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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** AB 2177                      **Hearing Date:** June 28, 2016  
**Author:** Maienschein  
**Version:** April 14, 2016  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AA

**Subject:** *Victims of Crime Act Funding Advisory Committee*

## HISTORY

Source: Californians for Safety and Justice

Prior Legislation: None

Support: California Catholic Conference

Opposition: None Known

Assembly Floor Vote: 80 - 0

## PURPOSE

*The purpose of this bill is to establish within the Office of Emergency Services a Victims of Crime Act Funding Advisory Committee regarding the distribution of funds received by the state pursuant to the federal Victims of Crime Act, as specified.*

*Current law* establishes the Office of Emergency Services (OES). (Gov. Code, § 8585, subd. (a)(1).)

*Current law* transferred the responsibilities of the now-defunct Office of Criminal Justice Planning to the OES. (Pen. Code, § 13820, subd. (a)(1).)

*Current law* authorizes OES to expend funds for local domestic violence programs, subject to availability. (Pen. Code, § 13823.3.)

*Current law* establishes a Comprehensive Statewide Domestic Violence Program administered by the OES in order to provide financial and technical assistance to local domestic violence service providers. (Pen. Code, § 13823.15, subd. (b).)

*Current law* requires OES to consult with an advisory council in implementing the program. (Pen. Code, § 13823.15, subd. (c).)

*Current law* establishes an appointed Domestic Violence Advisory Council consisting of "experts in the provision of either direct or intervention services to victims of domestic violence and their children." (Pen. Code § 13823.16, subd. (a).)

*Current law* includes in the council's membership: domestic-violence victims' advocates; battered-women service providers; representatives of women's organizations; law enforcement; at least one representative serving the lesbian, gay, bisexual, and transgender communities; and other groups involved with domestic violence. (Pen. Code § 13823.16, subd. (b).)

*Current law* requires the council and the OES to closely collaborate in developing funding priorities, framing the request for proposals, and soliciting proposals for domestic violence and sexual assault/rape crisis grant programs. (Pen. Code § 13823.16, subd. (c).)

*This bill* would enact a new law to require OES to “seek the recommendation of the Victims of Crime Act Funding Advisory Committee . . . regarding the distribution of funds received by the state pursuant to the federal Victims of Crime Act, also known as VOCA, before making a distribution, of any kind, of those funds.

*This bill* would provide that the “Victims of Crime Act Funding Advisory Committee is hereby established within the Office of Emergency Services and shall be composed of the following 17 members:

- (1) One member who represents law enforcement. The Governor shall appoint this member.
- (2) Eight members who have been a victim of a crime. The Governor shall appoint four of these members, and the President pro Tempore of the Senate and the Speaker of the Assembly shall each appoint two members.
- (3) Eight members who represent the interests of organizations that specialize in providing services to the victims of crime. The Governor shall appoint four of these members, and the President pro Tempore of the Senate and the Speaker of the Assembly shall each appoint two members.”

*This bill* would provide that the initial terms of membership on the committee shall be two years. Members are eligible to be reappointed twice after an initial term.

*This bill* would require the committee to elect a chairperson from its membership.

*This bill* would require that the members serve without compensation and would get per diem.

*This bill* would require that the committee meet twice a year.

*This bill* would require that the committee “make a recommendation on the distribution of funds at one meeting and shall provide input on the efficacy of programs that have been funded at the other meeting.”

*This bill* would require that the committee shall comply with the Bagley-Keene Open Meeting Act.

#### RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as “of December 9, 2015, 112,510 inmates were housed in the State’s 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015.” (Defendants’ December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State’s 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants’ December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Stated Need for This Bill

The author states:

The Office of Emergency Services (OES) administers federal Victim of Crime Act (VOCA) funds through a grant process to fund victim services. OES convenes a steering committee to advise it on management of their VOCA grant program. Currently, this committee is comprised of representatives from a variety of service areas that include domestic violence victims, LGBT victims, children’s victims, and sexual assault victims, among others. The list of members to this

steering committee is not readily accessible to the public. Almost all of the representatives are Directors of organizations that provide services or work with organizations that provide services to victims. This committee meets in private and makes recommendations to OES about the drafting of the Request for Proposals (RFP) to apply for funds as well as the awarding of funds. Because of the lack of public meetings, many victims services groups were not even aware of the issuance of the RFP, which was timed to coincide with the Christmas and New Year's holiday this past year.

