
THIRD READING

Bill No: AB 900
Author: Gonzalez Fletcher (D), et al.
Amended: 8/22/18 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 5/15/18
AYES: Skinner, Anderson, Bradford, Jackson, Mitchell, Stone, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/16/18
AYES: Portantino, Bates, Beall, Bradford, Hill, Nielsen, Wiener

ASSEMBLY FLOOR: 76-0, 1/29/18 - See last page for vote

SUBJECT: Crime victims: the California Victim Compensation Board

SOURCE: Bet Tzedek Legal Services
California State Controller's Office
Coalition to Abolish Slavery and Trafficking

DIGEST: This bill authorizes the California Victims Compensation Board (board) to provide compensation equal to loss of income or support to human trafficking victims, as specified.

Senate Floor Amendments of 8/22/18 are double-jointing amendments to address possible chaptering issues between this bill and three other bills.

ANALYSIS:

Existing law:

- 1) Establishes the board to operate the California Victim Compensation Program (CalVCP). (Gov. Code, § 13950 et. seq.)

- 2) Provides that an application for compensation shall be filed with the board in the manner determined by the board. (Gov. Code, § 13952, subd. (a).)
- 3) States that, except as specified, a person shall be eligible for compensation when all of the following requirements are met:
 - a) The person for whom compensation is being sought any of the following:
 - i) A victim;
 - ii) A derivative victim; and,
 - iii) A person who is entitled to reimbursement for funeral, burial or crime scene clean-up expenses pursuant to specified sections of the Government Code.
 - b) Either of the following conditions is met:
 - i) The crime occurred in California, but only when the board determines that there are federal funds available to the state for the compensation of crime victims; or
 - ii) Whether or not the crime occurred in California, the victim was any of the following:
 - (1) A California resident;
 - (2) A member of the military stationed in California; or,
 - (3) A family member living with a member of the military stationed in California.
 - c) If compensation is being sought for derivative victim, the derivative victim is a resident of California or any other state who is any of the following:
 - i) At the time of the crimes was the victim's parent, grandparent, sibling, spouse, child or grandchild;
 - ii) At the time of the crime was living in the victim's household;
 - iii) At the time of the crime was a person who had previously lived in the victim's house for a period of not less than two years in a relationship substantially similar to a previously listed relationship;
 - iv) Another family member of the victim who witnessed the crime, including, but not limited to, the victim's fiancé or fiancée; or,
 - v) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.
 - d) And other specified requirements. (Gov. Code, § 13955.)
- 4) Authorizes the board to reimburse for pecuniary loss for the following types of losses:

- a) Medical or medical-related expenses incurred by the victim for services provided by a licensed medical provider;
 - b) Out-patient psychiatric, psychological or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services;
 - c) Compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's injury or the victim's death;
 - d) Cash payment to, or on behalf of, the victim for job retraining or similar employment-oriented services;
 - e) The expense of installing or increasing residential security, not to exceed \$1,000;
 - f) The expense of renovating or retrofitting a victim's residence or a vehicle to make them accessible or operational, if it is medically necessary;
 - g) Relocation expenses up to \$2,000 if the expenses are determined by law enforcement to be necessary for the victim's personal safety, or by a mental health treatment provider to be necessary for the emotional well-being of the victim; and,
 - h) Funeral or burial expenses. (Gov. Code, §§ 13957, subd. (a) & 13957.5, subd. (a).)
- 5) Authorizes the board, subject to specified limitations, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. (Gov. Code, § 13957, subd. (a)(3).)
- 6) Limits the total award to or on behalf of each victim or derivative victim to \$70,000. (Gov. Code, §§ 13957, subd. (b), & 13957.5, subd. (b).)
- 7) Provides that a person who deprives or violates another person's personal liberty with the intent to obtain forced labor or services or who deprives or violates another person's personal liberty for the purpose of prostitution or sexual exploitation is guilty of human trafficking. (Pen. Code, § 236.1.)

This bill:

- 1) Authorizes the board to compensate a victim of human trafficking in an amount equal to loss of income or support that the victim incurs as a direct result of the victim's deprivation of liberty during the crime if the victim has not been and will not be compensated from any other source.

