who is not the perpetrator of the crime that gave rise~~  
34 ~~to the claim.~~

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

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

1 (A) Any person who has written authorization by the victim or  
2 derivative victim. However, a medical or mental health provider,  
3 or agent of the medical or mental health provider, who has  
4 provided services to the victim or derivative victim shall not be  
5 allowed to be an authorized representative.

6 (B) Any person designated by law including, but not limited to,  
7 a legal guardian, conservator, or social worker.

8 (3) Except for attorney's fees awarded under this chapter, no  
9 authorized representative described in paragraph (2) shall charge,  
10 demand, receive, or collect any amount for services rendered under  
11 this subdivision.

12 SEC. 2. Section 13954 of the Government Code is amended  
13 to read:

14 13954. (a) The board shall verify with hospitals, physicians,  
15 law enforcement officials, or other interested parties involved, the  
16 treatment of the victim or derivative victim, circumstances of the  
17 crime, amounts paid or received by or for the victim or derivative  
18 victim, and any other pertinent information deemed necessary by  
19 the board. Verification information shall be returned to the board  
20 within 10 business days after a request for verification has been  
21 made by the board. Verification information shall be provided at  
22 no cost to the applicant, the board, or victim centers. When  
23 requesting verification information, the board shall certify that a  
24 signed authorization by the applicant is retained in the applicant's  
25 file and that this certification constitutes actual authorization for  
26 the release of information, notwithstanding any other provision of  
27 law. If requested by a physician or mental health provider, the  
28 board shall provide a copy of the signed authorization for the  
29 release of information.

30 (b) ~~(1) The victim and the applicant, if other than the victim,~~  
31 *applicant* shall cooperate with the staff of the board or the victim  
32 center in the verification of the information contained in the  
33 application. Failure to cooperate shall be reported to the board,  
34 which, in its discretion, may reject the application solely on this  
35 ground.

36 (2) *An applicant may be found to have failed to cooperate with*  
37 *the board if any of the following occur:*

38 (A) *The applicant has information, or there is information that*  
39 *he or she may reasonably obtain, that is needed to process the*

1 *application or supplemental claim, and the applicant failed to*  
2 *provide the information after being requested to do so by the board.*

3 *(B) The applicant provided, or caused another to provide, false*  
4 *information regarding application or supplemental claim.*

5 *(C) The applicant refused to apply for other benefits potentially*  
6 *available to him or her from other sources besides the board*  
7 *including, but not limited to, worker's compensation, state*  
8 *disability insurance, social security benefits, and unemployment*  
9 *insurance.*

10 *(D) The applicant threatened violence or bodily harm to a*  
11 *member of the board or staff.*

12 (c) The board may contract with victim centers to provide  
13 verification of applications processed by the centers pursuant to  
14 conditions stated in subdivision (a). The board and its staff shall  
15 cooperate with the Office of Criminal Justice Planning and victim  
16 centers in conducting training sessions for center personnel and  
17 shall cooperate in the development of standardized verification  
18 procedures to be used by the victim centers in the state. The board  
19 and its staff shall cooperate with victim centers in disseminating  
20 standardized board policies and findings as they relate to the  
21 centers.

22 (d) (1) Notwithstanding Section 827 of the Welfare and  
23 Institutions Code or any other provision of law, every law  
24 enforcement and social service agency in the state shall provide  
25 to the board or to victim centers that have contracts with the board  
26 pursuant to subdivision (c), upon request, *a complete copy of the*  
27 *law enforcement report and any supplemental reports involving*  
28 *the crime or incident giving rise to a claim, a copy of a petition*  
29 *filed in a juvenile court proceeding, reports of the probation officer,*  
30 *and any other document made available to the probation officer*  
31 *or to the judge, referee, or other hearing officer, a complete copy*  
32 *of the report regarding the incident, and any supplemental reports*  
33 *involving the crime, public offense, or incident giving rise to a*  
34 *claim, for the specific purpose of the submission of a claim or the*  
35 *determination of eligibility to submit determining the eligibility*  
36 *of a claim filed pursuant to this chapter. The*

37 (2) *The board and victim centers receiving records pursuant to*  
38 *this subdivision may not disclose a document that personally*  
39 *identifies a minor to anyone other than the minor who is so*  
40 *identified, his or her custodial parent or guardian, the attorneys*

1 for those parties, and any other persons that may be designated by  
2 court order. Any information received pursuant to this section shall  
3 be received in confidence for the limited purpose for which it was  
4 provided and may not be further disseminated. A violation of this  
5 subdivision is a misdemeanor punishable by a fine not to exceed  
6 five hundred dollars (\$500).

7 ~~(e)~~

8 (3) The law enforcement agency supplying information pursuant  
9 to this section may withhold the names of witnesses or informants  
10 from the board, if the release of those names would be detrimental  
11 to the parties or to an investigation in progress.

12 ~~(f)~~

13 (e) Notwithstanding any other provision of law, every state  
14 agency, upon receipt of a copy of a release signed in accordance  
15 with the Information Practices Act of 1977 (Chapter 1  
16 commencing with Section 1798) of Title 1.8 of Part 4 of Division  
17 3 of the Civil Code) by the applicant or other authorized  
18 representative, shall provide to the board or victim center the  
19 information necessary to complete the verification of an application  
20 filed pursuant to this chapter.

21 ~~(g)~~

22 (f) The Department of Justice shall furnish, upon application of  
23 the board, all information necessary to verify the eligibility of any  
24 applicant for benefits pursuant to subdivision ~~(d)~~ (c) of Section  
25 13956, to recover any restitution fine or order obligations that are  
26 owed to the Restitution Fund or to any victim of crime, or to  
27 evaluate the status of any criminal disposition.

28 ~~(h)~~

29 (g) A privilege is not waived under Section 912 of the Evidence  
30 Code by an applicant consenting to disclosure of an otherwise  
31 privileged communication if that disclosure is deemed necessary  
32 by the board for verification of the application.

33 ~~(i)~~

34 (h) Any verification conducted pursuant to this section shall be  
35 subject to the time limits specified in Section 13958.

36 ~~(j)~~

37 (i) Any county social worker acting as the applicant for a child  
38 victim or elder abuse victim shall not be required to provide  
39 personal identification, including, but not limited to, the applicant's  
40 date of birth or social security number. County social workers

1 acting in this capacity shall not be required to sign a promise of  
2 repayment to the board.

3 SEC. 3. Section 13955 of the Government Code is amended  
4 to read:

5 13955. Except as provided in Section 13956, a person shall be  
6 eligible for compensation when all of the following requirements  
7 are met:

8 (a) The person for whom compensation is being sought is any  
9 of the following:

- 10 (1) A victim.
- 11 (2) A derivative victim.
- 12 (3) (A) A person who is entitled to reimbursement for funeral,  
13 burial, or crime scene cleanup expenses pursuant to paragraph ~~(9)~~  
14 ~~(8)~~ of subdivision (a) of Section 13957.

15 (B) This paragraph applies without respect to any felon status  
16 of the victim.

17 (b) Either of the following conditions is met:

18 (1) The crime occurred ~~within this state, whether or not the~~  
19 ~~victim is a resident of the state.~~ *in California*. This paragraph shall  
20 apply only during those time periods during which the board  
21 determines that federal funds are available to the state for the  
22 compensation of victims of crime.

23 (2) Whether or not the crime occurred ~~within the State of~~ *in*  
24 *California*, the victim was any of the following:

- 25 (A) A resident of ~~the state.~~ *California*.
- 26 (B) A member of the military stationed in California.
- 27 (C) A family member living with a member of the military  
28 stationed in ~~this state.~~ *California*.