This bill would require OES to engage the public and more importantly, victims themselves. Victims of crimes served by VOCA funds who do not represent any organizational interests should be included in the RFP drafting process, the application review process and discussions surrounding the current gaps and duplicity in services around the state. Victims also offer important insight on the efficacy of programs and services that can be funded by VOCA funds. Requiring the committee to meet publicly will provide the broader community with the opportunity to provide important feedback that OES does not currently receive through its steering committee. Requiring the committee to review and make recommendations before funds are disbursed will inform OES prior to the making of final decisions.

## **2. Background – OES; Federal VOCA Funding**

"OES is primarily responsible for assuring the state's readiness to respond to and recover from natural and man-made emergencies. In addition, OES administers certain grant programs, including most of the state's victim grant programs.

"The OES received responsibility for these programs in 2004–05, which were previously under the jurisdiction of the Office of Criminal Justice Planning (OCJP). When OCJP was eliminated, most of its programs (including the various victim programs below) were transferred to OES even though OES did not have expertise in these program areas." (See The 2015-16 Budget: Improving the State Programs for Crime Victims, Legislative Analyst's Office, March 18, 2015, pp. 9-10, <<http://www.lao.ca.gov/reports/2015/budget/crime-victims/crime-victims-031815.pdf>.)

One of the grant programs administered by Cal OES is the federal VOCA Formula Grant Program. The VOCA grant program provides funding to states to support crime victim assistance programs to do the following: 1) respond to the emotional and physical needs of crime victims, 2) help primary and secondary victims of crime stabilize their lives after a victimization, 3) help victims to understand and participate in the criminal justice system, and 4) provide victims of crime with a measure of safety and security.

Under the federal requirements, states must commit a certain percentage of the funding to domestic violence, child abuse, sexual assault, and underserved crime victims. The remaining funds can be used to support other crime victim assistance programs. VOCA assistance funds may be used only for direct services to crime victims. Services such as offender rehabilitation, criminal justice improvements, and crime prevention activities cannot be supported with VOCA assistance funds.

States competitively award VOCA funds to local community-based organizations that provide services directly to victims of crime. Each state has discretion to decide which organizations will receive funding based upon the VOCA victim assistance guidelines and the needs of crime victims within the state.

While OES receives federal VOCA funds yearly, in the Fiscal Year 2015 Budget, OES received a significantly increased award over recent annual awards. It was awarded \$232.732 million. In its April 21, 2016 agenda, the Senate budget Subcommittee 4 explained:

On December 17, 2015, OES notified the Joint Legislative Budget Committee (JLBC) that it was awarded an additional \$233 million from the federal Victims of Crime Act (VOCA) Formula Grant Program. The letter indicated that OES intended to allocate these funds to eight existing programs and eight new programs under the expenditure authority provided to OES in the 2015 Budget Act. The OES reportedly received notification of this influx of federal funds as early as 2014, yet the Legislature was not notified until December 2015.

When questioned by the JLBC regarding the budget authority that would allow the department to expend \$233 million in unanticipated federal funding without legislative approval, the department noted it has approximately \$1 billion in excess budget authority for the allocation of federal funding. However, this funding authority was included to allow for the receipt of federal funds related to disaster assistance, not for victims-related funding.

In light of OES's interpretation of budget authority and its grant award process, the subcommittees may wish to consider the following:

- Is it appropriate for the federal budget authority line item to include both disaster and victims-related service funding?
- How can the Legislature statutorily ensure that providers, local governments (cities, counties, etc.), legislative members, community organizations and advocates are included in a transparent and public stakeholder process?  
([http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/SUB4/04212016JtSub4\\_Sub5HearingAgenda.pdf](http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/SUB4/04212016JtSub4_Sub5HearingAgenda.pdf))

### **3. Technical Amendment**

As currently drafted this bill would provide that the president pro tempore of the Senate make two of the appointments to the advisory committee this bill would create. The bill should be revised to provide that those appointments are made by the Senate Rules Committee.