- 2) Specifies that compensation shall be based upon the value of the victim's labor as guaranteed under California law at the time that the services were performed for the number of hours that the services were performed, for up to 40 hours per week, but shall not exceed \$10,000 per year that the services were performed, for a maximum of two years.
- 3) States that if the victim is a minor at the time of application, the board shall distribute payment under the provisions of this bill when the minor reaches 18 years of age.
- 4) Requires the board, on or before July 1, 2019, to adopt guidelines that allow it to rely on evidence other than official employment documentation in considering and approving an application for that compensation.
- 5) Specifies that the evidence may include any reliable corroborating information approved by the board, including, but not limited to, a statement under penalty of perjury from the applicant, a human trafficking caseworker, a licensed attorney, or a witness to the circumstances of the crime.

Background

The CalVCP provides compensation for victims of violent crime, or more specifically those who have been physically injured or threatened with injury. It reimburses eligible victims for many crime-related expenses, such as medical treatment, mental health services, funeral expenses, and home security. Funding for the board comes from restitution fines and penalty assessments paid by criminal offenders, as well as from federal matching funds. (See board Web site <<http://www.vcgcb.ca.gov/board> .)

While the board is authorized to pay for loss of income, in the usual case, this lost income comes into play after the commission of the crime. Thus, for example, the board compensates a victim for unpaid time off work after the crime due to recovery from injuries, for doctor's or counseling appointments, or to attend court to assist in the prosecution of the case. (See Compensation Benefit Guide <<http://vcgcb.ca.gov/docs/forms/victims/CalVCPBenefitReferenceGuide.pdf> .)

However, a person who suffers loss of income by virtue of the commission of the crime is not in the same situation. While the crime is being committed, the lost income is more akin to theft because wages have been stolen. The board currently

does not reimburse losses resulting from a theft. Reimbursement for the value of the stolen property is covered by direct victim restitution, which is paid by the perpetrator of the crime.

This bill specifies that a victim of human trafficking may be compensated for lost income the victim incurs as a direct result of the victim's deprivation of liberty during the crime if the victim has not been and will not be compensated from any other source. Thus, if the victim is being compensated, or will be compensated, through another source such as restitution paid by the perpetrator, the victim would not be eligible for additional compensation from the CalVCP.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, potentially-major costs in the low millions of dollars annually in compensation payments to victims that otherwise would not have been approved. (Special fund*)

*Restitution Fund

SUPPORT: (Verified 8/16/18)

Bet Tzedek Legal Services (co-source)
 California State Controller's Office (co-source)
 Coalition to Abolish Slavery and Trafficking (co-source)
 Asian Americans Advancing Justice – Los Angeles
 Association for Los Angeles Deputy Sheriffs
 Association of Deputy District Attorneys
 California Catholic Conference
 California Code Enforcement Officers
 California College and University Police Chiefs Association
 California District Attorneys Association
 California Narcotic Officers Association
 Dignity Health
 Jewish Public Affairs Committee
 Justice At Last
 Los Angeles County Probation Officers Union AFSCME Local 685
 Los Angeles County Professional Peace Officers Union
 Los Angeles Police Protective League
 National Council of Jewish Women – Los Angeles
 Peace Officers Research Association of California
 Religious of the Sacred Heart Mary – Western American Province
 Religious Sisters of Charity

Riverside Sheriffs' Association
Temple Isaiah – CAST Initiative
Worksafe

OPPOSITION: (Verified 8/16/18)

None received

ASSEMBLY FLOOR: 76-0, 1/29/18

AYES: Acosta, Aguiar-Curry, Travis Allen, Arambula, Baker, Berman, Bigelow, Bloom, Bonta, Brough, Burke, Caballero, Calderon, Carrillo, Cervantes, Chau, Chávez, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez Fletcher, Grayson, Harper, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Quirk, Quirk-Silva, Reyes, Rodriguez, Rubio, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Voepel, Waldron, Weber, Wood, Rendon

NO VOTE RECORDED: Gray

Prepared by: Gabe Caswell/ PUB. S. /
8/23/18 16:08:25

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