29 (c) If compensation is being sought for a derivative victim, the  
30 derivative victim is a resident of ~~this state, or resident of another~~  
31 *California, or any other* state, who is any of the following:

- 32 (1) At the time of the crime was the parent, grandparent, sibling,  
33 spouse, child, or grandchild of the victim.
- 34 (2) At the time of the crime was living in the household of the  
35 victim.
- 36 (3) At the time of the crime was a person who had previously  
37 lived in the household of the victim for a period of not less than  
38 two years in a relationship substantially similar to a relationship  
39 listed in paragraph (1).

1 (4) Is another family member of the victim, including, but not  
2 limited to, the victim's fiancé or fiancée, and who witnessed the  
3 crime.

4 (5) Is the primary caretaker of a minor victim, but was not the  
5 primary caretaker at the time of the crime.

6 (d) The application is timely pursuant to Section 13953.

7 (e) (1) Except as provided in paragraph (2), the injury or death  
8 was a direct result of a crime.

9 (2) Notwithstanding paragraph (1), no act involving the  
10 operation of a motor vehicle, aircraft, or water vehicle that results  
11 in injury or death constitutes a crime for the purposes of this  
12 chapter, except when the injury or death from such an act was any  
13 of the following:

14 (A) Intentionally inflicted through the use of a motor vehicle,  
15 aircraft, or water vehicle.

16 (B) Caused by a driver who fails to stop at the scene of an  
17 accident in violation of Section 20001 of the Vehicle Code.

18 (C) Caused by a person who is under the influence of any  
19 alcoholic beverage or drug.

20 (D) Caused by a driver of a motor vehicle in the immediate act  
21 of fleeing the scene of a crime in which he or she knowingly and  
22 willingly participated.

23 (E) Caused by a person who commits vehicular manslaughter  
24 in violation of subdivision (b) of Section 191.5, subdivision (c) of  
25 Section 192, or Section 192.5 of the Penal Code.

26 (F) Caused by any party where a peace officer is operating a  
27 motor vehicle in an effort to apprehend a suspect, and the suspect  
28 is evading, fleeing, or otherwise attempting to elude the peace  
29 officer.

30 (f) As a direct result of the crime, the victim or derivative victim  
31 sustained one or more of the following:

32 (1) Physical injury. The board may presume a child who has  
33 been the witness of a crime of domestic violence has sustained  
34 physical injury. A child who resides in a home where a crime or  
35 crimes of domestic violence have occurred may be presumed by  
36 the board to have sustained physical injury, regardless of whether  
37 the child has witnessed the crime.

38 (2) Emotional injury and a threat of physical injury.

39 (3) Emotional injury, where the crime was a violation of any of  
40 the following provisions:

1 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,  
2 288a, 288.5, ~~or 289, or 653.2,~~ or subdivision (b) or (c) of Section  
3 311.4, of the Penal Code.

4 (B) Section 270 of the Penal Code, where the emotional injury  
5 was a result of conduct other than a failure to pay child support,  
6 and criminal charges were filed.

7 (C) Section 261.5 of the Penal Code, and criminal charges were  
8 filed.

9 (D) Section 278 or 278.5 of the Penal Code, ~~where the~~  
10 ~~deprivation of custody as described in those sections has endured~~  
11 ~~for 30 calendar days or more; and criminal charges were filed.~~ For  
12 purposes of this paragraph, the child, and not the nonoffending  
13 parent or other caretaker, shall be deemed the victim.

14 (4) Injury to, or the death of, a guide, signal, or service dog, as  
15 defined in Section 54.1 of the Civil Code, as a result of a violation  
16 of Section 600.2 or 600.5 of the Penal Code.

17 (g) The injury or death has resulted or may result in pecuniary  
18 loss within the scope of compensation pursuant to Sections 13957  
19 to 13957.7, inclusive.

20 SEC. 4. Section 13956 of the Government Code is amended  
21 to read:

22 13956. Notwithstanding Section 13955, a person shall not be  
23 eligible for compensation under the following conditions:

24 (a) ~~An application shall be denied if the board finds that the~~  
25 ~~victim or, if compensation is sought by or on behalf of a derivative~~  
26 ~~victim, either the victim or derivative victim, knowingly and~~  
27 ~~willingly participated in the commission of the crime that resulted~~  
28 ~~in the pecuniary loss for which compensation is being sought~~  
29 ~~pursuant to this chapter. However, this subdivision shall not apply~~  
30 ~~if the injury or death occurred as a direct result of a crime~~  
31 ~~committed in violation of Section 261, 262, or 273.5 of, or a crime~~  
32 ~~of unlawful sexual intercourse with a minor committed in violation~~  
33 ~~of subdivision (d) of Section 261.5 of, the Penal Code. may be~~  
34 *denied, in whole or in part, if the board finds that denial is*  
35 *appropriate because of the nature of the victim's or other*  
36 *applicant's involvement in the events leading to the crime, or the*  
37 *involvement of the person whose injury or death gives rise to the*  
38 *application.*

1     (1) *Factors that may be considered in determining whether the*  
2 *victim or derivative victim was involved in the events leading to*  
3 *the qualifying crime include, but are not limited to:*

4     (A) *The victim or derivative victim initiated the qualifying crime,*  
5 *or provoked or aggravated the suspect into initiating the qualifying*  
6 *crime.*

7     (B) *The victim or derivative victim intentionally created, entered,*  
8 *or stayed in a situation in which it was reasonably foreseeable*  
9 *that he or she would be victimized.*

10    (C) *The qualifying crime was a reasonably foreseeable*  
11 *consequence of the conduct of the victim or derivative victim.*

12    (D) *The victim or derivative victim was committing a crime that*  
13 *reasonably lead to him or her being victimized. The crime must*  
14 *be one that could be charged as a felony. However, committing a*  
15 *crime shall not be considered involvement if the victim's injury or*  
16 *death occurred as a direct result of a crime committed in violation*  
17 *of Section 261, 262, or 273.5 of, or for a crime of unlawful sexual*  
18 *intercourse with a minor violation of subdivision (d) of Section*  
19 *261.5 of, the Penal Code.*

20    (2) *If the victim is determined to have been involved in the events*  
21 *leading to the qualifying crime, factors that may be considered to*  
22 *mitigate or overcome involvement include, but are not limited to:*

23    (A) *The victim's injuries were significantly more serious than*  
24 *reasonably could have been expected based on the victim's level*  
25 *of involvement.*

26    (B) *A third party interfered in a manner not reasonably*  
27 *foreseeable by the victim or derivative victim.*

28    (C) *In the case of the minor, the board shall consider the*  
29 *minor's age, physical condition, and psychological state, as well*  
30 *as any compelling health and safety concerns, in determining*  
31 *whether the minor's application should be denied pursuant to this*  
32 *section. The application of a derivative victim of domestic violence*  
33 *under 18 years of age or derivative victim of trafficking under 18*  
34 *years of age shall not be denied on the basis of the denial of the*  
35 *victim's application under this subdivision.*

36    (b) (1) *An application shall be denied if the board finds that*  
37 *the victim or, if compensation is sought by, or on behalf of, a*  
38 *derivative victim, either the victim or derivative victim failed to*  
39 *cooperate reasonably with a law enforcement agency in the*  
40 *apprehension and conviction of a criminal committing the crime.*

1 ~~However, in~~ *In* determining whether cooperation has been  
2 reasonable, the board shall consider the victim's or derivative  
3 victim's age, physical condition, and psychological state, cultural  
4 or linguistic barriers, any compelling health and safety concerns,  
5 including, but not limited to, a reasonable fear of retaliation or  
6 harm that would jeopardize the well-being of the victim or the  
7 victim's family or the derivative victim or the derivative victim's  
8 family, and giving due consideration to the degree of cooperation  
9 of which the victim or derivative victim is capable in light of the  
10 presence of any of these factors. *A victim of domestic violence*  
11 *shall not be determined to have failed to cooperate based on his*  
12 *or her conduct with law enforcement at the scene of the crime.*  
13 *Lack of cooperation shall also not be found solely because a victim*  
14 *of sexual assault, domestic violence, or human trafficking delayed*  
15 *reporting the qualifying crime.*

