
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 997 (Gipson) - Exoneration: mental health services

Version: May 18, 2023

Urgency: No

Hearing Date: July 3, 2023

Policy Vote: PUB. S. 5 - 0

Mandate: No

Consultant: Matthew Fleming

Bill Summary: AB 997 would require the California Victim Compensation Board (CalVCB) to reimburse an exonerated person for mental health services reasonably related to their incarceration, as specified.

Fiscal Impact: The CalVCB reports annual, ongoing costs of approximately \$2.7 million in order to reimburse claims for mental health services and in additional staff resources (12.0 PY) to administer the new mental health program (General Fund). Additional costs may be incurred to create, develop, and test a new database in order to process these mental health claims for compensation in a timely manner.

Background: Existing law allows a person who has been wrongfully convicted of a felony and imprisoned to file a claim against the state with the CalVCB for compensation at a rate of \$140 per day of imprisonment. If a claimant has first obtained a declaration of factual innocence from a court, CalVCB is required to recommend to the Legislature to make a payment to the claimant within 30 days of the claim. For claimants who have not obtained a declaration of factual innocence, if a state or federal court grants a writ of habeas corpus or if a state court grants a motion to vacate based on newly discovered evidence, as specified, and as a result of either or those actions the charges are dismissed or the person is acquitted of the charges on a retrial, the person is also entitled to payment on their claim without a separate hearing, unless the Attorney General (AG) objects in writing within 45 days of the filing of the claim for compensation. CalVCB would then be required to hold a hearing where the AG has the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense. If the AG fails to meet this burden, CalVCB shall recommend to the Legislature payment of the compensation sum.

This bill requires the board, upon appropriation by the Legislature for this purpose, to reimburse an exonerated person, or provide direct payment to their provider, for mental health services reasonably related to their incarceration. This amount is to be in addition to any amount contained in an approved claim for erroneous conviction compensation.

Existing law already requires CDCR to provide some transitional services for exonerees, including mental health services. However, CDCR must only provide transitional services, including mental health services, for a minimum of six months and a maximum of one year from the date of release, unless the person otherwise qualifies for services beyond one year.

This bill would specify that the mental health services related to a person's wrongful incarceration are reimbursable by the board. Additionally, this bill provides that for persons who have been incarcerated for 8 or more years, the board shall allocate, in

addition to the amount contained in an approved claim, \$15,000 per year of incarceration with a maximum of 4 or years depending on the total time incarcerated to be used for mental health services.

Proposed Law:

- States that the board shall, upon appropriation by the Legislature for this purpose, reimburse an exonerated person, or provide direct payment to their provider, for mental health services reasonably related to their incarceration.
- Provides that if a person was incarcerated for 8 or more years, the board shall allocate, in addition to the amount contained in an approved claim, an amount intended to be used for mental health services as follows:
 - If the individual was incarcerated for 8 to 12 years, inclusive, \$15,000 per year for up to 4 years; or,
 - If the individual was incarcerated for more than 12 years, \$15,000 per year for up to 6 years.
- Prohibits the board from reimbursing the person for services for a period of time exceeding the amount of time the person was incarcerated.
- Provides that the board shall provide individual payment or reimbursement no more than 30 days after a claim is submitted.
- Provides that an “exonerated person” is any person whose erroneous conviction claim is approved by the California Victim Compensation Board on or after January 1, 2024.

Related Legislation:

- AB 1187 (Quirk-Silva, 2023) would authorize the California Victim Compensation Board to reimburse the expense of counseling services provided by a Certified Life Specialist who provides counseling under the supervision of a licensed provider, subject to the board’s approval and limitations set by the board. AB 1187 is pending in this Committee.
- AB 1186 (Bonta, 2023) would remove the court’s ability to require a minor to pay monetary victim restitution and instead require the juvenile court to transmit the restitution order to the California Victim Compensation Board for issuance of payment to the victim. AB 1186 is pending in this Committee.
- SB 530 (Bradford, 2023) would change the compensation process for a person who has been exonerated by removing the requirement that a person be imprisoned to present a claim, removing the requirement that a person prove an injury; extending the deadline for filing a claim; and providing for compensation for reasonable attorney’s fees and for erroneously having to register as a sex offender. SB 530 was held on this Committee’s Suspense File.

- SB 655 (Durazo, 2023) would make various changes to the California Victim Compensation Program including shortening the timeframes for approving or denying applications, removing specified ineligibility factors such as the requirement to cooperate with law enforcement and authorizing the CalVCB to use additional forms of evidence to verify that a qualifying crime has occurred. SB 655 was held on this Committee's Suspense File.
- SB 838 (Menjivar, 2023) would revise the definition of "crime" for purposes of the Victim Compensation Program (VCP) to include an incident in which an individual sustains serious bodily injury or death as the result of a law enforcement officer's use of force. SB 838 is pending on this Committee's Suspense File.
- AB 160 (Committee on Budget), Ch. 771, Stats. of 2022, raised the maximum reimbursable amount and the individual limits for specified expenses which will go into effect July 1, 2024, contingent on funds being available and appropriated in the 2024-2025 fiscal year.
- AB 767 (Grayson, 2019) would have expanded eligibility for compensation under the Victims Compensation Program (VCP) for injuries or death caused by use of force by a police officer. AB 767 was held on suspense in this committee.

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