
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 375 **Hearing Date:** April 9, 2019
Author: Durazo
Version: March 25, 2019
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Victims of Crime: Application for Compensation*

HISTORY

Source: Californians for Safety and Justice

Prior Legislation: SB 1232 (Bradford), Ch. 983, Stats. 2018
SB 381 (de León), 2017, held in Assembly Appropriations Comm.
AB 1061 (Gloria), 2017, held in Assembly Appropriations Comm.
SB 556 (Durazo), 2016, held in Assembly Appropriations Comm.
AB 2160 (Bonta), 2016, held in Assembly Appropriations Comm.
SB 1324 (Hancock), Ch. 730, Stats. 2016
AB 1563 (Rodriguez), Ch. 121, Stats. 2016
AB 1140 (Bonta), Ch. 569, Stats. 2015
AB 2685 (Cooley), Ch. 508, Stats. 2014
SB 1299 (Wright), Ch. 870, Stats. 2012

Support: California Catholic Conference

Opposition: California Public Defenders Association

PURPOSE

The purpose of this bill is to remove the deadline for victims of violent crimes to file an application for compensation.

Existing law states that the Legislature finds and declares that it is in the public interest to assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts. (Gov. Code, § 13950, subd. (a).)

Existing law establishes the California Victims Compensation Claims Board (board) to operate the California Victim Compensation Program (CalVCP). (Gov. Code, §§ 13950 *et. seq.*)

Existing law authorizes the board to reimburse for pecuniary loss for the following types of losses:

- Medical or medical-related expenses incurred by the victim for services provided by a licensed medical provider;

- Out-patient psychiatric, psychological or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center;
- 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;
- Cash payment to, or on behalf of, the victim for job retraining or similar employment-oriented services;
- The expense of installing or increasing residential security, not to exceed \$1,000;
- The expense of renovating or retrofitting a victim's residence or a vehicle to make them accessible or operational, if it is medically necessary;
- 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,
- Funeral or burial expenses. (Gov. Code, § 13957, subd. (a).)

Existing law limits the total award to or on behalf of each victim to \$35,000, except that this amount may be increased up to \$70,000 if federal funds for that increase are available. (Gov. Code, § 13957, subd. (b).)

Existing law provides that an application for compensation shall be filed with the board in the manner determined by the board. (Gov. Code, § 13952, subd. (a).)

Existing law authorizes the board to require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation. (Gov. Code, § 13952, subd. (c)(1).)

Existing law requires the board to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. (Gov. Code, § 13954, subd. (a).)

Existing law requires that an application shall be filed in accordance with the following time lines:

- Within three years of the date of the crime;
- Three years after the victim attains 21 years of age;
- Three years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later; or,
- If the application is based on one of the specified sex crimes against minors, the application may be filed any time prior to the victim's 28th birthday. (Gov. Code, § 13953, subd. (a).)

Existing law authorizes the board to grant an extension of the applicable time period for good cause. In making this determination, the board shall consider all of the following:

- Whether the victim or derivative victim incurs emotional harm or a pecuniary loss while testifying during the prosecution or in the punishment of the person accused or convicted of the crime;
- Whether the victim or derivative victim incurs emotional harm or a pecuniary loss when the person convicted of the crime is scheduled for a parole hearing or released from incarceration; and,
- Whether, until December 31, 2019, the victim or derivative victim incurs emotional harm, as defined, or pecuniary loss as a result of the identification of the “East Area Rapist,” also known as the “Golden State Killer,” a person suspected of committing a series of homicide and sexual assault crimes in California between 1974 and 1986. (Gov. Code, § 13953, subd. (b).)

This bill deletes the filing deadlines for an application for victim’s compensation and instead provides that an application for compensation may be filed at any time following the qualifying crime.

This bill provides that the date on which the board receives the application is the application filing date.

COMMENTS

1. Need for This Bill

According to the author of this bill:

This bill will remove the time limit to apply for compensation from the California Victim Compensation Board (CalVCB). Specifically, this bill will authorize a victim, derivative victim, or anyone eligible to file on their behalf to file an application for compensation at any time following the qualifying crime.

The California Victim Compensation Board is a state program dedicated to providing reimbursement for many crime-related expenses to eligible victims who suffer physical injury or the threat of physical injury as a direct result of a violent crime. Covered expenses include mental healthcare, funeral or burial expenses, medical treatment, and other healing and safety-related expenses. CalVCB funding comes from restitution, fines, orders, and penalty assessments paid by people convicted of crimes, and through federal funds.

In most circumstances, survivors have 3-years to file a claim. Currently in California, minors have until their 24th birthday, or until their 28th birthday for minor victims of sexual assault. CalVCB has some discretion to accept late claims, expanded by a recent court ruling, and by legislation relating specifically to the Golden State Killer case. California’s time limits are in line with or longer

than many states, but there are several states that have no filing time limits or have longer time limits, amidst growing awareness that the impacts of trauma can be lifelong, and that it can take years for survivors to become ready to address trauma.