16 (2) An application for a claim based on domestic violence shall  
17 not be denied solely because ~~no police report was a police report~~  
18 *was not* made by the victim. The board shall adopt guidelines that  
19 allow the board to consider and approve applications for assistance  
20 based on domestic violence relying upon evidence other than a  
21 police report to establish that a domestic violence crime has  
22 occurred. Factors evidencing that a domestic violence crime has  
23 occurred may include, but are not limited to, medical records  
24 documenting injuries consistent with allegations of domestic  
25 violence, mental health records, or ~~the fact that the victim has~~  
26 ~~obtained a temporary or permanent restraining order, or all of~~  
27 ~~these.~~ *order.*

28 (3) *An application for a claim based on a sexual assault shall*  
29 *not be denied solely because a police report was not made by the*  
30 *victim. The board shall adopt guidelines that allow it to consider*  
31 *and approve applications for assistance based on a sexual assault*  
32 *relying upon evidence other than a police report to establish that*  
33 *a sexual assault crime has occurred. Factors evidencing that a*  
34 *sexual assault crime has occurred may include, but are not limited*  
35 *to, medical records documenting injuries consistent with*  
36 *allegations of sexual assault, mental health records, or that the*  
37 *victim received a sexual assault examination.*

38 (3)

39 (4) An application for a claim based on human trafficking as  
40 defined in Section 236.1 of the Penal Code shall not be denied

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

9 (A) A Law Enforcement Agency Endorsement issued pursuant  
10 to Section 236.2 of the Penal Code.

11 (B) A human trafficking caseworker as identified in Section  
12 1038.2 of the Evidence Code, has attested by affidavit that the  
13 individual was a victim of human trafficking.

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

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

21 (i) Restricted or unrestricted reports to a military victim  
22 advocate, sexual assault response coordinator, chaplain, attorney,  
23 or other military personnel.

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

25 (iii) A written or oral report from military law enforcement or  
26 a civilian law enforcement agency concluding that a sexual assault  
27 crime was committed against the victim.

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

32 (v) A credible witness to whom the victim disclosed the details  
33 that a sexual assault crime occurred.

34 (vi) A restraining order from a military or civilian court against  
35 the perpetrator of the sexual assault.

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

37 (C) For purposes of this subdivision, the sexual assault at issue  
38 shall have occurred during military service, including deployment.

39 (D) For purposes of this subdivision, the sexual assault may  
40 have been committed offbase.

1 (E) For purposes of this subdivision, a “perpetrator” means an  
 2 individual who is any of the following at the time of the sexual  
 3 assault:

4 (i) An active duty military personnel from the United States  
 5 Army, Navy, Marine Corps, Air Force, or Coast Guard.

6 (ii) A civilian employee of any military branch specified in  
 7 clause (i), military base, or military deployment.

8 (iii) A contractor or agent of a private military or private security  
 9 company.

10 (iv) A member of the California National Guard.

11 (F) For purposes of this subdivision, “sexual assault” means an  
 12 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of  
 13 the Penal Code, as of the date the act that added this paragraph  
 14 was enacted.

15 ~~(e) An application for compensation may be denied, in whole  
 16 or in part, if the board finds that denial is appropriate because of  
 17 the nature of the victim’s or other applicant’s involvement in the  
 18 events leading to the crime or the involvement of the persons whose  
 19 injury or death gives rise to the application. In the case of a minor,  
 20 the board shall consider the minor’s age, physical condition, and  
 21 psychological state, as well as any compelling health and safety  
 22 concerns, in determining whether the minor’s application should  
 23 be denied pursuant to this section. The application of a derivative  
 24 victim of domestic violence under the age of 18 years of age or a  
 25 derivative victim of trafficking under 18 years of age may not be  
 26 denied on the basis of the denial of the victim’s application under  
 27 this subdivision.~~

28 ~~(d)~~

29 (c) (1) Notwithstanding Section 13955, no person who is  
 30 convicted of a *violent felony listed in subdivision (c) of Section*  
 31 *667.5 of the Penal Code* may be granted compensation until that  
 32 person has been discharged from probation or has been released  
 33 from a correctional institution and has been discharged from parole,  
 34 ~~if any~~ *or has been discharged from postrelease community*  
 35 *supervision or mandatory supervision, if any, for that violent crime.*  
 36 In no case shall compensation be granted to an applicant pursuant  
 37 to this chapter during any period of time the applicant is held in a  
 38 ~~correctional institution~~ *institution, or while an applicant is*  
 39 *required to register as a sex offender pursuant to Section 290 of*  
 40 *the Penal Code.*

1 (2) A person who has been convicted of a *violent felony listed*  
2 *in subdivision (c) of Section 667.5 of the Penal Code* may apply  
3 for compensation pursuant to this chapter at any time, but the award  
4 of that compensation may not be considered until the applicant  
5 meets the requirements for compensation set forth in paragraph  
6 (1).

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

11 SEC. 5. Section 13957 of the Government Code is amended  
12 to read:

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

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

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

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

37 (i) A victim.

38 (ii) A derivative victim who is the surviving parent, *grandparent*,  
39 sibling, child, *grandchild*, spouse, fiancé, or fiancée of a victim of  
40 a crime that directly resulted in the death of the victim.

1 (iii) A derivative victim, as described in paragraphs (1) to (4),  
 2 inclusive, of subdivision (c) of Section 13955, who is the primary  
 3 caretaker of a minor victim whose claim is not denied or reduced  
 4 pursuant to Section 13956 in a total amount not to exceed ten  
 5 thousand dollars (\$10,000) for not more than two derivative  
 6 victims.

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

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

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

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

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

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

37 (i) A person who would have been authorized to provide those  
 38 services pursuant to former Article 1 (commencing with Section  
 39 13959) as it read on January 1, 2002.

1 (ii) A person who is licensed by the state in California to provide  
2 those services, or who is properly supervised by a person who is  
3 so licensed, ~~licenced in California to provide those services~~, subject  
4 to the board's approval and subject to the limitations and  
5 restrictions the board may impose.

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

9 ~~(4)~~

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

21 ~~(5)~~

22 (4) Authorize a cash payment to or on behalf of the victim for  
23 job retraining or similar employment-oriented services.

24 ~~(6)~~

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

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

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

38 ~~(7)~~

39 (6) Reimburse the expense of renovating or retrofitting a  
40 victim's residence or a vehicle, or both, to make the residence, the

1 ~~vehicle, or both, accessible or the vehicle~~ *residence, or the expense*  
 2 *of modifying or purchasing a vehicle, to make the residence or the*  
 3 *vehicle accessible or operational* by a victim upon verification that  
 4 the expense is medically necessary for a victim who is permanently  
 5 disabled as a direct result of the crime, whether the disability is  
 6 partial or total.

7 ~~(8)~~

8 (7) (A) Authorize a cash payment or reimbursement not to  
 9 exceed two thousand dollars (\$2,000) to a victim for expenses  
 10 incurred in relocating, if the expenses are determined by law  
 11 enforcement to be necessary for the personal safety of the victim  
 12 or by a mental health treatment provider to be necessary for the  
 13 emotional well-being of the victim.

14 (B) The cash payment or reimbursement made under this  
 15 paragraph shall only be awarded to one claimant per crime giving  
 16 rise to the relocation. The board may authorize more than one  
 17 relocation per crime if necessary for the personal safety or  
 18 emotional well-being of the claimant. However, the total cash  
 19 payment or reimbursement for all relocations due to the same crime  
 20 shall not exceed two thousand dollars (\$2,000). For purposes of  
 21 this paragraph a claimant is the crime victim, or, if the victim is  
 22 deceased, a person who resided with the deceased at the time of  
 23 the crime.

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

27 (i) The crime occurs more than three years from the date of the  
 28 crime giving rise to the initial relocation cash payment or  
 29 reimbursement.

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

31 (D) When a relocation payment or reimbursement is provided  
 32 to a victim of sexual assault or domestic violence and the identity  
 33 of the offender is known to the victim, the victim shall agree not  
 34 to inform the offender of the location of the victim’s new residence  
 35 and not to allow the offender on the premises at any time, or shall  
 36 agree to seek a restraining order against the offender. *A victim may*  
 37 *be required to repay the relocation payment or reimbursement to*  
 38 *the board if he or she violates the terms set forth in this paragraph.*

39 (E) Notwithstanding subparagraphs (A) and (B), the board may  
 40 increase the cash payment or reimbursement for expenses incurred

1 in relocating to an amount greater than two thousand dollars  
2 (\$2,000), if the board finds this amount is appropriate due to the  
3 unusual, dire, or exceptional circumstances of a particular claim.

4 *(F) If a security deposit is required for relocation, the board*  
5 *shall be named as the recipient and receive the funds upon*  
6 *expiration of the victim's rental agreement.*

7 ~~(9)~~

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

12 (A) The medical expenses incurred as a direct result of the crime  
13 in an amount not to exceed the rates or limitations established by  
14 the board.

15 (B) The funeral and burial expenses incurred as a direct result  
16 of the crime, not to exceed seven thousand five hundred dollars  
17 (\$7,500).

18 ~~(10)~~

19 (9) When the crime occurs in a ~~residence~~, *residence or inside*  
20 *a vehicle*, the board may reimburse any individual who voluntarily,  
21 and without anticipation of personal gain, pays or assumes the  
22 obligation to pay the reasonable costs to clean the scene of the  
23 crime in an amount not to exceed one thousand dollars (\$1,000).  
24 Services reimbursed pursuant to this subdivision shall be performed  
25 by persons registered with the State Department of Public Health  
26 as trauma scene waste practitioners in accordance with Chapter  
27 9.5 (commencing with Section 118321) of Part 14 of Division 104  
28 of the Health and Safety Code.

29 ~~(11)~~

30 (10) When the crime is a violation of Section 600.2 or 600.5 of  
31 the Penal Code, the board may reimburse the expense of veterinary  
32 services, replacement costs, or other reasonable expenses, as  
33 ordered by the court pursuant to Section 600.2 or 600.5 of the  
34 Penal Code, in an amount not to exceed ten thousand dollars  
35 (\$10,000).

36 (b) The total award to or on behalf of each victim or derivative  
37 victim may not exceed thirty-five thousand dollars (\$35,000),  
38 except that this ~~amount~~ *award* may be increased to *an amount not*  
39 *exceeding* seventy thousand dollars (\$70,000) if federal funds for  
40 that increase are available.

1 SEC. 6. Section 13957.5 of the Government Code is amended  
2 to read:

3 13957.5. (a) In authorizing compensation for loss of income  
4 and support pursuant to paragraph~~(4)~~ (3) of subdivision (a) of  
5 Section 13957, the board may take any of the following actions:

6 (1) Compensate the victim for loss of income directly resulting  
7 from the injury, except that loss of income may not be paid by the  
8 board for more than five years following the crime, unless the  
9 victim is disabled as defined in Section 416(i) of Title 42 of the  
10 United States Code, as a direct result of the injury.

11 (2) Compensate an adult derivative victim for loss of income,  
12 subject to all of the following:

13 (A) The derivative victim is the parent or legal guardian of a  
14 victim, who at the time of the crime was under the age of 18 years  
15 and is hospitalized as a direct result of the crime.

16 (B) The minor victim's treating physician certifies in writing  
17 that the presence of the victim's parent or legal guardian at the  
18 hospital is necessary for the treatment of the victim.

19 (C) Reimbursement for loss of income under this paragraph  
20 may not exceed the total value of the income that would have been  
21 earned by the adult derivative victim during a 30-day period.

22 (3) Compensate an adult derivative victim for loss of income,  
23 subject to all of the following:

24 (A) The derivative victim is the parent or legal guardian of a  
25 victim who at the time of the crime was under the age of 18 years.

26 (B) The victim died as a direct result of the crime.

27 (C) The board shall pay for loss of income under this paragraph  
28 for not more than 30 *calendar* days from the date of the victim's  
29 death.

30 (4) Compensate a derivative victim who was legally dependent  
31 on the victim at the time of the crime for the loss of support  
32 incurred by that person as a direct result of the crime, subject to  
33 both of the following:

34 (A) Loss of support shall be paid by the board for income lost  
35 by an adult for a period up to, but not more than, five years  
36 following the date of the crime.

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

1 (b) The total amount payable to all derivative victims pursuant  
2 to this section as the result of one crime may not exceed seventy  
3 thousand dollars (\$70,000).

4 SEC. 7. Section 13957.7 of the Government Code is amended  
5 to read:

6 13957.7. (a) No reimbursement may be made for any expense  
7 that is submitted more than three years after it is incurred by the  
8 victim or derivative victim. However, reimbursement may be made  
9 for an expense submitted more than three years after the date it is  
10 incurred if the victim or derivative victim has affirmed the debt  
11 and is liable for the debt at the time the expense is submitted for  
12 reimbursement, or has paid the expense as a direct result of a crime  
13 for which a timely application has been filed or has paid the  
14 expense as a direct result of a crime for which an application has  
15 been filed and approved.

16 (b) Compensation made pursuant to this chapter may be on a  
17 one-time or periodic basis. If periodic, the board may increase,  
18 reduce, or terminate the amount of compensation according to the  
19 applicant's need, subject to the maximum limits provided in this  
20 chapter.

21 (c) (1) The board may authorize direct payment to a provider  
22 of services that are reimbursable pursuant to this chapter and may  
23 make those payments prior to verification. However, the board  
24 may not, without good cause, authorize a direct payment to a  
25 provider over the objection of the victim or derivative victim.

26 (2) Reimbursement on the initial claim for any psychological,  
27 psychiatric, or mental health counseling services shall, if the  
28 application has been approved, be paid by the board within 90  
29 days of the date of receipt of the claim for payment, with  
30 subsequent payments to be made to the provider within one month  
31 of the receipt of a claim for payment.

32 (d) Payments for peer counseling services provided by a rape  
33 crisis center may not exceed fifteen dollars (\$15) for each hour of  
34 services provided. Those services shall be limited to in-person  
35 counseling for a period not to exceed 10 weeks plus one series of  
36 facilitated support group counseling sessions.

37 (e) The board shall develop procedures to ensure that a victim  
38 is using compensation for job retraining or relocation only for its  
39 intended purposes. The procedures may include, but need not be  
40 limited to, requiring copies of receipts, agreements, or other

1 documents as requested, or developing a method for direct  
 2 payment.

3 (f) Compensation granted pursuant to this chapter shall not  
 4 disqualify an otherwise eligible applicant from participation in any  
 5 other public assistance program.

6 (g) The board shall pay attorney’s fees representing the  
 7 reasonable value of legal services rendered to the applicant, in an  
 8 amount equal to 10 percent of the amount of the award, or five  
 9 hundred dollars (\$500), whichever is less, for each victim and each  
 10 derivative victim. *The board may request that an attorney provide*  
 11 *verification of legal services provided to an applicant and the*  
 12 *board may contact an applicant to verify that legal services were*  
 13 *provided.* An attorney receiving fees from another source may  
 14 waive the right to receive fees under this subdivision. Payments  
 15 under this subdivision shall be in addition to any amount authorized  
 16 or ordered under subdivision (b) of Section 13960. An attorney  
 17 may not charge, demand, receive, or collect any amount for services  
 18 rendered in connection with any proceedings under this chapter  
 19 except as awarded under this chapter.