Survivors who are unaware of compensation, are not ready to apply, or who are dealing with their trauma years after their victimization may be left out with no financial support to access the resources they need.

Many victims are unaware of the crime victim compensation program, or find out about it late. According to a 2013 survey, nearly 1 in 3 victims reported that they were unaware of but interested in compensation. The same survey found that younger victims and Latino and African-American victims are more likely to be unaware but interested in victims' compensation assistance. Nearly half of victims surveyed described compensation as difficult to access. Two in three were unaware they could get assistance to complete an application for the victims' compensation program.

The barriers to addressing these traumas, especially for youth and individuals from marginalized, low-income, people of color, and immigrant communities are many and varied. Unfortunately, one of those barriers is that delay on the part of a person to become ready to seek victim compensation and address a trauma can mean that it is too late to receive this crucial assistance under current law.

Even with exceptions for late applications, many victims may see the time limit as a barrier, and not apply for compensation when they learn about the program or when they need it. Unfortunately, no data exists showing how many victims of crime have not applied for compensation due to believing they have missed the window of time to apply.

This bill will decrease barriers for crime survivors to access necessary trauma recovery resources, support, and counseling.

2. Purpose and History of CalVCP

The victim compensation program was created in 1965, the first such program in the country. The board provides compensation for victims of violent crime. It reimburses eligible victims for many crime-related expenses, such as counseling and medical fees. Funding for the board comes from restitution fines and penalty assessments paid by criminal offenders, as well as federal matching funds. (See the California Victim Compensation Board's website <<http://www.vcpcb.ca.gov/board/>> [as of Mar. 22, 2018].)

3. Current Eligibility Requirements for Compensation

Under current law, the CalVCP reimburses eligible victims for specified expenses such as counseling and medical fees. Eligible persons are victims and derivative victims and the crime either occurred in California or the victim is a resident of California or a member or a family member living with a member of the military stationed in California. The victim or derivative victim must have sustained either physical injury or emotional injury for specified crimes.

Once an application is filed, the board is required to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. Any verification information requested by the board must be returned within 10 days of the request. The applicant is also required to cooperate with the staff of the board or the victim center in the verification of the information contained in the application. Failure to cooperate may constitute grounds to reject the application. The board is required to approve or deny applications within an average of 90 days and no later than 180 calendar days of acceptance by the board or victim center.

Under existing law, the application must be filed in a timely manner. Timeliness of the application is specified in statute requiring the application to be filed three years of the date of the crime, three years after the victim attains 21 years of age, or three years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later. Certain specified crimes against minors may be filed any time prior to the victim's 28th birthday. The board may however, for good cause, grant an extension of the specified time periods, as specified.

This bill deletes the filing timelines and instead provides that an application for victim's compensation may be filed at any time following the qualifying crime. It does not make any changes to the other eligibility or verification requirements.

4. Argument in Support

According to Californians for Safety and Justice, the sponsor of this bill:

Survivors who are unaware of compensation, are not ready to apply, or who are dealing with their trauma years after their victimization may be left out with no financial support to access the resources they need. If unaddressed, traumas can place a person on a pathway to becoming involved in criminal activity. Many victims are unaware of the crime victims compensation program, or find out about it late. According to a 2013 survey, nearly 1 in 3 victims reported that they were unaware of but interested in compensation. The same survey found that younger victims and Latino and African-American victims are more likely to be unaware of but interested in victims' compensation assistance. Nearly half of victims surveyed described compensation as difficult to access. Two in three were unaware they could get assistance to complete an application for the victims' compensation program.

The barriers to addressing these traumas, especially for youth and individuals from marginalized, low-income, minority, and immigrant communities are many and varied. Unfortunately, one of those barriers is that delay on the part of a person to become ready to seek victim compensation and address a trauma can mean that it is too late to receive this crucial assistance under current law.

5. Argument in Opposition

According to the California Public Defenders Association:

Under current law, victims who have suffered actual loss as a result of a criminal offense are authorized to seek restitution from the Victim's Restitution Fund. To avoid encouraging false claims motivated by the desire for financial reward, and to ensure that evidence relating to a claim of harm is available for inspection by the Fund, Government Code section 13953 sets a three year period from the date of offense during which a victim may file for compensation. Vtally, under current law, the Fund is permitted to waive the statutory time limit for a restitution claim on a showing of good cause for the delay.

SB 375 seeks to remove all time limits for the seeking of restitution, creating a substantial monetary incentive for the filing of false crime reports, and ensuring that in many cases the Fund will be unable to determine what loss, if any, a claimant has actually sustained.

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