20 (h) A private nonprofit agency shall be reimbursed for its  
 21 services at the level of the normal and customary fee charged by  
 22 the private nonprofit agency to clients with adequate means of  
 23 payment for its services, except that this reimbursement may not  
 24 exceed the maximum reimbursement rates set by the board and  
 25 may be made only to the extent that the victim otherwise qualifies  
 26 for compensation under this chapter and that other reimbursement  
 27 or direct subsidies are not available to serve the victim.

28 SEC. 8. Section 13959 of the Government Code is amended  
 29 to read:

30 13959. (a) The board shall grant a hearing to an applicant who  
 31 ~~believes he or she is entitled to compensation pursuant to this~~  
 32 ~~chapter to contest~~ *contests* a staff recommendation to deny  
 33 compensation in whole or in part.

34 (b) The board shall notify the applicant not less than 10 days  
 35 prior to the date of the hearing. Notwithstanding Section 11123,  
 36 if the application that the board is considering involves either a  
 37 crime against a minor, a crime of sexual assault, or a crime of  
 38 domestic violence, the board may exclude from the hearing all  
 39 persons other than board members and members of its staff, the  
 40 applicant for benefits, a minor applicant’s parents or guardians,

1 the applicant's representative, witnesses, and other persons of the  
2 applicant's choice to provide assistance to the applicant during the  
3 hearing. However, the board shall not exclude persons from the  
4 hearing if the applicant or applicant's representative requests that  
5 the hearing be open to the public.

6 (c) At the hearing, the person seeking compensation shall have  
7 the burden of establishing, by a preponderance of the evidence,  
8 the elements for eligibility under Section 13955.

9 (d) Except as otherwise provided by law, in making  
10 determinations of eligibility for compensation and in deciding  
11 upon the amount of compensation, the board shall apply the law  
12 in effect as of the date an application was submitted.

13 (e) The hearing shall be informal and need not be conducted  
14 according to the technical rules relating to evidence and witnesses.  
15 The board may rely on any relevant evidence if it is the sort of  
16 evidence on which responsible persons are accustomed to rely in  
17 the conduct of serious affairs, regardless of the existence of a  
18 common law or statutory rule that might make improper the  
19 admission of the evidence over objection in a civil action. The  
20 board may rely on written reports prepared for the board, or other  
21 information received, from public agencies responsible for  
22 investigating the crime. If the applicant or the applicant's  
23 representative chooses not to appear at the hearing, the board may  
24 act solely upon the application for compensation, the staff's report,  
25 and other evidence that appears in the record.

26 (f) Hearings shall be held in various locations with the frequency  
27 necessary to provide for the speedy adjudication of the applications.  
28 If the applicant's presence is required at the hearing, the board  
29 shall schedule the applicant's hearing in as convenient a location  
30 as ~~possible~~. *possible or conduct the hearing by telephone.*

31 (g) The board may delegate the hearing of applications to  
32 hearing officers.

33 (h) The decisions of the board shall be in writing. Copies of the  
34 decisions shall be delivered to the applicant or to his or her  
35 representative personally or sent to him or her by mail.

36 (i) The board may order a reconsideration of all or part of a  
37 decision on written request of the applicant. The board shall not  
38 grant more than one request for reconsideration with respect to  
39 any one decision on an application for compensation. The board  
40 shall not consider any request for reconsideration filed with the

1 board more than 30 calendar days after the personal delivery or  
 2 60 calendar days after the mailing of the original decision.

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

5 (k) *Evidence submitted after the board has denied a request for*  
 6 *reconsideration shall not be considered unless the board chooses*  
 7 *to reconsider its decision on its own motion.*

8 SEC. 9. Section 13963 of the Government Code is amended  
 9 to read:

10 13963. (a) The board shall be subrogated to the rights of the  
 11 recipient to the extent of any compensation granted by the board.  
 12 The subrogation rights shall be against the perpetrator of the crime  
 13 or any person liable for the losses suffered as a direct result of the  
 14 crime which was the basis for receipt of compensation, including  
 15 an insurer held liable in accordance with the provision of a policy  
 16 of insurance issued pursuant to Section 11580.2 of the Insurance  
 17 Code.

18 (b) The board shall also be entitled to a lien on any judgment,  
 19 award, or settlement in favor of or on behalf of the recipient for  
 20 losses suffered as a direct result of the crime that was the basis for  
 21 receipt of compensation in the amount of the compensation granted  
 22 by the board. The board may recover this amount in a separate  
 23 action, or may intervene in an action brought by or on behalf of  
 24 the recipient. If a claim is filed within one year of the date of  
 25 recovery, the board shall pay 25 percent of the amount of the  
 26 recovery that is subject to a lien on the judgment, award, or  
 27 settlement, to the recipient responsible for recovery ~~thereof from~~  
 28 ~~the perpetrator of the crime, provided that the total amount of the~~  
 29 ~~lien is recovered. The remaining 75 percent of the~~ *if the recipient*  
 30 *notified the board of the action prior to receiving any recovery.*  
 31 *The remaining* amount, and any amount not claimed within one  
 32 year pursuant to this section, shall be deposited in the Restitution  
 33 Fund.

34 (c) The board may compromise or settle and release any lien  
 35 pursuant to this chapter if it is found that the action is in the best  
 36 interest of the state or the collection would cause undue hardship  
 37 upon the recipient. Repayment obligations to the Restitution Fund  
 38 shall be enforceable as a summary judgment.

39 (d) No judgment, award, or settlement in any action or claim  
 40 by a recipient, where the board has an interest, shall be satisfied

1 without first giving the board notice and a reasonable opportunity  
2 to perfect and satisfy the lien. The notice shall be given to the  
3 board in Sacramento except in cases where the board specifies that  
4 the notice shall be given otherwise. The notice shall include the  
5 complete terms of the award, settlement, or judgment, and the  
6 name and address of any insurer directly or indirectly providing  
7 for the satisfaction.

8 (e) (1) If the recipient brings an action or asserts a claim for  
9 damages against the person or persons liable for the injury or death  
10 giving rise to an award by the board under this chapter, notice of  
11 the institution of legal proceedings, notice of all hearings,  
12 conferences, and proceedings, and notice of settlement shall be  
13 given to the board in Sacramento except in cases where the board  
14 specifies that notice shall be given to the Attorney General. Notice  
15 of the institution of legal proceedings shall be given to the board  
16 within 30 days of filing the action. All notices shall be given by  
17 the attorney employed to bring the action for damages or by the  
18 recipient if no attorney is employed.

19 (2) Notice shall include all of the following:

20 (A) Names of all parties to the claim or action.

21 (B) The address of all parties to the claim or action except for  
22 those persons represented by attorneys and in that case the name  
23 of the party and the name and address of the attorney.

24 (C) The nature of the claim asserted or action brought.

25 (D) In the case of actions before courts or administrative  
26 agencies, the full title of the case including the identity of the court  
27 or agency, the names of the parties, and the case or docket number.

28 (3) When the recipient or his or her attorney has reason to  
29 believe that a person from whom damages are sought is receiving  
30 a defense provided in whole or in part by an insurer, or is insured  
31 for the injury caused to the recipient, notice shall include a  
32 statement of that fact and the name and address of the insurer.  
33 Upon request of the board, a person obligated to provide notice  
34 shall provide the board with a copy of the current written claim or  
35 complaint.

36 (f) The board shall pay the county probation department or other  
37 county agency responsible for collection of funds owed to the  
38 Restitution Fund under Section 13967, as operative on or before  
39 September 28, 1994, Section 1202.4 of the Penal Code, Section  
40 1203.04 of the Penal Code, as operative on or before August 2,

1 1995, or Section 730.6 of the Welfare and Institutions Code, 10  
 2 percent of the funds so owed and collected by the county agency  
 3 and deposited in the Restitution Fund. This payment shall be made  
 4 only when the funds are deposited in the Restitution Fund within  
 5 45 days of the end of the month in which the funds are collected.  
 6 Receiving 10 percent of the moneys collected as being owed to  
 7 the Restitution Fund shall be considered an incentive for collection  
 8 efforts and shall be used for furthering these collection efforts.  
 9 The 10-percent rebates shall be used to augment the budgets for  
 10 the county agencies responsible for collection of funds owed to  
 11 the Restitution Fund, as provided in Section 13967, as operative  
 12 on or before September 28, 1994, Section 1202.4 of the Penal  
 13 Code, Section 1203.04 of the Penal Code, operative on or before  
 14 August 2, 1995, or Section 730.6 of the Welfare and Institutions  
 15 Code. The 10-percent rebates shall not be used to supplant county  
 16 funding.

17 (g) In the event of judgment or award in a suit or claim against  
 18 a third party or insurer, if the action or claim is prosecuted by the  
 19 recipient alone, the court or agency shall first order paid from any  
 20 judgment or award the reasonable litigation expenses incurred in  
 21 preparation and prosecution of the action or claim, together with  
 22 reasonable attorney’s fees when an attorney has been retained.  
 23 After payment of the expenses and attorney’s fees, the court or  
 24 agency shall, on the application of the board, allow as a lien against  
 25 the amount of the judgment or award, the amount of the  
 26 compensation granted by the board to the recipient for losses  
 27 sustained as a result of the same incident upon which the  
 28 settlement, award, or judgment is based.

29 (h) For purposes of this section, “recipient” means any person  
 30 who has received compensation or will be provided compensation  
 31 pursuant to this chapter, including the victim’s guardian,  
 32 conservator or other personal representative, estate, and survivors.

33 (i) In accordance with subparagraph (B) of paragraph (4) of  
 34 subdivision (f) of Section 1202.4 of the Penal Code, a  
 35 representative of the board may provide the probation department,  
 36 district attorney, and court with information relevant to the board’s  
 37 losses prior to the imposition of a sentence.

38 SEC. 10. Section 13965 of the Government Code is amended  
 39 to read:

1 13965. (a) ~~A person who has been overpaid or on whose behalf~~  
2 ~~any provider or other person has been overpaid under~~ *Any recipient*  
3 *of an overpayment pursuant to this chapter is liable for to repay*  
4 *the board that amount unless both of the following facts exist:*

5 (1) The overpayment was not due to fraud, misrepresentation,  
6 or willful nondisclosure on the part of the recipient.

7 (2) The overpayment was received without fault on the part of  
8 the recipient, and its recovery would be against equity and good  
9 conscience.

10 (b) *All actions to collect overpayments shall commence within*  
11 *seven years from the date of the overpayment. However, an action*  
12 *to collect an overpayment due to fraud, misrepresentation, or*  
13 *willful nondisclosure by the recipient may be commenced at any*  
14 *time.*

15 (c) *Any recipient of an overpayment is authorized to contest the*  
16 *staff recommendation of an overpayment pursuant to the hearing*  
17 *procedures in Section 13959. If a final determination is made by*  
18 *the board that an overpayment exists, the board may collect the*  
19 *overpayment in any manner prescribed by law.*

20 ~~(b)~~

21 (d) All overpayments exceeding two thousand dollars (\$2,000)  
22 shall be reported to the Legislature pursuant to Section 13928 and  
23 the relief from liability described in subdivision (a) shall be subject  
24 to legislative approval.

25 SEC. 11. Section 13971 of the Government Code is amended  
26 to read:

27 13971. As used in this article, “private citizen” means any  
28 ~~natural~~ person other than a peace officer, fireman, lifeguard, or  
29 person whose employment includes the duty to protect the public  
30 safety acting within the course and scope of such employment.

31 SEC. 12. Section 13972 of the Government Code is amended  
32 to read:

33 13972. (a) If a private citizen incurs personal injury or death  
34 or damage to his or her property in preventing the commission of  
35 a crime against the person or property of another, in apprehending  
36 a criminal, or in materially assisting a peace officer in prevention  
37 of a crime or apprehension of a criminal, or rescuing a person in  
38 immediate danger of injury or death as a result of fire, drowning,  
39 or other catastrophe, the private citizen, his or her surviving spouse,  
40 his or her surviving children, a person dependent upon the citizen

1 for his or her principal support, *any person legally liable for the*  
2 *citizen's pecuniary losses*, or a public safety or law enforcement  
3 agency acting on behalf of any of the above may file a claim with  
4 the California Victim Compensation and Government Claims  
5 Board for indemnification to the extent that the claimant is not  
6 compensated from any other source for the injury, death, or  
7 damage. The claim shall generally show all of the following:

8 (1) The date, place, and other circumstances of the occurrence  
9 or events that gave rise to the claim.

10 (2) A general description of the activities of the private citizen  
11 in prevention of a crime, apprehension of a criminal, or rescuing  
12 a person in immediate danger of injury or death as a result of fire,  
13 drowning, or other catastrophe.

14 (3) The amount or estimated amount of the injury, death, or  
15 damage sustained for which the claimant is not compensated from  
16 any other source, insofar as it may be known at the time of the  
17 presentation of the claim.

18 (4) Any other information that the California Victim  
19 Compensation and Government Claims Board may require.

20 (b) A claim filed under subdivision (a) shall be accompanied  
21 by a corroborating statement and recommendation from the  
22 appropriate state or local public safety or law enforcement agency.

23 SEC. 13. Section 13973 of the Government Code is amended  
24 to read:

25 13973. (a) Upon presentation of a claim pursuant to this  
26 chapter, the California Victim Compensation and Government  
27 Claims Board shall fix a time and place for the hearing of the claim,  
28 and shall mail notices of the hearing to interested persons or  
29 agencies. ~~At the hearing, the~~ *The* board shall receive  
30 recommendations from public safety or law enforcement agencies,  
31 and evidence showing all of the following:

32 (1) The nature of the crime committed by the apprehended  
33 criminal or prevented by the action of the private citizen, or the  
34 nature of the action of the private citizen in rescuing a person in  
35 immediate danger of injury or death as a result of fire, drowning,  
36 or other catastrophe, and the circumstances involved.

37 (2) That the actions of the private citizen substantially and  
38 materially contributed to the apprehension of a criminal, the  
39 prevention of a crime, or the rescuing of a person in immediate

1 danger of injury or death as a result of fire, drowning, or other  
2 catastrophe.

3 (3) That as a direct consequence, the private citizen incurred  
4 personal injury or damage to property or died.

5 (4) The extent of the injury or damage for which the claimant  
6 is not compensated from any other source.

7 (5) Any other evidence that the board may require.

8 (b) If the board determines, on the basis of a preponderance of  
9 the evidence, that the state should indemnify the claimant for the  
10 injury, death, or damage sustained, it shall approve the claim for  
11 payment. In no event shall a claim be approved by the board under  
12 this article in excess of ten thousand dollars (\$10,000).

13 (c) In addition to any award made under this chapter, the board  
14 may award, as attorney's fees, an amount representing the  
15 reasonable value of legal services rendered a claimant, but in no  
16 event to exceed 10 percent of the amount of the award. No attorney  
17 shall charge, demand, receive, or collect for services rendered in  
18 connection with any proceedings under this chapter any amount  
19 other than that awarded as attorney's fees under this section. Claims  
20 approved under this chapter shall be paid from a separate  
21 appropriation made to the California Victim Compensation and  
22 Government Claims Board in the Budget Act and as the claims  
23 are approved by the board.

24 SEC. 14. Section 2085.5 of the Penal Code is amended to read:

25 2085.5. (a) In any case in which a prisoner owes a restitution  
26 fine imposed pursuant to subdivision (a) of Section 13967 of the  
27 Government Code, as operative prior to September 29, 1994,  
28 subdivision (b) of Section 730.6 of the Welfare and Institutions  
29 Code, or subdivision (b) of Section 1202.4, the Secretary of the  
30 Department of Corrections and Rehabilitation shall deduct a  
31 minimum of 20 percent or the balance owing on the fine amount,  
32 whichever is less, up to a maximum of 50 percent from the wages  
33 and trust account deposits of a prisoner, unless prohibited by  
34 federal law, and shall transfer that amount to the California Victim  
35 Compensation and Government Claims Board for deposit in the  
36 Restitution Fund in the State Treasury. The amount deducted shall  
37 be credited against the amount owing on the fine. The sentencing  
38 court shall be provided a record of the payments.

39 (b) (1) When a prisoner is punished by imprisonment in a  
40 county jail pursuant to subdivision (h) of Section 1170, in any case

1 in which a prisoner owes a restitution fine imposed pursuant to  
2 subdivision (a) of Section 13967 of the Government Code, as  
3 operative prior to September 29, 1994, subdivision (b) of Section  
4 730.6 of the Welfare and Institutions Code, or subdivision (b) of  
5 Section 1202.4, the agency designated by the board of supervisors  
6 in the county where the prisoner is incarcerated is authorized to  
7 deduct a minimum of 20 percent or the balance owing on the fine  
8 amount, whichever is less, up to a maximum of 50 percent from  
9 the county jail equivalent of wages and trust account deposits of  
10 a prisoner, unless prohibited by federal law, and shall transfer that  
11 amount to the California Victim Compensation and Government  
12 Claims Board for deposit in the Restitution Fund in the State  
13 Treasury. The amount deducted shall be credited against the  
14 amount owing on the fine. The sentencing court shall be provided  
15 a record of the payments.

16 (2) If the board of supervisors designates the county sheriff as  
17 the collecting agency, the board of supervisors shall first obtain  
18 the concurrence of the county sheriff.

19 (c) In any case in which a prisoner owes a restitution order  
20 imposed pursuant to subdivision (c) of Section 13967 of the  
21 Government Code, as operative prior to September 29, 1994,  
22 subdivision (h) of Section 730.6 of the Welfare and Institutions  
23 Code, or subdivision (f) of Section 1202.4, the Secretary of the  
24 Department of Corrections and Rehabilitation shall deduct a  
25 minimum of 20 percent or the balance owing on the order amount,  
26 whichever is less, up to a maximum of 50 percent from the wages  
27 and trust account deposits of a prisoner, unless prohibited by  
28 federal law. The secretary shall transfer that amount to the  
29 California Victim Compensation and Government Claims Board  
30 for direct payment to the victim, or payment shall be made to the  
31 Restitution Fund to the extent that the victim has received  
32 assistance pursuant to that program. The sentencing court shall be  
33 provided a record of the payments made to victims and of the  
34 payments deposited to the Restitution Fund pursuant to this  
35 subdivision.

36 (d) When a prisoner is punished by imprisonment in a county  
37 jail pursuant to subdivision (h) of Section 1170, in any case in  
38 which a prisoner owes a restitution order imposed pursuant to  
39 subdivision (c) of Section 13967 of the Government Code, as  
40 operative prior to September 29, 1994, subdivision (h) of Section

1 730.6 of the Welfare and Institutions Code, or subdivision (b) of  
2 Section 1202.4, the agency designated by the board of supervisors  
3 in the county where the prisoner is incarcerated is authorized to  
4 deduct a minimum of 20 percent or the balance owing on the order  
5 amount, whichever is less, up to a maximum of 50 percent from  
6 the county jail equivalent of wages and trust account deposits of  
7 a prisoner, unless prohibited by federal law. The agency shall  
8 transfer that amount to the California Victim Compensation and  
9 Government Claims Board for direct payment to the victim, or  
10 payment shall be made to the Restitution Fund to the extent that  
11 the victim has received assistance pursuant to that program, or  
12 may pay the victim directly. The sentencing court shall be provided  
13 a record of the payments made to the victims and of the payments  
14 deposited to the Restitution Fund pursuant to this subdivision.

15 (e) The secretary shall deduct and retain from the wages and  
16 trust account deposits of a prisoner, unless prohibited by federal  
17 law, an administrative fee that totals 10 percent of any amount  
18 transferred to the California Victim Compensation and Government  
19 Claims Board pursuant to subdivision (a) or (c). The secretary  
20 shall deduct and retain from any prisoner settlement or trial award,  
21 an administrative fee that totals 5 percent of any amount paid from  
22 the settlement or award to satisfy an outstanding restitution order  
23 or fine pursuant to subdivision (n), unless prohibited by federal  
24 law. The secretary shall deposit the administrative fee moneys in  
25 a special deposit account for reimbursing administrative and  
26 support costs of the restitution program of the Department of  
27 Corrections and Rehabilitation. The secretary, at his or her  
28 discretion, may retain any excess funds in the special deposit  
29 account for future reimbursement of the department's  
30 administrative and support costs for the restitution program or may  
31 transfer all or part of the excess funds for deposit in the Restitution  
32 Fund.

33 (f) When a prisoner is punished by imprisonment in a county  
34 jail pursuant to subdivision (h) of Section 1170, the agency  
35 designated by the board of supervisors in the county where the  
36 prisoner is incarcerated is authorized to deduct and retain from the  
37 county jail equivalent of wages and trust account deposits of a  
38 prisoner, unless prohibited by federal law, an administrative fee  
39 that totals 10 percent of any amount transferred to the California  
40 Victim Compensation and Government Claims Board pursuant to

1 subdivision (b) or (d). The agency is authorized to deduct and  
2 retain from a prisoner settlement or trial award, an administrative  
3 fee that totals 5 percent of any amount paid from the settlement  
4 or award to satisfy an outstanding restitution order or fine pursuant  
5 to subdivision (n), unless prohibited by federal law. Upon release  
6 from custody pursuant to subdivision (h) of Section 1170, the  
7 agency is authorized to charge a fee to cover the actual  
8 administrative cost of collection, not to exceed 10 percent of the  
9 total amount collected. The agency shall deposit the administrative  
10 fee moneys in a special deposit account for reimbursing  
11 administrative and support costs of the restitution program of the  
12 agency. The agency is authorized to retain any excess funds in the  
13 special deposit account for future reimbursement of the agency's  
14 administrative and support costs for the restitution program or may  
15 transfer all or part of the excess funds for deposit in the Restitution  
16 Fund.

17 (g) In any case in which a parolee owes a restitution fine  
18 imposed pursuant to subdivision (a) of Section 13967 of the  
19 Government Code, as operative prior to September 29, 1994,  
20 subdivision (b) of Section 730.6 of the Welfare and Institutions  
21 Code, or subdivision (b) of Section 1202.4, the secretary, or, when  
22 a prisoner is punished by imprisonment in a county jail pursuant  
23 to subdivision (h) of Section 1170, the agency designated by the  
24 board of supervisors in the county where the prisoner is  
25 incarcerated, may collect from the parolee or, pursuant to Section  
26 2085.6, from a person previously imprisoned in county jail any  
27 moneys owing on the restitution fine amount, unless prohibited  
28 by federal law. The secretary or the agency shall transfer that  
29 amount to the California Victim Compensation and Government  
30 Claims Board for deposit in the Restitution Fund in the State  
31 Treasury. The amount deducted shall be credited against the  
32 amount owing on the fine. The sentencing court shall be provided  
33 a record of the payments.

34 (h) In any case in which a parolee owes a direct order of  
35 restitution, imposed pursuant to subdivision (c) of Section 13967  
36 of the Government Code, as operative prior to September 29, 1994,  
37 subdivision (h) of Section 730.6 of the Welfare and Institutions  
38 Code, or paragraph (3) of subdivision (a) of Section 1202.4, the  
39 secretary, or, when a prisoner is punished by imprisonment in a  
40 county jail pursuant to subdivision (h) of Section 1170, the agency

1 designated by the board of supervisors in the county where the  
2 prisoner is incarcerated or a local collection program, may collect  
3 from the parolee or, pursuant to Section 2085.6, from a person  
4 previously imprisoned in county jail any moneys owing, unless  
5 prohibited by federal law. The secretary or the agency shall transfer  
6 that amount to the California Victim Compensation and  
7 Government Claims Board for direct payment to the victim, or  
8 payment shall be made to the Restitution Fund to the extent that  
9 the victim has received assistance pursuant to that program, or the  
10 agency may pay the victim directly. The sentencing court shall be  
11 provided a record of the payments made by the offender pursuant  
12 to this subdivision.

13 (i) The secretary, or, when a prisoner is punished by  
14 imprisonment in a county jail pursuant to subdivision (h) of Section  
15 1170, the agency designated by the board of supervisors in the  
16 county where the prisoner is incarcerated, may deduct and retain  
17 from moneys collected from parolees or persons previously  
18 imprisoned in county jail an administrative fee that totals 10 percent  
19 of any amount transferred to the California Victim Compensation  
20 and Government Claims Board pursuant to subdivision (g) or (h),  
21 unless prohibited by federal law. The secretary shall deduct and  
22 retain from any settlement or trial award of a parolee an  
23 administrative fee that totals 5 percent of an amount paid from the  
24 settlement or award to satisfy an outstanding restitution order or  
25 fine pursuant to subdivision (n), unless prohibited by federal law.  
26 The agency is authorized to deduct and retain from any settlement  
27 or trial award of a person previously imprisoned in county jail an  
28 administrative fee that totals 5 percent of any amount paid from  
29 the settlement or award to satisfy an outstanding restitution order  
30 or fine pursuant to subdivision (n). The secretary or the agency  
31 shall deposit the administrative fee moneys in a special deposit  
32 account for reimbursing administrative and support costs of the  
33 restitution program of the Department of Corrections and  
34 Rehabilitation or the agency, as applicable. The secretary, at his  
35 or her discretion, or the agency may retain any excess funds in the  
36 special deposit account for future reimbursement of the  
37 department's or agency's administrative and support costs for the  
38 restitution program or may transfer all or part of the excess funds  
39 for deposit in the Restitution Fund.

1 (j) When a prisoner has both a restitution fine and a restitution  
2 order from the sentencing court, the Department of Corrections  
3 and Rehabilitation shall collect the restitution order first pursuant  
4 to subdivision (c).

5 (k) When a prisoner is punished by imprisonment in a county  
6 jail pursuant to subdivision (h) of Section 1170 and that prisoner  
7 has both a restitution fine and a restitution order from the  
8 sentencing court, if the agency designated by the board of  
9 supervisors in the county where the prisoner is incarcerated collects  
10 the fine and order, the agency shall collect the restitution order  
11 first pursuant to subdivision (d).

12 (l) When a parolee has both a restitution fine and a restitution  
13 order from the sentencing court, the Department of Corrections  
14 and Rehabilitation, or, when the prisoner is punished by  
15 imprisonment in a county jail pursuant to subdivision (h) of Section  
16 1170, the agency designated by the board of supervisors in the  
17 county where the prisoner is incarcerated, may collect the  
18 restitution order first, pursuant to subdivision (h).

19 (m) If an inmate is housed at an institution that requires food  
20 to be purchased from the institution canteen for unsupervised  
21 overnight visits, and if the money for the purchase of this food is  
22 received from funds other than the inmate's wages, that money  
23 shall be exempt from restitution deductions. This exemption shall  
24 apply to the actual amount spent on food for the visit up to a  
25 maximum of fifty dollars (\$50) for visits that include the inmate  
26 and one visitor, seventy dollars (\$70) for visits that include the  
27 inmate and two or three visitors, and eighty dollars (\$80) for visits  
28 that include the inmate and four or more visitors.

29 (n) Compensatory or punitive damages awarded by trial or  
30 settlement to any inmate, parolee, person placed on postrelease  
31 community supervision pursuant to Section 3451, or defendant on  
32 mandatory supervision imposed pursuant to subparagraph (B) of  
33 paragraph (5) of subdivision (h) of Section 1170, in connection  
34 with a civil action brought against a federal, state, or local jail,  
35 prison, or correctional facility, or any official or agent thereof,  
36 shall be paid directly, after payment of reasonable attorney's fees  
37 and litigation costs approved by the court, to satisfy any  
38 outstanding restitution orders or restitution fines against that  
39 person. The balance of the award shall be forwarded to the payee  
40 after full payment of all outstanding restitution orders and

1 restitution fines, subject to subdivisions (e) and (i). The Department  
2 of Corrections and Rehabilitation shall make all reasonable efforts  
3 to notify the victims of the crime for which that person was  
4 convicted concerning the pending payment of any compensatory  
5 or punitive damages. For any prisoner punished by imprisonment  
6 in a county jail pursuant to subdivision (h) of Section 1170, the  
7 agency is authorized to make all reasonable efforts to notify the  
8 victims of the crime for which that person was convicted  
9 concerning the pending payment of any compensatory or punitive  
10 damages.

11 (o) (1) Amounts transferred to the California Victim  
12 Compensation and Government Claims Board for payment of  
13 direct orders of restitution shall be paid to the victim within 60  
14 days from the date the restitution revenues are received by the  
15 California Victim Compensation and Government Claims Board.  
16 If the restitution payment to a victim is less than ~~fifty dollars (\$50)~~,  
17 *twenty-five dollars (\$25)*, then payment need not be forwarded to  
18 that victim until the payment reaches ~~fifty dollars (\$50)~~ or until  
19 ~~180 days from the date the first payment is received, whichever~~  
20 ~~occurs sooner.~~ *twenty-five dollars (\$25) or when the victim requests*  
21 *payment of the lesser amount.*

22 (2) If a victim cannot be located, the restitution revenues  
23 received by the California Victim Compensation and Government  
24 Claims Board on behalf of the victim shall be held in trust in the  
25 Restitution Fund until the end of the state fiscal year subsequent  
26 to the state fiscal year in which the funds were deposited or until  
27 the time that the victim has provided current address information,  
28 whichever occurs sooner. Amounts remaining in trust at the end  
29 of the specified period of time shall revert to the Restitution Fund.

30 (3) (A) A victim failing to provide a current address within the  
31 period of time specified in paragraph (2) may provide  
32 documentation to the Department of Corrections and Rehabilitation,  
33 which shall verify that moneys were collected on behalf of the  
34 victim. Upon receipt of that verified information from the  
35 Department of Corrections and Rehabilitation, the California  
36 Victim Compensation and Government Claims Board shall transmit  
37 the restitution revenues to the victim in accordance with the  
38 provisions of subdivision (c) or (h).

39 (B) A victim failing to provide a current address within the  
40 period of time specified in paragraph (2) may provide

1 documentation to the agency designated by the board of supervisors  
2 in the county where the prisoner punished by imprisonment in a  
3 county jail pursuant to subdivision (h) of Section 1170 is  
4 incarcerated, which may verify that moneys were collected on  
5 behalf of the victim. Upon receipt of that verified information from  
6 the agency, the California Victim Compensation and Government  
7 Claims Board shall transmit the restitution revenues to the victim  
8 in accordance with the provisions of subdivision (d) or (h).

9 SEC. 15. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.